

WORLD TRADE ORGANIZATION

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Committee on Safeguards

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NOTIFICATION OF LAWS, REGULATIONS AND
ADMINISTRATIVE PROCEDURES RELATING
TO SAFEGUARD MEASURES

COSTA RICA

The following communication, dated 17 March 1998, has been received from the Permanent Mission of Costa Rica.

Pursuant to Article 12.6 of the Agreement on Safeguards we submit herewith a copy of Decree No. 25242-MEIC approving the text of the Central American Regulations on Safeguard Measures. This Decree repeals, as regards the Safeguard Clause, the Central American Regulations on Unfair Business Practices and Safeguard Clause notified in document G/SG/N/1/CRI/1.

We also attach a copy of Decree No. 24772-MEIC-MAG establishing the Office of Unfair Business Practices and Safeguard Measures as the competent authority for all administrative procedures involving the application of safeguard measures.

No. 25242-MEIC

THE PRESIDENT OF THE REPUBLIC
AND THE MINISTRY OF THE ECONOMY, INDUSTRY AND TRADE,

In application of the powers conferred by subparagraphs (3) and 18 of Article 140 of the Constitution, subparagraph 2(b) of Article 28 of the General Law on Public Administration, Article 18 of the Protocol of Tegucigalpa to the Charter of the Organization of Central American States (OCAS), Articles 24 and 26 of the Convention on the Central American Tariff and Customs Regime (Law 6986 of 3 May 1995);

WHEREAS:

1. The Central American Economic Council, through Resolution 9-94 (CEC), agreed to give priority to the preparation of instruments to regulate intra-Central American trade relations with a view to establishing a clear and transparent set of rules,
2. It is necessary to adapt regional regulations to the Uruguay Round Agreements following the creation of the World Trade Organization, in particular the Agreement on Safeguards,
3. By Resolution No. 19-96 (COMRIEDRE IV) of 22 May 1996, the Ministers responsible for economic integration and regional development approved the Central American Regulation on Safeguard Measures;

THEREFORE DECREE:

Article 1. Resolution No. 19-96 (COMRIEDRE IV) of the Council of Ministers Responsible for Economic Integration and Regional Development, the text of which appears below, is hereby brought into force.

Resolution No. 19-96 (COMRIEDRE IV)

THE COUNCIL OF MINISTERS RESPONSIBLE FOR ECONOMIC
INTEGRATION AND REGIONAL DEVELOPMENT,

WHEREAS:

1. It is necessary to adapt regional regulations to the Uruguay Round Agreement in the light of the Agreements of the World Trade Organization;
2. By Resolution No. 9-94 (CEC) of 24 September 1994, the Central American Economic Council established as a priority matter on the Central American Agenda the preparation of the legal instruments to regulate trade that must be adopted in order to establish, as rapidly as possible, clear rules governing Central American trade relations with third countries;
3. In accordance with the procedure established in the above-mentioned Resolution, the technical forums and the meeting of Directors of Central American Integration gave their consent to the content of the draft Central American Regulations on Safeguard Measures and recommended that they be adopted;

Pursuant to Article 18 of the Protocol of Tegucigalpa to the Charter of the Organization of Central American States and Articles 6, 7, 12 and 26 of the Convention on the Central American Tariff and Customs Regime;

DECIDES:

1. To adopt the CENTRAL AMERICAN REGULATIONS ON SAFEGUARD MEASURES in the form in which they appear in the Annex to this Resolution, which forms an integral part of this Resolution;
2. The Central American Regulations on Safeguard Measures shall enter into force 30 days following the date of this Resolution, which shall be published in full by the States;
3. The States party undertake to send a copy of the said Regulations to the Permanent Secretariat of the General Treaty on Central American Economic Integration (SIECA) immediately following their official publication so that the Secretariat may inform the other States for legal purposes.

