

**WORLD TRADE  
ORGANIZATION**

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**Committee on Anti-Dumping Practices**

Original: Spanish

**NOTIFICATION OF LAWS AND REGULATIONS UNDER  
ARTICLE 18.5 OF THE AGREEMENT**

ARGENTINA

Supplement

The following communication, dated 6 October 2006, is being circulated at the request of the delegation of Argentina.

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Pursuant to Article 18.5 of the Agreement on Implementation of Article VI of the GATT 1994, I have the honour to transmit herewith a copy of Decree No. 1219 of 12 September 2006, published in the Official Journal of 20 September 2006, by which the National Executive Power instituted the procedure for calculating normal value in respect of unfair trading practices in the form of dumping in non-market economies or economies in transition.

The Decree also repeals Article 66 of Decree 1326/98, which was notified in a timely fashion.

## FOREIGN TRADE

### Decree 1219/2006

**Dumping. Procedure applicable to imports from non-market economy countries or countries in transition to a market economy, for the purpose of determining price comparability, when such countries are involved in investigations and reviews on unfair trading practices in the form of dumping.**

Buenos Aires, 12 September 2006

HAVING REGARD TO File No. SO1:0116082/2006 in the Registry of the Ministry of the Economy and Production, and

#### WHEREAS:

The 1994 General Agreement on Tariffs and Trade, which contains, *inter alia*, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 – Anti-Dumping Agreement – regulated by Decree No. 1326 of 10 November 1998, was incorporated in the domestic legal system of the Argentine Republic by Law No. 24.425.

The second supplementary provision to Article VI, paragraph 1, of the General Agreement on Tariffs and Trade 1994 provides that, in the case of imports from a country which has a complete or substantially complete monopoly of its trade and where all domestic prices are fixed by the State, special difficulties may exist in determining price comparability for the purposes of paragraph 1 in the above-mentioned Agreement, and in such cases importing contracting parties may find it necessary to take into account the possibility that a strict comparison with domestic prices in such a country may not always be appropriate.

The Anti-Dumping Agreement provided no detailed explanations on this issue, leaving it up to country Members to establish the range of the circumstances in which "normal values" or "the ordinary course of trade" cannot be said to be determined by direct or indirect State intervention in the market.

Up to the present time, the Argentine Republic, in the context of anti-dumping investigations, has considered certain countries as non-market economy countries covered by Article 20 of Decree No. 2121 of 30 November 1994 or Article 66 of Decree No. 1326/98, in accordance with the applicability of those provisions.

Following the enactment of the above-mentioned provisions, and the definitive accession of new Members to the World Trade Organization (WTO), Argentina assumed the obligation to notify the methodologies used in respect of this matter to the Committee on Anti-Dumping Practices of the WTO.

At the same time, having regard to the changes introduced in the economies of specific countries, it is necessary to enact regulations which embody the objective criteria to be applied to these countries when they are involved in investigations concerning unfair trading practices in the form of dumping.

Without prejudice to the foregoing, the Argentine Republic notifies to the exporters of countries considered as non-market economy countries the criteria to be applied in the course of the investigations concerned.

The Directorate-General for Legal Affairs of the Ministry of the Economy and Production has taken appropriate action within its sphere of competence.

The National Executive Power is competent to promulgate this act by virtue of the provisions of Article 9, paragraph 2, of the National Constitution.

Wherefore,

THE PRESIDENT OF THE ARGENTINE NATION

HEREBY DECREES:

**Article 1** – In the case of imports from non-market economy countries or countries in transition to a market economy, for the purpose of determining price comparability under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, approved by Law No. 24.425, normal value shall be determined on the basis of the selling price to the domestic market of a market economy third country, or the price applied by such third country to other countries, including the Argentine Republic, or the constructed price in the market economy third country concerned, or where this is not possible, on any other reasonable basis, including the price actually paid or payable in the Argentine Republic for the like product, duly adjusted to include a reasonable profit margin. The method of selecting a market economy third country shall be appropriate and reasonable, taking due account of any reliable information available at the time of selection, and a third country which is subject to the same investigation may also be used.

**Article 2** – The administrative decision by which the investigation is declared open shall specify the market economy third country considered at that stage. The interested parties shall have ten (10) working days from the day following publication of the above-mentioned decision in the Official Journal to make any comments they deem relevant concerning the selection of the third country in question.

**Article 3** – The producers/exporters subject to investigation may demonstrate that they operate under market economy conditions on the basis of duly certified positive evidence, which shall be used by the implementing authority to determine whether normal value can be ascertained on the basis of information from that producer/exporter.

For that purpose, they shall be required to demonstrate that:

- (a) Decisions of firms regarding prices, cost factors (including, for example, raw materials, cost of technology and labour), output, sales and investment are made in response to market signals reflecting supply and demand, without State interference;
- (b) Firms have one clear set of basic accounting records which are independently audited in line with international accounting standards and are applied for all purposes;
- (c) The production costs and financial situation of firms are not subject to distortions carried over from the former non-market economy system, in particular in relation to the depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- (d) The firms concerned are subject to bankruptcy and property laws which guarantee legal certainty and stability for the financing of firms;
- (e) Exchange rate conversions are carried out at the market rate.

The above list is not exhaustive, and the implementing authority may request such other evidence as it deems relevant.

**Article 4** – If it is shown, on the basis of the evidence presented and in accordance with the criteria set out in Article 3 of this Decree, that one or more producers/exporters subject to investigation operate under market economy conditions in respect of the manufacture and sale of the product concerned, the provisions of Article 2 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 shall apply to that producer/exporter for the calculation of normal value.

If the implementing authority, after analysing the information submitted by the exporters/producers, concludes that they do not operate under market conditions or that the requirements of Article 3 of this Decree have not been fulfilled, normal value shall be determined in accordance with the provisions of Article 1 of this Decree.

**Article 5** – This Decree shall be applicable to investigations and reviews of existing measures initiated after the date of its entry into force.

**Article 6** – The Secretariat of Industry, Trade and Small and Medium-Sized Enterprises of the Ministry of the Economy and Production shall be the implementing authority responsible for promulgating the supplementary regulations to this Decree.

**Article 7** – This Decree shall enter into force from the day following its publication in the Official Journal.

**Article 8** – Article 66 of Decree No. 1326 of 10 November 1998 is hereby revoked.

**Article 9** – This Decree shall be proclaimed, published, transmitted to the National Directorate of Official Records and filed. – KIRCHNER – Alberto A. Fernández. – Felisa Miceli. – Jorge E. Taiana.

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