

WORLD TRADE
ORGANIZATION

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

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NOTIFICATION OF LAWS AND REGULATIONS UNDER
ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS

COSTA RICA

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

Pursuant to Article 18.5 of the Agreement on Implementation of Article VI of the GATT 1994 we submit herewith 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 anti-dumping measures and countervailing duties. This notification amends the notification submitted in document G/ADP/N/1/CRI/1-G/SCM/N/1/CRI/1 as regards the designation of the investigating authority.

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 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 offers 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

Article 6

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. Article 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 Solózano Sanabria, Minister of Agriculture and Livestock.
