

WORLD TRADE ORGANIZATION

RESTRICTED

G/SG/Q1/ARG/4

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Committee on Safeguards

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NOTIFICATIONS OF LAWS AND REGULATIONS UNDER ARTICLE 12.6 OF THE AGREEMENT

Replies from ARGENTINA to the Questions Posed by CANADA¹

The following communication, dated 4 November 1996, has been received from the Permanent Mission of Argentina.

REPLIES TO THE QUESTIONS FROM CANADA

Given that Argentina very recently notified Decree No. 1059/96 establishing regulations under the Agreement on Safeguards, it is understood that the questions do not refer to that Decree, but nevertheless where appropriate the answers will refer to that Decree.

Question

1. Decree No. 766/94, Foreign Trade, Chapter III, Investigations, Reports and Opinions and Activities - Article 12 notes that "... the test of injury to the domestic industry shall be based upon facts and objective information and not on mere conjecture or remote possibility." Please advise whether this principle also applies to the investigation of safeguard measures noted in Article 13.

Reply

Yes. Argentina does apply this principle, since Decree 766/94 should be interpreted in the light of Law 24,425, Article 4, paragraph 2 of which establishes that the Authority shall evaluate "all relevant factors of an objective and quantifiable nature ...".

Question

2. Decree No. 766/94, Foreign Trade, Chapter III, Investigations, Reports and Opinions and Activities - Article 15 notes that the Commission may engage specialists or special consultants to supplement its permanent technical team. Please advise in the context of a safeguard investigation, whether representatives of the domestic industry seeking import relief, can be engaged as specialists or consultants.

¹G/SG/Q1/ARG/1.

Reply

No. The intention of Article 15 is to permit the engagement of independent experts who can supplement the Commission's investigation.

Question

3. Decree No. 766/94, Foreign Trade, Chapter III, Investigations, Reports and Opinions and Activities - Article 18 notes that the Commission may hold public hearings in the context of an investigation. Please explain the procedure for notification and participation by interested parties at public hearings.

Reply

Resolution 2/96 of the Board of the National Commission for Foreign Trade (CNCE), which applies to any type of investigation, lays down the procedure to be followed both for the notification and for the participation of interested parties in hearings. It establishes that when a hearing is public the interested parties mentioned in the file shall be notified individually, and also that public notice of convocation to the public hearing shall be given in the Official Journal. Both notifications shall give details of the ongoing investigation, the nature and purpose of the hearing, the date, hour and place where it will be held, and requirements for attendance and participation. Hearings shall be convened with a minimum advance notice of 20 days. At the hearings the parties may give their views and include relevant information for the conduct of the investigation, while complying with the requirements relating to confidential information. In addition, the parties shall submit in writing any information they give orally at the hearing, so that it may be taken into account in the final determination.

In the case of a private hearing, only the parties in the investigation will be notified, and there is no need to publish the convocation in the Official Journal.

Question

4. What are the provisions of the Argentina notification that deal with mid-term reviews and extension enquiries?

Reply

In Article 33 of Decree No. 1059/96, Argentina follows the provisions of Article 7 of the Agreement on Safeguards, which governs reviews and extensions of safeguard measures.

Question

5. Can provisional safeguard measures be taken and if so, under what conditions?

Reply

In Article 35 of Decree No. 1059/96, Argentina follows in this respect the provisions of Article 6 of the Agreement on Safeguards. Thus, the party requesting the measure has to demonstrate both the existence or threat of injury in connection with increased imports, as well as the existence of critical circumstances. These measures may not last more than 200 days and the period during which they are in effect shall be counted for the purposes of the total duration of the safeguard measure.

Question

6. Are there defined time-limits for imposing safeguard actions under Argentina law?

Reply

Yes, Argentina observes the time-limits laid down in Article 7 of the Agreement on Safeguards, as provided for in Articles 28, 29, 30 and 31 of Decree No. 1059/96.

Question

7. Are there any provisions in the Argentina law that require the progressive liberalization of safeguard measures?

Reply

Yes. Argentina complies with Article 7, paragraph 4, of the Agreement on Safeguards, governing the issue of progressive liberalization, as provided for in Article 33 of Decree No. 1059/96, the time-limits of which are the same as those in the Agreement.

Question

8. Describe the legislative and/or regulatory provisions associated with the granting of compensation.

Reply

In this regard Argentina follows the procedure laid down in Article 8 of the Agreement on Safeguards. Articles 21 and 22 of Decree No. 1059/96 provide for a compensation mechanism that is in keeping with the provisions of the Agreement.