Guatemala, 22 May 1996

Marco Antonio Vargas Díaz
Ministry of the Economy, Industry
and Trade of Costa Rica

Eduardo Zablah Touché
Ministry of the Economy
of El Salvador

Juan Mauricio Wurnser
Ministry of the Economy
of Guatemala

Fernando García Rodríguez
Ministry of the Economy
and Trade, Honduras

Alfredo Vélez Lacayo
Vice-Minister representing the Minister of the Economy
and Development of Nicaragua

CENTRAL AMERICAN REGULATIONS
ON SAFEGUARD MEASURES

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CENTRAL AMERICAN REGULATIONS ON SAFEGUARD MEASURES

CHAPTER I

General Provisions

Article 1

(Definitions)

For the purposes of these Regulations, the expressions used below shall have the following meaning:

Agreement: The Agreement on Safeguards annexed to the Agreement Establishing the World Trade Organization.

Investigating authority: The Directorate or Directorate-General of Integration of the Ministry of the Economy or, as the case may be, the Directorate competent for matters pertaining to Central American economic integration in each State Party, or the technical unit with responsibility for investigating situations tending towards the application of the safeguard measures provided for in these Regulations.

Council of Ministers: The Council of Ministers for Economic Integration set up by Article 37 of the Guatemala Protocol.

Convention: The Convention on the Central American Tariff and Customs Regime and its Protocols.

States Parties: The States Parties to the General Treaty on Central American Economic Integration, the Guatemala Protocol, and the Convention on the Central American Tariff and Customs Regime.

GATT 1994: The General Agreement on Tariffs and Trade 1994 annexed to the Agreement Establishing the World Trade Organization.

Substantial interest: Interested WTO Members that export the product subject to the measure and would be affected by it shall be considered to have a substantial interest in the measure.

Minister: The Minister of each State Party having responsibility for matters relating to economic integration or, as the case may be, the application of safeguard measures.

WTO: The World Trade Organization.

Interested parties: (a) An exporter or foreign producer or the importer of a product subject to investigation, or a trade or business association a majority of the members of which are producers, exporters or importers of such product; (b) the government of the country or countries of origin or provenance of the products subject to investigation; and (c) a producer of the like or directly competitive product in the importing State Party or a trade and business association a majority of the members of which produce the like or directly competitive product in the territory of the State Party.

Like product: A product which is identical, i.e. alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.

Directly competitive product: A product which is not a like product to the one with which it is compared but is essentially equivalent for commercial purposes because it is intended for the same use and is interchangeable with the latter product.

Guatemala Protocol: The Protocol to the General Treaty on Central American Economic Integration, signed on 29 October 1993.

Domestic industry: The producers as a whole of the like or directly competitive products operating within the territory of a State Party or those of them whose collective output of like or directly competitive products constitutes at least 25 per cent of the total domestic production of those products.

Region: All of the States Parties as a whole.

SIECA: The Secretariat of Central American Economic Integration.

Third countries: Countries that are not States Parties.

Article 2

(Object of the Regulations)

These Regulations set out the provisions for the implementation of Article XIX of GATT 1994, the Agreement, and as appropriate the provisions of the Guatemala Protocol and the Convention.

Article 3

(Scope)

The safeguard measures which these Regulations refer shall apply to imports from third countries.

Article 4

(Substantive Rules)

All the substantive aspects relating to the application of safeguard measures shall be determined by the provisions of the instruments referred to in Article 2 of these Regulations.

Article 5

(Initiation of Proceedings)

The process of investigation for the purpose of verifying whether safeguard measures should be applied may be initiated on application by a party or, in exceptional cases determined by the investigating authority, *ex officio* in accordance with the provisions of these Regulations and the Agreement.

Where the investigating authority proceeds *ex officio*, it shall notify the domestic industry for confirmation of its consent to the continuation of the investigation.

CHAPTER II

Procedure for the Adoption of Safeguard Measures Against Third Countries

Article 6

(Purpose of the Procedure)

The purpose of the investigation procedure shall be to determine whether or not it is appropriate to apply safeguard measures when a product is being imported into the territory of a State Party from third countries in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products.

Article 7

(Investigating Authority)

The investigating authority shall carry out the enquiries, analyses and evaluations it sees fit in order to determine the existence of increased imports, serious injury or threat thereof, and the causal link between the two, for the purpose of establishing whether it is appropriate to impose a safeguard measure.

Article 8

(Period Covered by the Investigation)

The period covered by the investigation shall be understood to be the period covered by imports of products that are like to or directly competitive with domestic products, which are taking place in such quantities and conditions as to cause or threaten to cause serious injury to the domestic industry.

