The following communication, dated 12 October 1993, has been received from the Permanent Mission of Mexico.

On behalf of the Mexican Government I have the honour of notifying the new Foreign Trade Act to the Committee on Anti-Dumping Practices.

This legislation was published in the Diario Oficial de la Federación (Federal Official Gazette) on 27 July 1993, and consists of a body of regulations covering different areas related to foreign trade. We are therefore notifying to the Committee only those provisions which fall within its sphere of competence.
FOREIGN TRADE ACT

Mexico

(Anti-Dumping Committee)

1. On 26 July 1993 the Foreign Trade Act which replaces the Foreign Trade Regulatory Act Implementing Article 131 of the Constitution of the United Mexican States was published in Diario Oficial de la Federación. The chief objective of the Foreign Trade Act is to establish a body of regulations at the federal level to consolidate and define the rôle of foreign trade in the country, to enhance competitiveness and to provide confidence and security to economic agents involved in international trade.

2. Section V of the Foreign Trade Act is devoted to unfair international trade practices. This section defines the practice of dumping and stipulates that the existence of dumping and of injury or threat of injury, the causality between them and the imposition of countervailing duties shall be determined only on the basis of an administrative investigation procedure.

3. It describes the methods by which the investigating authority may determine normal value: the domestic price in the country of origin, the export price to a third country and the reconstructed value. In this respect it stipulates that these forms of normal value shall be used only in that order and by a process of elimination, and for the application of the process of elimination, it defines the normal course of trade.

4. At the same time it provides for an exception to the general rule for the calculation of the normal value in the case of exporting countries with centrally-planned economies, and for the treatment to be given in this respect to exporting countries acting as intermediaries for the product in question.

5. The Foreign Trade Act contains precise definitions of the concepts of injury, threat of injury and causality in respect of dumping. At the same time it defines the concept of domestic industry, not only for the purposes of submitting requests (25 per cent), but also for the purposes of investigation. On the basis of these definitions, the legislation lists the factors and elements to be taken into account by the investigating authorities in their analysis of injury or threat of injury. It also introduces the concept of regional injury.

6. Section VII of the Foreign Trade Act refers to the procedures applicable in respect of unfair practices. The term "complaint" is replaced by "request" to bring it more into line with the nature of the administrative procedure, and a questionnaire form to be filled in by parties requesting the application of countervailing duties is provided for.

7. A novelty among the procedural provisions of the Foreign Trade Act is the concept of interested party. This concept will permit balanced treatment of importers and exporters in respect of their procedural rights and obligations. For example, foreign exporters and domestic producers will have the right to request the revocation of the final decision of the Secretariat (Ministry).
8. Another legislative novelty is the provision whereby countervailing duties can only be imposed following a period of forty-five working days after the initiation of the investigation. This provision will make it possible to guarantee the right of defence of the interested parties.

9. The time limits within which the Secretariat must issue its resolutions in the course of the procedures are laid down as follows:

   (1) Within thirty working days following the submission of the request, the Secretariat shall publish in the Diario Oficial de la Federación its acceptance of the request and the initiation of the investigation, or its rejection of the action brought. Within the same period, the authorities shall decide whether the interested party must correct or clarify his request, for which purpose he shall be given twenty working days from the date of receipt of the notification. Within twenty working days following the fulfilment by the interested party of this requirement, the authorities shall publish in the Diario Oficial de la Federación their acceptance of the request and the initiation of the investigation or their rejection of the action brought.

   (2) Once the acceptance of the request and the initiation of the investigation have been published, the Secretariat shall notify the interested parties of which it is aware that the investigation has been initiated and that they have thirty working days from the date of publication of the said resolution to prepare their defence. The Secretariat shall send, together with this notification, the documentary records on which the request was based.

   (3) Within 130 working days starting from the day following the publication of the resolution to initiate an investigation, the Secretariat shall publish the preliminary resolution.

   (4) Finally, within 260 working days starting from the day following the publication of the resolution to initiate an investigation, the Secretariat shall publish the final resolution.

