

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

Original: English

**NOTIFICATIONS OF LAWS AND REGULATIONS UNDER ARTICLE 18.5
AND ARTICLE 32.6 OF THE AGREEMENTS**

**Questions Posed by the EUROPEAN COMMUNITIES
Regarding the Notification of CANADA¹**

The following communication, dated 4 October 2004, is being circulated at the request of the Delegation of the European Commission.

Special Import Measures Act (SIMA)

1. Article 15(d) of SIMA appears to allow a period as short as 60 days for the determination of normal value, with such period ending as much as one year before the sale of the like goods to an importer in Canada. Is this understanding correct? How is this provision applied in practice?
2. Article 25(1)(c)(i) of SIMA seems always to require the deduction of AD duties when constructing the export price. How is this consistent with the conditions laid down in Article 9.3.3 ADA?
3. Article 51 of SIMA provides that an undertaking shall be terminated if the importer or exporter of the goods or the complainant requests so within 30 days after the notice of acceptance of the undertaking. Could Canada please clarify on what grounds (in the absence of a violation) such termination would be based?
4. It would appear from Article 53 of SIMA that where an undertaking has been accepted following a preliminary determination but no definitive determination has been made, the only test for continuation of the undertaking is that it "continues to serve the purpose for which it is intended". Is this correct? In cases where the undertaking is continued and thus remains in place for more than five years but is then terminated at the request of the exporter or importer concerned, is the original investigation resumed under Article 51 or is a new investigation required?
5. It would appear that Article 76.01 of SIMA implements, *inter alia*, Article 11.2 ADA and that interim reviews are carried out entirely by the Tribunal without a provision to obtain a determination from the Commissioner as occurs in expiry reviews; and that neither the Canadian International Tribunal Act (CITA) nor Special Import Measures Regulation (SIMR) lay down criteria for these reviews. What criteria are used in interim reviews? How is it ensured that these are consistent with Article 11.2 ADA?

¹ G/ADP/N/1/CAN/4-G/SCM/N/1/CAN/4

Regulations Exempting Goods of Chile from the Application of Anti-Dumping Measures

6. Could Canada please clarify how imports from Chile, which are exempted from the application of anti-dumping measures, would be taken into account in the injury analysis?