The period covered by the investigation shall be determined by the investigating authority in the resolution for the opening of the investigation, and may be modified by that authority when it sees

fit. In the latter case, the resolutions imposing provisional or final safeguard measures shall refer to the modified period.

Article 9

(Standing)

Applications for the initiation of an investigation procedure may be made by the representatives of the domestic industry prejudiced by the imports concerning which the investigation is requested and by the representatives of producers associations similarly affected.

Article 10

(Application Requirements)

An application for the opening of an investigation shall contain at least the following information: (a) designation of the investigating authority to which the application is made; (b) particulars of the applicant, and in the case of a legal representative, the accreditation documents; (c) activity in which the affected producer(s) is/are engaged; (d) description of the imported product or products, giving specifications and information enabling the product(s) to be compared with domestic products, and the relevant tariff heading; (e) description of the affected domestic product and its tariff heading; (f) information demonstrating the increase in the volume of imports of the like or directly competitive product; (g) information demonstrating the existence of serious injury or threat thereof to a domestic industry; (h) volume and value of domestic production of the product like to or directly competitive with the imported product; (i) description of the applicant's share, in volume and value terms, of domestic production, or as the case may be, that of the members of the organization to which the applicant belongs, indicating the percentage share of the output of their products within domestic production; (j) volume and value of imports; (k) request for the opening of the investigation and for the imposition of a safeguard measure; (l) list of known importers and exporters and place at which they may be notified; (m) country or countries of origin or provenance of the imports; (n) place for receiving notifications; (ñ) place and date; and (o) signature of the applicant or legal representative of the domestic industry or of the association concerned.

The original application and accompanying documentation must be provided in as many copies as the number of importers, exporters or foreign governments identified in the application, except in case of information which is considered confidential.

Article 11

(Examination of the Application)

Within thirty days of receiving the application, the investigation authority shall examine it and: (a) accept the application, if it fulfils the requirements laid down in these Regulations, and declare the opening of the investigation; (b) if the application is incomplete, notify the applicant so that he may fulfil the relevant requirements within thirty days; or (c) reject the application by means of a reasoned resolution, if it does not provide sufficient evidence to justify opening the investigation, or if the application has not been made in representation of a domestic industry in accordance with the provisions of these Regulations.

At the request of the applicant, the investigating authority may extend the time-limit referred to in subparagraph (b) of this Article for a further period of not more than thirty days.

If the applicant submits the information requested in accordance with subparagraph (b) of this Article, the investigating authority shall resolve to open the investigation or reject the application within a period of not more than thirty days following the submission of the information. If the information requested is not submitted within the time-limit granted, the investigation authority shall consider the application abandoned and reject and file it, without prejudice to the right of the party concerned subsequently to submit a new application.

Article 12

(Notification of Rejection of the Application)

The resolution rejecting an application must be notified to the applicant within ten days of its date of issue.

Article 13

(Resolution for the Opening of an Investigation)

Where the investigating authority decides, following the examination referred to in Article 11 of these Regulations, that there is evidence to justify opening an investigation, it shall issue a resolution declaring the initiation of the investigation.

Article 14

(Information to be Contained in the Resolution for the Opening of an Investigation)

The resolution for the opening of an investigation shall contain at least the following information: (a) identification of the investigation authority initiating the procedure, and date and place of issuance of the resolution; (b) indication that the application and its accompanying documentation had been accepted; (c) name or business name of the domestic producer or producers of like or directly competitive products and place at which they may be notified; (d) name or business name of the importers and exporters and place at which they may be notified; (e) country or countries of origin or provenance of the imports under investigation; (f) detailed description of the product or products that have been or are being imported, together with their tariff heading; (g) description of the domestic product like to or directly competitive with the product that has been or is being imported; (h) period covered by the investigation; (i) the reasons and justification for the resolution, with an account of the evidence submitted; (j) time-limit granted to interested parties to submit written statements and any other evidence they consider pertinent; and (k) determination of the persons from whom the pertinent information is to be requested.

Article 15

(Notification of the Opening of an Investigation)

The resolution opening an investigation shall be notified to the interested parties and to the WTO Committee on Safeguards within ten days of the date of its publication. The notification to the interested parties shall be accompanied by a copy of the application and non-confidential accompanying documents.