10. If the preliminary and final resolutions provide for the imposition of countervailing duties, any of the interested parties may request the investigating authority to:

   (a) Decide whether the goods in question are subject to the duty;

   (b) decide on any other aspect of the resolution in question;

   (c) hold meetings at which the authority explains the methods and the factual and legal reasons which led it to issue the resolution in question.

11. The possibility for any of the interested parties to request the holding of conciliation meetings is given legal status.

12. The interested parties will be entitled to examine public information forming part of the administrative record on the basis of which the Secretariat is to publish its resolutions. Only the legal representatives of the interested parties will have the possibility of examining information which the party concerned considers to be confidential, except information which is qualified as restricted commercial information under the law, which shall only be made available to the investigating
authority for the purposes of the investigation. Mention is also made in this connection of classified
government information, which shall also be available to the investigating authority only.

13. Provision is also made for hearings (audiencia) and final pleadings (alegato). The interested
parties may attend the hearings in order to put forward their arguments and question their
counterparts. These hearings will take place following the publication of the preliminary resolution
and prior to the publication of the final resolution.

14. The final pleading is an extremely important institution in that it provides an opportunity for
the interested parties to present their conclusions both with respect to the substance of the question
under consideration and on any incidental questions which may have arisen during the proceedings.

15. The Secretariat may verify the information submitted in the course of the investigation. It is
established that the Federal Tax Code shall apply by default on a supplementary basis, except in
respect of regulations pertaining to verification and notification.

16. With respect to ex officio and contested administrative proceedings, the Foreign Trade Act
extends the right of appeal for reversal to cover all interested parties and all resolutions having a final
character. Thus, the appellant or the interested parties are also offered the possibility of resorting to
annulment proceedings before the Upper Chamber of the Federal Tax Court or to dispute-settlement
mechanisms agreed under international treaties and conventions to which Mexico is a party.

17. Finally, the Foreign Trade Act establishes new forms of administrative infringements and
updates the system of fines. Worth mentioning among the new punishable infringements is the
dissemination and use by the legal representative for personal gain of confidential information to which
he has had access.
ARTICLE 39 - For the purposes of this Act, injury means material loss or impairment or deprivation of any lawful, normal gain which the domestic industry of the goods in question may suffer, or impediment to the establishment of new industries. Threat of injury means the imminent and clearly foreseen danger of injury to the domestic industry. A determination of threat of injury shall be based on facts and not merely on allegation, conjecture or remote possibility.

The administrative investigation must establish that the injury or threat of injury to the domestic industry is a direct consequence of importation under conditions involving price discrimination or subsidization within the meaning of this Act.

ARTICLE 40 - For the purposes of this Act, the expression "domestic industry" shall be understood as referring to at least 25 per cent of the domestic production of the goods in question.

However, when certain producers are related to the exporters or importers or are themselves importers of the product under investigation, the term "domestic industry" may be interpreted as referring to at least 25 per cent of the rest of the producers. When all of the producers are related to the exporters or importers or are themselves importers of the product under investigation, the term "domestic industry" may be interpreted as referring to the entire group of producers of the goods produced during the immediately preceding stage in the same continuous line of production.

ARTICLE 41 - The Secretariat shall determine whether the importation of a particular product causes injury to the domestic industry taking the following criteria into account:

(i) The volume of imports of the goods subject to unfair international trade practices, in order to determine whether there has been a significant increase in such imports in relation to the country's domestic production or consumption;

(ii) the impact which the importation of goods under conditions involving unfair international trade practices has or may have on the prices of identical or like products on the domestic market. Consideration shall be given in this respect to whether the imported product is sold on the domestic market at a price considerably lower than that of identical or like products or whether the effect of such imports is to depress prices in an abnormal manner or to prevent a reasonable price rise which would otherwise have taken place; and

(iii) the impact which such imports have had or may have on domestic producers of products identical or alike to those imported, considering all of the relevant economic factors and indices having a bearing on the state of the sector in question, such as actual and potential decline in output, sales, market share, profits, productivity, return on investment, or utilization of installed capacity; factors affecting domestic prices;
negative effects actual and potential on cash flow, inventories, employment, wages, ability to raise capital, investment or production growth;

(iv) any other elements which the Secretariat deems appropriate.

