

**Committee on Subsidies and
Countervailing Measures**

Original: Spanish

SUBSIDIES

Requests Pursuant to Article 27.4 of the Agreement on Subsidies
and Countervailing Measures

Questions Posed by Peru

The following communication, dated 27 October 2003, has been received from the Permanent Mission of Peru.

Notification of the Special Import – Export System for Capital Goods and Spare Parts (SIEX)

- It should be made clear how it is determined which capital goods exempt from customs duties are used in the production of export goods. Capital goods are indivisible and it is impossible to tell which capital goods imported under the regime are used for the production of export goods or for the production of goods for the domestic market.
- It is important to ascertain which markets receive exports effected by companies benefiting under SIEX, bearing in mind that the latter have accounted for more than 40 per cent of total exports.

Notification of the Free-Zone Regime (ZF) (2002)

- Regarding the Free-Zone Regime, it should be made clear whether it implies extraterritoriality (zones considered to lie outside national territory for customs purposes), in which case no duties would be paid and the notified quantities of total subsidies would therefore be under-estimated because of the failure to consider unpaid duties.
- Regarding the Free-Zone Regime (ZF), it is also important to make clear which factors have been responsible for the increased value of the incentive (fiscal sacrifice) under this programme since 1998 and at the same time why exports under the notified programme have been declining.
- It is necessary to ascertain what other types of tax exemptions are granted to companies operating in the free zones. The document refers only to the exemption from income tax and supplementary taxes on that part of their income that is obtained from sales to foreign markets. Among other things, no reference is made to income from domestic sales (where cleared for domestic consumption), which constitutes a subsidy on production and domestic sales, and could constitute a cross-subsidy affecting the competitiveness of Colombian products.

Legislative Reform of the SIEX – Ministry of Foreign Trade Resolution No. 0011

- It is necessary to make clear what is meant by the reference in Resolution No. 0011 of 8 January 2003 to the exclusion from the reduction commitment of the special import – export system for the export of services and the programmes for the export of finished goods covered by Annex I of the WTO Agreement on Agriculture.

These could not be considered to include subsidies on capital goods used in the production of agricultural goods because they would continue to be covered by the WTO Agreement on Subsidies and Countervailing Measures, and not by the Agreement on Agriculture.

If the reference is to subsidies on agricultural products, attention should be drawn to the fact that, in its last notification to the Committee on Agriculture, document G/AG/N/COL/26 (28 May 2001), Colombia notified that it did not apply any export subsidies between 1 January and 31 December 1999, and between 1 January and 31 December 2000. It has to be asked whether Colombia is perhaps seeking to re-impose subsidies on agricultural products.

- With regard to Resolution No. 0011 of 8 January 2003 on the SIEX Programme, clarification is required as to what degree of discretion is implicit in the paragraph under Article 2.

If criteria of national economic interest aimed at strengthening the competitiveness of the exportable supply were applicable, could the restriction on the annual value of subsidies for 2000 be disregarded? If the criterion of proper application of the corresponding programmes in the light of the country's commitments to the WTO is upheld, it is not at all clear whether these are alternative criteria.