The interested parties shall have a period of forty-five days running from the day following the notification to submit their rebuttals and evidence. At the request of the interested party, the investigating authority may extend this time-limit for a period of not more than thirty days.

Article 16

(Time-Limit for the Investigation)

The investigation shall be concluded within six months, except in exceptional circumstances, as determined by the investigating authority, in which case it shall be concluded within twelve months from the date of its initiation.

Article 17

(Access to Information and the File)

Where interested parties refuse access to, or do not provide, necessary information within the time-limit established by the investigating authority, that authority may adopt a preliminary or final resolution on the basis of the facts and evidence available.

Any interested party may submit its statements during the period of the investigation, together with evidence in support of those statements. Access to the file shall be governed by the provisions of the Agreement and the provisions in force in each State Party.

Article 18

(Investigative Powers)

The investigating authority may request any kind of information, including technical opinions, from the various departments of the public administration, which shall provide it as rapidly as possible. It may also request any advice it considers relevant and any steps to ascertain the alleged facts.

Article 19

(Application and Duration of Provisional Measures)

If the elements exist to justify the application of a provisional measure, the investigating authority shall recommend such measure to the Minister, who may impose it by means of a resolution if the following prerequisites are fulfilled: (a) if the resolution for the opening of the investigation has been issued and published in accordance with the provisions of these Regulations and at least 30 days have lapsed since the initiation of the investigation; (b) if a preliminary determination has been made of the existence of evidence demonstrating an increase in the volume of imports, serious injury or threat thereof and the causal link between the two in accordance with the Agreement; (c) if critical circumstances exist where delay would cause damage which it would be difficult to repair to the domestic industry; and (d) if such measures are necessary to prevent serious injury to a domestic industry.

The duration of the provisional measure shall not exceed 200 days and shall be applied in accordance with the provisions of the Agreement.

Article 20

(Nature of Provisional Measures)

Provisional measures shall take the form of increased duties, guaranteed by a security, which shall be promptly refunded if the subsequent investigation does not determine that increased imports have caused or threaten to cause serious injury to a domestic industry.

Article 21

(Notifications and Consultations)

Before adopting a provisional measure, the State Party shall notify the measure to the WTO Committee on Safeguards. Once the measure has been imposed, the authorities of the State Party shall hold consultations with WTO Member countries having a substantial interest in the measure.

A resolution by means of which a provisional measure is adopted shall be notified to interested parties within 10 days following the date of its publication.

Article 22

(Public Hearing)

The purpose of public hearings shall be to allow the interested parties the opportunity orally to question or rebut the opposing parties with respect to the information and evidence submitted before the investigation authority, so as to enable it and other interested parties to request further explanations or specific clarifications, as well as to afford interested parties the opportunity to submit their views, *inter alia*, as to whether or not the application of the safeguard measure would be in the public interest.

The investigating authority shall notify interested parties of the holding of a public hearing 15 days in advance. The public hearing shall be scheduled in good time and shall conclude the evidentiary period.

Article 23

(Statements)

After the evidentiary period has concluded with the public hearing, interested parties shall have 15 days in which to submit their written conclusions on the investigation to the investigating authority.

Article 24

(Conclusion of the Investigation)

The investigating authority shall complete the investigation and issue a final technical opinion. Within three working days thereafter it shall submit the file together with the technical study and relevant recommendations to the Minister.

Within 10 working days of receipt, the Minister shall declare the investigation concluded and issue the final resolution, taking into consideration both the file and the recommendations of the investigating authority and also public interest criteria.

Article 25

(Final Resolution)

The resolution concluding the investigation may be issued only after all the steps and enquiries have been made to enable an objective decision to be issued. The resolution may be of two kinds: (a) it may authorize the application of a measure; or (b) it may declare that the measure should not be applied and, where appropriate, revoke a provisional measure that has been adopted.

Article 26

(Requirements of the Final Resolution)

The resolution authorizing the application of a final measure shall contain: (a) The reasons and justification therefore; (b) determination of the volume, increase and conditions in which the imports under investigation were made; (c) positive determination of serious injury caused or threatened to the domestic industry and the causal relationship with the imports under investigation; (d) nature of the measure established; (e) expected duration of the measure; and (f) timetable for the phasing-out of the measure.