ARTICLE 42 - The Secretariat shall determine the existence or the threat of injury to domestic production taking the following criteria into account:

(i) The increase in the importation into the domestic market of goods subject to unfair practices, pointing to a well-founded probability of a significant increase in such imports in the immediate future;

(ii) the readily available capacity of the exporter or an imminent substantial increase thereof, pointing to the well-founded probability of a significant increase in exports to the Mexican market in unfair conditions, with due regard for the existence of other export markets capable of absorbing the possible increase in exports;

(iii) whether imports are effected at prices which will have a significant impact on domestic prices, by depressing them or preventing them from rising, and will probably lead to a rise in the demand for new imports;

(iv) stocks of the product under investigation;

(v) where appropriate, the expected return on realizable investments;

(vi) any other elements which the Secretariat deems appropriate.

In order to determine the existence of a threat of injury, the Secretariat shall take into account all of the above factors which make it possible to conclude whether new imports in unfair conditions are imminent and whether unless countervailing duties are applied, injury within the meaning of this Act will occur.

ARTICLE 43 - For the purposes of assessing the elements mentioned in Articles 41 and 42, the Secretariat may cumulate the volume and the impact of the importation of identical or like products from two or more countries under investigation subject to the conditions and exceptions provided for in the Regulations.

ARTICLE 44 - Injury or the threat of injury to production in an isolated market within the national territory may be considered to exist whenever there is a concentration of imports effected on that market, in conditions involving unfair practices, which adversely affects a significant part of its production. In such cases, the isolated market may be considered as such only if its producers sell a significant part of their production in that market and if demand is not to any substantial degree supplied by producers located elsewhere in the national territory.

ARTICLE 51 - The term "interested party" means the producers who have submitted requests, importers and exporters of the product under investigation, as well as any foreign bodies corporate having a direct interest in the investigation in question and those which are so defined in international trade agreements and treaties.
ARTICLE 52 - Within a period of thirty days following the submission of the request, the Secretariat shall:

(i) Accept the request and declare the initiation of the investigation through a resolution to that effect to be published in the Diario Oficial de la Federación;

(ii) ask the requesting party for further items of evidence and information which shall be provided within a maximum of twenty days following receipt of the notification. If the requested elements are duly brought forward, the Secretariat shall, within a period of twenty days, proceed in conformity with the preceding sub-paragraph. If the requested elements are not duly produced within the mentioned deadline, the request shall be considered as having been abandoned and the requesting party shall be personally so notified; or

(iii) reject the request if it does not fulfil the requirements set forth in the Regulations, and personally notify the requesting party of such rejection.

In any case, the Secretariat shall publish the corresponding resolution in the Diario Oficial de la Federación.

ARTICLE 53 - Starting from the day following the publication in the Diario Oficial de la Federación of the resolution to initiate an investigation, the Secretariat shall notify the interested parties of which it is aware, so that they may appear in order to make whatever statement they see fit. The interested parties shall be accorded a period of 30 days following the publication of the resolution to initiate an investigation in the Diario Oficial de la Federación to prepare their defence and submit the information requested.

The notification shall be accompanied by a copy of the request submitted and such attached documents as do not contain confidential information or, as the case may be, any relevant documents regarding ex officio investigations.

ARTICLE 54 - The Secretariat may ask the interested parties to produce evidence, information and data which it considers relevant, for which purpose questionnaires shall be used.

If the above request is not satisfied, the Secretariat shall decide on the basis of the information available.

ARTICLE 55 - The Secretariat may ask the producers, distributors or traders of the goods in question as well as the customs officers, agents, representatives and persons receiving the imported goods, or any other person it deems appropriate, to provide information and data which they have at their disposal.

ARTICLE 56 - The interested parties in an investigation shall send the other interested parties copies of each of the reports, documents or items of evidence which they submit to the authorities during the proceedings, except the confidential information referred to in Article 81.

