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REPLIES BY BRAZIL TO QUESTIONS RAISED BY THE EEC ON THE ANTI-DUMPING LEGISLATION OF BRAZIL

Reproduced herewith are replies by Brazil to questions raised by the EEC in document ADP/W/258 concerning Customs Policy Resolution No. 1227 (ADP/1/Add.26/Suppl.1).

1. Article 3(1) of resolution No. 001227

Question 1:

This paragraph provides that the conversion of a security into Federal revenue and/or its total or partial refund shall be determined by an act of the Customs Policy Commission (CPA).

Could the Brazilian authorities indicate when, i.e. at which stage of the proceedings, such a determination in a specific case will be made?

Response:

Resolution No. 1227 of the Customs Policy Commission, in its Articles 31 and 36 (Final Decision), provides that the conversion of a portion or of the total amount of the provisional duties into Federal revenue should be contained in the Act of the CPA when the Final Decision is made.

2. Article 27 of Resolution No. 001227

Question 2.1:

Is the adoption of provisional anti-dumping measures preceded by a full investigation of dumping, injury and the causal link?

Response:

According to the Anti-Dumping Code, in its Article 10 paragraph 1 and to Resolution No. 1227 in its Article 27, provisional measures could be applied whenever the investigating authorities judge that there is a need

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to apply such measures in order to prevent injury during the course of the investigations, based upon a preliminary assessment of the situation. A full investigation, by definition, is only accomplished when the final decision is taken.

Question 2.2

Does the preliminary investigation include the following steps:

- the dispatch of questionnaires to interested parties;
- the analysis of the replies to such questionnaires;
- on-the-spot investigation;
- hearings of interested parties?

Response:

According to Resolution No. 1227, in its Article 13, the questionnaires will be sent to interested parties together with the notification of the initiation of the investigation.

Resolution No. 1227, in its Article 14, establishes a period of 40 days to complete the questionnaires. If such a span of time is respected, as a general rule, its analysis will be taken into account in the application of provisional measures. However, the Brazilian investigating authorities reserve the right to apply provisional measures, on the basis of preliminary information, even before the return of such questionnaires, as there is no provision in the Code contrary to such a procedure.

Resolution No. 1227, in its Article 15, provides that, whenever it is necessary, the investigating authorities may carry out an on-the-spot investigation after receiving and analysing the responses provided by interested parties in the questionnaires. This investigation will be carried out contingent upon the acceptance of the interested parties and the countries involved. Therefore, if interested parties comply to the deadlines of the questionnaires and respond to the request of an on-the-spot investigation in a prompt manner, such a procedure may be taken into account in the preliminary analysis for the application of provisional measures. The Brazilian investigating authorities, however, without prejudice to the fulfilment of all the phases that may be related to a preliminary analysis, will always proceed in a speedy way in what regards preliminary assessments.

Resolution No. 1227, in its Article 19, provides the possibility of hearings, stressing in its paragraph 3 that these hearings shall not prevent the CPA from imposing provisional or definitive duties.