Article 27

(Consultations and Compensation)

Before imposing or extending a final safeguard measure a period of 30 days shall be granted for holding consultations with WTO Member countries having a substantial interest.

For the purposes of granting compensation to a WTO Member or Members whose exports are affected by the imposition of the measure, the executive power or body of the State Party may agree to any appropriate measure of compensation in accordance with its domestic legislation.

States Parties shall take account of the commitments entered into in the framework of Central American economic integration.

Article 28

(Notifications)

The final resolution shall be notified to the interested parties and to the WTO Committee on Safeguards within 10 days of its publication.

Article 29

(Duration of Safeguard Measures)

Measures imposed in accordance with these Regulations shall be of an exceptional and temporary nature, and shall be in force only as long as necessary to prevent or redress the serious injury which caused them to be applied, and to facilitate adjustment.

The period of application of the measure shall not exceed four years, unless it is extended in conformity with the provisions of the Agreement.

Article 30

(Imposition of the Safeguard Measures)

Resolutions imposing, modifying or eliminating provisional or final safeguard measures shall be put into force in accordance with the domestic legislation of each State Party.

Article 31

(Causal Link)

For a safeguard measure to be adopted, there must be a causal link between the imports under investigation and the serious injury or threat thereof to the domestic industry.

The determination referred to in the preceding paragraph shall not be made unless the investigation demonstrates, on the basis of objective evidence, the existence of a causal link between increased imports of the product concerned and serious injury or threat thereof. When factors other than increased imports are causing injury to the domestic industry at the same time, such injury shall not be attributed to increased imports.

Article 32

(Transmittal to the Council)

The investigating authority shall transmit to SIECA a copy of resolutions for the application of provisional and final safeguard measures, and of resolutions amending them, within 10 days of their publication, so that SIECA may convene the Council in order to enable it to be informed of and approve the measures adopted.

Article 33

(Suspension of the Investigation)

On the proposal of the investigating authority, the Minister may suspend a provisional measure that has been adopted and terminate the investigation at any stage when there are sufficient grounds for doing so. In that case, the Minister shall issue the corresponding resolution, which shall be notified to the interested parties within 10 days of its publication.

Article 34

(Review of Measures)

A safeguard measure that has been adopted may be reviewed, at the request of a party or *ex officio*, at any time during its application, in accordance with the provisions of the Agreement.

Article 35

(Publication)

The resolutions for the opening, suspension and conclusion of an investigation and for the application of provisional safeguard measures or for the modification of such measures shall be published once only, at the cost of the interested party, in one of the daily newspapers with national

circulation and in the Official Journal of the State Party and, when being put into force, in the Official Journal of the Central American Integration System.

Article 36

(Appeals)

The appeals provided for in the domestic legislation of each party may be entered against the resolutions issued by the national authorities.

Article 37

(Safeguard Measures Against a Developing Country)

Safeguard measures against a product originating in a developing country shall be imposed only in conformity with the requirements and conditions of the Agreement.

CHAPTER III

Final Provisions

Article 38

(Amendments to the Regulations)

The Council of Ministers shall have responsibility for amending the provisions of these Regulations at the request of a State Party or SIECA.

Each State Party shall submit a six-monthly report to the Executive Committee for Economic Integration, through SIECA, on the implementation of this instrument.

Article 39

(Calculation of Time-Limits)

Unless otherwise specified, the time-limits established in these Regulations shall be calculated in calendar days.

Article 40

(Implementing Body)

Pending the entry into force of the Guatemala Protocol for all States Parties, the body competent for matters pertaining to economic integration, in accordance with the legal instruments of Central American integration, shall have responsibility for implementing this instrument, where applicable.

Article 41

(Suppletive Application)

In cases not covered by these Regulations, States Parties may apply on a supplementary basis the provisions and principles of Central American integration, the provisions of public international law, and the general principles of law.

Article 42

(Epigraphs)

The epigraphs preceding the Articles of these Regulations are exclusively indicative and therefore have no effect on their interpretation.