ARTICLE 57 - Within a period of 130 days from the day following the publication in the Diario Oficial de la Federación of the resolution to initiate an investigation, the Secretariat shall issue a preliminary resolution by which it may:
(i) Fix a provisional countervailing duty once the formalities of the proceedings have been complied with and after a period of at least forty-five days following the publication in the Diario Oficial de la Federación of the resolution to initiate the investigation;

(ii) refrain from imposing a countervailing duty and continue the administrative investigation; or

(iii) pronounce the termination of the administrative investigation when there is insufficient evidence of price discrimination or subsidization, of injury or threat of injury, or of a causal relationship between them.

The interested parties shall be notified of the preliminary resolution, which shall be published in the Diario Oficial de la Federación.

ARTICLE 58 - Once the investigation of unfair international trade practices is concluded, the Secretariat shall submit the draft final resolution to the Commission for its opinion.

ARTICLE 60 - Once a final countervailing duty has been fixed, the interested parties may ask the Secretariat to decide whether a given product is subject to the said duty. In such case the Secretariat shall provide the said party with an answer in conformity with the procedure set forth in the regulations. This answer shall have the character of a final resolution and shall be published in the Diario Oficial de la Federación.

ARTICLE 61 - During the administrative investigation, the interested parties may ask the Secretariat to hold a conciliation meeting. At this meeting, proposals may be submitted to resolve the case and terminate the investigation, which, if adopted, shall be approved by the Secretariat and incorporated into the resolution which shall have the character of a final resolution. The interested party shall be notified of this resolution which shall be published in the Diario Oficial de la Federación.

ARTICLE 62 - The Secretariat shall fix the amount of the countervailing duties which shall be equivalent, in the cases of price discrimination, to the difference between the normal value and the export price, and in cases of subsidization, to the amount of the benefit.

Countervailing duties may be less than the margin of price discrimination or than the amount of the subsidy provided they are sufficient to discourage imports of goods under conditions involving unfair international trade practices.

ARTICLE 63 - Countervailing duties shall be considered revenues within the meaning of Article 30 of the Federal Tax Code.

ARTICLE 64 - If the fixing of a countervailing duty involves several suppliers from one or several countries and it is impracticable to name all these suppliers, the Secretariat may order its application to the country or countries concerned.

ARTICLE 65 - Provisional and final countervailing duties shall be collected by the Secretariat of the Treasury and Public Credit, which may accept guarantees provided in conformity with the Federal Tax Code in respect of provisional countervailing duties.
If the final resolution confirms the provisional countervailing duty, payment of the said duty shall be demanded or, failing such payment, the guarantees provided shall be put into effect. If the final resolution modifies or revokes the duty, the said guarantees shall be annulled or modified or, where appropriate, the amounts paid under this procedure or the corresponding difference shall be refunded with interest.

ARTICLE 66 - Importers of a product identical or alike to the product subject to a provisional or final countervailing duty shall not be required to pay such duty if they can prove that the country of origin or provenance is different from the country exporting the goods under conditions involving unfair international trade practices.

ARTICLE 68 - Final countervailing duties shall be reviewed annually at the request of a party and shall at all times be subject to ex officio reviews by the Secretariat. In any case, resolutions announcing the initiation and the conclusion of a review shall be published in the Diario Oficial de la Federación. During the review proceedings, the interested parties may enter into the commitments mentioned under Article 72 of this Act.

Resolutions confirming, modifying or revoking countervailing duties shall also have the character of a final resolution, and shall be submitted previously to the Commission for its opinion.

ARTICLE 70 - Final countervailing duties shall be eliminated if within a period of five years following their entry into force none of the interested parties have requested their review and the Secretariat has not initiated such a review ex officio.

ARTICLE 71 - In cases where parts or components are introduced into the national territory for the purpose of assembly on that territory of goods subject to provisional or final duties with a view to eluding payment of such duties, the duty in question shall be imposed on the importation of the said parts or components. The same rule shall apply to cases where parts or components are assembled in a third country and the finished product is introduced into the national territory, or to the exportation of products having relatively slight physical differences in comparison with those subject to provisional or final countervailing duties for the purpose of eluding payment of such duties.

ARTICLE 80 - The Secretariat shall provide timely opportunities to the interested parties to consider all information relevant to the presentation of their cases having a bearing on the administrative proceedings. Confidential information shall be made available only to the accredited legal representatives of the parties interested in the administrative investigation, except in the case of restricted commercial information which, if divulged, could cause substantial and irreversible injury to the owner of that information, and confidential government information.

The legal representatives of the interested parties having access to the confidential information shall not use such information for their personal benefit, nor disseminate it. Infringement of this requirement shall be punishable under the provisions of this Act, independently of such civil and criminal penalties as may be applicable.

During the investigation proceedings referred to in this section the Secretariat shall provide timely access, at the request of the interested parties or their representatives, to any non-confidential information forming part of the administrative record of any other investigation after a period of sixty days following the publication of the relevant final resolution.
ARTICLE 81 - In the notification referred to in Article 53, the Secretariat shall inform the interested parties that a public hearing will be held at which they may appear and submit arguments in defence of their interests and, in the case of safeguard action, present the relevant evidence. At this hearing, interested parties may question the other interested parties. In the case of investigations into unfair international trade practices, the hearings shall be held following the publication of the preliminary resolution and prior to the publication of the final resolution.

ARTICLE 82 - The interested parties may adduce evidence of all types except statements by the authorities or material considered contrary to public order or offensive to morals or decency.

The Secretariat may agree at any time to the institution, repetition or extension of any proceedings considered necessary and conducive to the discovery of the truth regarding the matters under dispute. Furthermore, the Secretariat may institute such proceedings as it considers appropriate in order to obtain better information.

The Secretariat shall appoint a period for pleadings following the period for the presentation of evidence to permit the interested parties to submit their conclusions.

The Secretariat's decisions to accept a given piece of evidence shall not be open to appeal during the proceedings.

ARTICLE 83 - The Secretariat may verify the information and evidence submitted during the course of the investigation, and for that purpose may issue a written order authorizing a search of the legal domicile, the establishment or the place where the relevant information is located. The Secretariat may proceed as it deems appropriate in order to verify that the said information and evidence conform with the accounts of the company subject to the search, to collate the documents which are of relevance to the administrative proceedings or to carry out the necessary checks.

Information and evidence submitted by the interested parties may be verified in the country of origin if the interested parties so agree. Without their consent, the Secretariat shall assume that the requesting party's claims are true, unless there exist elements which indicate otherwise.

Searches by the Secretariat for the purpose of verification shall be carried out on working days and during working hours by its own accredited staff. However, they may also take place outside working days and hours where necessary, in which case the official letter ordering the search shall contain the necessary authorization.

Detailed records of the searches shall be drawn up in the presence of two witnesses provided by the party subject to the search or, in the absence of the said party or in the event that the said party refuses to provide witnesses, by the authority in charge of the proceedings. These searches shall be subject to the provisions of the Regulations.

ARTICLE 84 - The notifications referred to in this Act shall be transmitted to the interested party or his representative personally at his domicile by registered mail with acknowledgement of receipt or by any other direct means such as a specialized messenger service or electronic mail. The notifications shall enter into force on the working day following the day on which they were issued. The Regulations shall establish the form and content of the notifications.

ARTICLE 85 - In the absence of any express provision in this Act concerning the administrative proceedings in respect of unfair international trade practices and safeguard action, the
Federal Tax Code shall apply by default on a supplementary basis for all matters pertaining to the nature of the said proceedings. This provision shall not apply in respect of notifications and searches for the purpose of verification.

ARTICLE 86 - If in the course of the proceedings referred to in this section the Secretariat observes that any of the interested parties is involved in the monopolistic practices which are punishable under the relevant legislation, it shall so inform the competent authority.

ARTICLE 87 - Countervailing duties and safeguard measures may be fixed as lump sums or ad valorem. If they are fixed as lump sums, they shall be computed per unit of measurement, and shall be assessed in the equivalent in Mexican currency. If they are fixed ad valorem, they shall be computed in percentage terms on the customs value of the product in question.