Article 43

(Repeal Clause)

Upon the entry into force of these Regulations, the Regulations of Articles 25 and 26 of the Convention on the Central American Tariff and Customs Regime, "Unfair Business Practices and Safeguard Clause", dated 10 September 1987, and the Central American Regulations on Unfair Business Practices and Safeguard Clause, dated 29 January 1993, as well as any other provision inconsistent with these Regulations, are hereby repealed as far as the Safeguard Clause is concerned.

Article 2

This Decree shall enter into force on 22 June 1996.

Done in the Office of the President of the Republic, San José, on the thirty first day of May nineteen hundred and ninety six.

For publication. JOSÉ MARÍA FIGUERES OLSEN.

Marco A. Vargas Díaz. Minister of the Economy, Industry and Trade.

No. 24772-MEIC-MAG

THE PRESIDENT OF THE REPUBLIC
THE MINISTER OF THE ECONOMY, INDUSTRY AND TRADE,
AND THE MINISTER OF AGRICULTURE AND LIVESTOCK,

In application of the powers conferred by subparagraphs (3) and (18) of Article 140 of the Constitution, subparagraph 2(b) of Article 28 of the General Law on Public Administration, Articles 10 and 11 of the Law on Industrial Protection and Development (No. 2426 of 18 May 1960) and the Structural Adjustment Loan Agreement II (Law No. 7134 of 4 October 1989) and,

WHEREAS:

1. Costa Rica's integration into the trade and market liberalization scheme calls for the rapid reduction of tariff barriers as part of the implementation of the Uruguay Round Agreements (Law No. 7475 of 20 December 1994);
2. Both the domestic and international legislation adopted by Costa Rica offer the possibility of providing the country with appropriate mechanisms for the protection of its domestic industries against unfair business practices and the application of safeguard measures, an authority which is conferred at the central American level by the Central American Regulations on Unfair Business Practices and Safeguard Clause (Executive Decree No. 21984-MEIC of 16 March) and at the international level by the Uruguay Round Agreements that have been ratified and implemented;
3. Both the Law on Industrial Protection and Development (Law No. 2426 of 18 May 1960) and the Structural Adjustment Loan Agreement II (Law No. 7134 of 4 October 1989) enable the Ministry of the Economy, Industry and Trade and the Ministry of Agriculture and Livestock to take the necessary measures to counteract such practices;
4. A specialized technical unit is needed to receive and process complaints filed in connection with unfair business practices and safeguard measures and to meet the information needs of the various sectors or industries that might be injured by such practices;
5. Through Official Communication No. DM-822-95 of 4 September 1995 the Ministry of National Planning and Economic Policy approved the restructuring of the Ministry of the Economy, Industry and Trade, authorizing, *inter alia*, the creation of the Unit of Unfair Business Practices and Safeguard Measures;
6. It has become necessary to review and update Decrees No. 20835-MEIC, 19883-MEIC and 18098-MEIC;

THEREFORE DECREE:

Establishment of the Office of Unfair Business Practices
and Safeguard Measures

Article 1

The Office of Unfair Business Practices and Safeguard Measures, hereinafter referred to as "the Office", is hereby created as a unit under the authority of the Office of the Minister of the Economy, Industry and Trade.

Article 2

The purpose of the Office is to function as a technical unit responsible for conducting the administrative procedures relating to the imposition of anti-dumping duties or countervailing duties, or the application of safeguard measures.

Article 3

The Office shall, *inter alia*:

- (a) Advise the productive sectors as to the functioning of the Office;
- (b) advise the productive sectors on the proper procedures for filing a complaint;
- (c) receive complaints on unfair business practices (dumping or subsidies);
- (d) receive requests for the imposition of safeguards;
- (e) conduct the necessary studies to determine the truthfulness of the complaints of unfair business practices or their need to impose safeguards;
- (f) advise domestic exporters that they are being investigated for unfair business practices abroad;
- (g) carry out any other tasks associated with the functioning of the Office, that by their nature come within its scope or that are assigned to it by law or under international agreements.

Article 4

The Office shall be headed by a Director or Coordinator who must be either a lawyer or an economist with a suitable educational background, appointed by the Minister.

The Office shall also include economists to cover dumping, subsidies and injury, and lawyers to cover technical-legal matters as well as the supporting administrative staff required for the proper functioning of the Office.