ARTICLE 88 - When imposing a countervailing duty or proposing the application of a safeguard measure, the Secretariat shall ensure as far as possible that such measure, in addition to providing timely defence for the domestic industry, avoids any negative impact on other production processes and on consumers.

ARTICLE 89 - The provisional and final countervailing duties and safeguard actions shall be applied as from the day following their publication in the Diario Oficial de la Federación.

Importers or their consignees shall be required to calculate in the relevant import applications the amounts of the provisional and final countervailing duties or safeguard duties and to pay them, together with their foreign trade taxes, without prejudice to the guarantees in respect of the provisional countervailing duties pursuant to Article 65 and in respect of the final countervailing duties pursuant to Article 98, sub-paragraph (iii).

ARTICLE 93 - It shall be the responsibility of the Secretariat to punish the following infringements:

(i) Falsification of data or documents, or omission or alteration thereof, with fraudulent intent or by serious negligence, in respect of certification of origin, licences, quotas and market of origin: by fines equivalent to twice the value of the exported or imported goods and, lacking this information, by twice the value of the goods recorded in the relevant document;

(ii) utilization of the imported goods for a purpose different from that authorized in the import licence, in cases where such a requirement exists: by a fine equivalent to twice the value of the imported goods;

(iii) presentation of false information or documents, failure to provide the valid information or documents, or alteration thereof, to obtain the application of countervailing duties or safeguard action: by a fine equivalent to the value of the imported goods during the period of investigation in question;

(iv) failure to provide the Secretariat with the documents and reports relating to cases referred to in Article 55 within the deadline stipulated in the relevant request: by a fine equivalent to 180 times the legal minimum wage;
importation of goods in significant quantities, as compared to the total imports and domestic production, in a relatively short period, when there are previous cases on record of unfair practices in the export market in question, or when the importer knew or should have known that the exporter was engaged in such practices: by a fine equivalent to the amount resulting from the application of the final countervailing duty to the imports effected for up to three months prior to the date of application of the provisional countervailing duties. This penalty shall only be applied once the Secretariat has issued the resolution determining the final countervailing duties; and

disclosure of confidential information or utilization thereof for personal benefit within the meaning of Article 80 of this Act or in respect of the dispute settlement mechanisms set forth in the international treaties or conventions to which Mexico is a party: by a fine proportional to the loss caused or to the benefit obtained by disclosing or utilizing the said information.

For the purposes of this Article, the term "legal minimum wage" shall be understood to mean the general daily minimum wage in force in the Federal District at the time at which the infringement was committed.

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

The fines referred to in this Article shall be imposed independently of the penal and civil sanctions applicable under the law. The fines shall only be imposed once the suspected offender has been heard.

ARTICLE 94 - An appeal for reversal through administrative channels may be filed in respect of resolutions:

(i) Concerning the market of the country of origin or the refusal to issue prior licences or allow participation in import or export quotas;

(ii) concerning certification of origin;

(iii) declaring the rejection or abandonment of the request for initiation of investigation proceedings as referred to in Article 52, paragraphs (ii) and (iii);

(iv) declaring the investigation terminated without imposition of a countervailing duty pursuant to Article 57, paragraph (iii) and Article 59, paragraph (iii);

(v) fixing the final countervailing duty or the actions by which they are implemented;

(vi) responding to requests by the interested parties pursuant to Article 60;

(vii) declaring the investigation terminated pursuant to Article 61;

(viii) rejecting the request for revision or concluding the revision referred to in Article 68, or confirming, modifying or revoking the countervailing duties referred to in the same Article;
(ix) declaring the investigation referred to in Article 73 concluded or terminated; and

(x) imposing the penalties referred to in this Act.

Appeals for reversal of resolutions in respect of certification of origin and actions by which final countervailing duties are implemented shall be filed with the Secretariat of the Treasury and Public Credit. All other such appeals shall be filed with the Secretariat.

ARTICLE 95 - The purpose of the appeal for reversal referred to in this chapter is to reverse, modify or confirm the contested resolution and the resolutions issued shall set forth the action challenged, the legal grounds for the decision and the various points of the decision.