Article 5

Matters involving unfair business practices and safeguard measures shall be known exclusively to the Office except in cases where international agreements mention another unit of the Ministry of the Economy, Industry and Trade, in which case such other unit shall work in coordination with the Office.

CHAPTER II

Joint Commissions

The Joint Commissions created by Law No. 2426 of 18 May 1960 in the Ministry of the Economy, Industry and Trade and the Ministry of Agriculture and Livestock shall be made up of four representatives of the public sector and three representatives of the private productive sector.

Article 7

Membership of the commissions shall depend on the nature of the imports subject to investigation as defined according to the parameters laid down in the international agreements in force to which the country is a party.

When the nature of investigated imports is defined according to the above parameters as falling within the scope of the industrial sector, the Commission shall accordingly be composed as follows:

- (a) Three representatives of the Ministry of the Economy, Industry and Trade;
- (b) a representative of the Ministry of Foreign Trade;
- (c) three representatives of the private industrial sector.

When the nature of the imports under investigation is defined according to the above parameters as falling within the scope of the agricultural sector, the Commission shall be composed as follows:

- (a) Two representatives of the Ministry of Agriculture and Livestock;
- (b) a representative of the Ministry of the Economy, Industry and Trade;
- (c) a representative of the Ministry of Foreign Trade;
- (d) three representatives of the private agricultural sector.

The representatives of the private sector shall be appointed by the Ministry of the Economy, Industry and Trade or the Ministry of Agriculture and Livestock, as appropriate, from a list of no fewer than five candidates per sector (industrial and agricultural) which shall be communicated by the Costa Rican Union of Chambers and Associations of Private Enterprises (UCCAEP).

Each member shall have an alternate and all members shall serve for a renewable term of two years. They shall carry out their functions in an honorary capacity and in strict conformity with the applicable ethical standards and rules of discretion.

Article 8

The Joint Commission shall be an advisory body in respect of any complaint or application filed and shall be responsible for receiving the technical report from the Office of Unfair Business Practices and Safeguard Measures and recommending courses of action.

The recommendations or opinions shall be communicated to the Ministry no later than 15 calendar days following receipt of the report of the Office. The documentation addressed to the Commission shall be handed over to its Chairman or Secretary, who shall be elected by the said members.

Article 9

If the above-mentioned time-limit elapses without the Minister having received the opinion of the Commission, the Minister shall give a ruling immediately on the basis of the report of the Office and the relevant file.

Article 10

The above-mentioned Ministers shall supply, as far as possible, the elements necessary to the functioning of the Commission.

Article 11

The function of Secretariat of the Joint Commission shall be exercised by the Office of Unfair Business Practices and Safeguard Measures.

The Commission shall be convened by the Minister of the Economy, Industry and Trade at a previously communicated date and place for such purposes as the said Minister considers to be of interest.

CHAPTER III

Procedures

Article 12

Complaints shall be lodged with the Office of Unfair Business Practices and Safeguard Measures complete with all of the elements required under the applicable laws. The Office may open an ex officio investigation in very specific cases of unfair business practices through a duly substantiated resolution.

The initiation resolution shall determine the opening of the investigation concerning unfair business practices or the imposition of safeguards.

The investigation on unfair business practices and safeguard measures shall be governed by domestic and international regulations in accordance with the guidelines established by the Central American Regulations on Unfair Business Practices and Safeguard Clause and the Uruguay Round Agreements.

However, the Office shall issue an internal handbook of procedures within the three months following the publication of this Decree.

For complaints pertaining to the Agricultural Sector, the Office of Unfair Business Practices shall consult the Ministry of Agriculture before issuing any recommendation.

CHAPTER IV

Final Provisions

Article 13

Executive Decrees No. 18098 of 19 April 1989 and No. 20835 of 7 November 1991 are hereby revoked. Articles 3 and 6 of Executive Decree No. 19883 of 28 August 1990 are hereby revoked.

Article 14

This Decree shall come into force upon publication.

Done in the Office of the President of the Republic, San José, on the fourteenth day of November nineteen hundred and ninety five.

JOSÉ MARÍA FIGUERES OLSEN.

Marco A. Vargas Días, Ministry of the Economy, Industry and Trade.

Roberto Solórzano Sanabria, Minister of Agriculture and Livestock.