Appeal for reversal shall be handled and resolved in accordance with the provisions of the Federal Tax Code, and shall be referred to the Upper Chamber of the Federal Tax Court only once such proceedings have been exhausted.

Resolutions issued to decide an appeal for reversal or declare such appeal not receivable shall be final in character and may be challenged before the Upper Chamber of the Federal Tax Court by an action substantiated in accordance with the final paragraph of Article 239 bis of the Federal Tax Code.

Resolutions which are not appealed within the deadline established by the Federal Tax Code shall be considered to have been accepted and may not be challenged before the Federal Tax Court.

ARTICLE 96 - In respect of appeals for reversal of resolutions and actions referred to in Article 94, paragraph (v), the provisions of Article 95 shall apply provided the following conditions are met:

(i) The appeal shall be directed to the authority which issued the resolution, or against the authority which implemented it. However, in cases where the appeal is directed against both authorities, it shall be directed to the department which fixed the countervailing duties.

(ii) if both are challenged, the resolution on the appeal against the fixing of the countervailing duties shall be handed down before the resolution on the appeal against the implementing action. The authority competent to hear the former shall furnish a copy of its decision to the department competent to hear the latter. Should the final countervailing duty fixed be changed or revoked, the appeal against implementing action shall automatically become null and void, without prejudice to the right of the interested party to lodge an appeal against the new implementing action;

(iii) should successive appeals be lodged against the resolution fixing the countervailing duty and the implementing action, the latter shall be suspended. The appellant shall be required to give notice of the situation to the authorities responsible for hearing and deciding these appeals. Suspension may be ordered on the initiative of the authorities themselves when for any reason they become aware of this situation; and

(iv) when a case is brought before the Upper Chamber of the Federal Tax Tribunal challenging the resolution issued to decide the appeal for reversal lodged against the fixing of the final countervailing duty, and subsequently the resolution issued to decide
the implementing action is also challenged, the initial request must be extended within
the relevant deadline for challenging the latter resolution.

ARTICLE 97 - Any interested party may, in respect of the resolutions and actions referred
to in Article 94, paragraph (v), choose to resort to the alternative dispute settlement mechanisms with
regard to unfair practices provided for in the international treaties and trade agreements to which
Mexico is a party. If such mechanisms are chosen:

(i) Neither appeal for reversal provided for in Article 94, nor proceedings instituted
before the Upper Chamber of the Federal Tax Court against the Secretariat’s
resolution determining final countervailing duties or implementing actions, or against
the Secretariat’s resolution issued as a result of the decisions emanating from the said
alternative mechanisms, shall be admissible;

(ii) only the resolution passed by the Secretariat as a result of the decision emanating from
the alternative mechanisms shall be considered final;

(iii) the provisions of Article 238 of the Federal Tax Code shall apply.

ARTICLE 98 - In addition to the provisions of Articles 96 and 97, appeals against the
resolutions referred to in Article 94, paragraph (v) shall be subject to the following regulations:

(i) In respect of resolutions fixing final countervailing duties which are subject to appeal
under the alternative dispute settlement mechanisms provided for in international
treaties or agreements to which Mexico is a party, the time-limit for lodging an appeal
for reversal of a resolution fixing the final countervailing duty or the implementing
actions shall not come into effect until the time-limit provided under the international
treaty or convention in question for lodging such an appeal has expired;

(ii) in respect of resolutions fixing the final countervailing duties which are subject to
appeal under the alternative dispute settlement mechanisms provided for in
international treaties or agreements to which Mexico is a party, an appellant who
chooses to lodge an appeal for reversal must comply, in addition, with the formalities
set forth in the international treaty or convention in question; and

(iii) interested parties who lodge an appeal for reversal, or resort to annulment proceedings
before the Upper Chamber of the Federal Tax Court or to the alternative dispute
settlement mechanisms referred to in this Act, may guarantee payment of the final
countervailing duties in accordance with the Federal Tax Code provided the form in
which the guarantee is provided is accepted by the Secretariat of the Treasury and
Public Credit.