

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

Original: Spanish

**NOTIFICATION OF LAWS AND REGULATIONS UNDER ARTICLES 18(5)  
AND 32(6) OF THE AGREEMENTS**

EL SALVADOR

The following communication, dated 30 March 2000, has been received from the Permanent Mission of El Salvador.

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I have the honour to transmit herewith the following notifications:

1. Pursuant to Article 18(5) of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, the El Salvador authority responsible for anti-dumping matters wishes to inform you that the anti-dumping legislation in force is the Central American Regulations on Unfair Business Practices, signed on 12 December 1995, published in the Official Journal No. 237, Vol. No. 239 of 21 December 1995, and which came into force on 12 January 1996.

These Regulations supersede the Regulations on Business Practices and Safeguard Clause of 29 January 1993, which were notified by El Salvador at the appropriate time and which are contained in document G/ADP/N/1/SLV/1.

2. Pursuant to Article 32(6) of the Agreement on Subsidies and Countervailing Measures, the El Salvador authority responsible for countervailing measures wishes to inform you that the legislation in force on countervailing measures is the Central American Regulations on Unfair Business Practices, signed on 12 December 1995, published in Official Journal No. 237, Vol. No. 329 of 21 December 1995, and which came into force on 12 January 1996.

These Regulations supersede the Regulations on Business Practices and Safeguard Clause of 29 January 1993, which were notified by El Salvador at the appropriate time and which are contained in document G/SCM/N/1/SLV/1.

In reference to your fax of 1 February 2002, attached please find a copy of the Central American Regulations on Unfair Business Practices of 12 December 1995, for circulation together with our notification of 30 March 2000.

## CENTRAL AMERICAN REGULATIONS ON UNFAIR BUSINESS PRACTICES

Approved Pursuant to Resolution No. 12-95 (COMRIEDRE-II) of 12 December 1995

### CENTRAL AMERICAN REGULATIONS ON UNFAIR BUSINESS PRACTICES

#### TITLE I

#### GENERAL PROVISIONS

ARTICLE 1. (Definitions) For the purpose of these Regulations, the expressions indicated below shall have the following meaning:

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| INVESTIGATING<br>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 country, or the technical unit with responsibility for investigating unfair business practices. This shall be SIECA in the case of regional procedures. |
| WTO AGREEMENTS:             | The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 and the Agreement on Subsidies and Countervailing Measures.   |
| EXECUTIVE<br>COMMITTEE:     | The Executive Committee for Economic Integration set up by Article 37 of the Guatemala Protocol.   |
| COUNCIL OF<br>MINISTERS:    | The Council of Ministers for Economic Integration set up by Article 37 of the Guatemala Protocol.  |
| STATES PARTIES:             | The States Parties to the General Treaty on Central American Economic Integration, the Guatemala Protocol, and the Convention on the Central American Tariffs and Customs Regime.  |
| GATT 1994:                  | The General Agreement on Tariffs and Trade 1994 annexed to the Agreement Establishing the World Trade Organization.  |
| MINISTER:                   | The Minister of each State Party having responsibility for matters relating to economic integration or, as the case may be, the investigation of unfair business practices.  |
| WTO:                        | The World Trade Organization   |
| INTERESTED PARTIES:         | Those referred to in Article 6.11 of the Agreement of Implementation on Article VI of the General Agreement on Tariffs and Trade 1994 and in Article 12.9 of the Agreement on Subsidies and Countervailing Measures, respectively.   |
| GUATEMALA<br>PROTOCOL:      | The Protocol to the General Treaty on Central American Economic Integration, signed on 29 October 1993.  |

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 develop the provisions established in the WTO Agreements and, as appropriate, the provisions of the Guatemala Protocol and the Central American Customs and Tariffs Regime.

ARTICLE 3. (Initiation of proceedings). The process of investigation for the purpose of establishing the existence and effects of unfair business practices may be initiated on application by an interested party or *ex officio*, in accordance with the provisions of the WTO Agreements.

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

ARTICLE 4. (Substantive rules). All the substantive aspects relating to unfair business practices shall be determined by the provisions of the instruments referred to in Article 2 of these Regulations.

## TITLE II

### PROCEDURES AND MEASURES IN CASES OF UNFAIR BUSINESS PRACTICES

#### CHAPTER I

##### PROCEDURE IN TRADE RELATIONS WITH THIRD COUNTRIES

ARTICLE 5. (Purpose of the procedure). The investigating authority shall be responsible for investigating, analysing and evaluating supposed unfair business practices, and deciding whether it is appropriate to recommend the imposition of "anti-dumping duties" or "countervailing duties", as the case may be.

Such measures shall be imposed where unfair business practices cause or threaten material injury or serious prejudice to a domestic industry, or material retardation of the establishment of such an industry, in accordance with the criteria set out in the WTO Agreements.

ARTICLE 6. (Application). Applications for the initiation of an investigation may be made by the representatives of the domestic industry producing the product injured by the imports concerning which the investigation is requested and the producers associations who consider that they are being affected or threatened by imports presumed to be the object of unfair business practices.

The application shall be submitted to the investigating authority and shall comply with the following formal requirements:

- (a) Designation of the authority to which the application is made;
- (b) identification of the applicant, and in the case of a legal representative, the corresponding documentation;
- (c) service address;

- (d) account of the facts and specific indication of the unfair business practice;
- (e) request couched in precise terms consistent with the account of the facts;
- (f) the other requirements established in the WTO Agreements;
- (g) place and date of the application; and
- (h) signature of the applicant or legal representative of the domestic industry or corresponding association.

ARTICLE 7. (Examination of the application). Within 30 days of receiving the application, the investigating authority shall examine it in order to establish whether it fulfils the requirements laid out in these Regulations. If the authority determines that the application is incomplete, it shall notify the interested party within 10 days in order to enable the latter to fulfil the relevant requirements within 30 days of such notification. At the request of the interested party, this period may be extended for a further 30 days.

If the interested party fails to comply within the stipulated period, the application shall be considered abandoned and shall be filed, without prejudice to the right of the party concerned subsequently to resubmit the case.

If the interested party provides the additional information, the investigating authority shall, within 15 days, proceed in accordance with Article 11 of these Regulations.

ARTICLE 8. (Rejection of the application). After having examined the application within the time-limit established in the previous Article, the investigating authority shall reject it by means of a reasoned resolution in the following cases:

- (a) If it determines that the application has not been made on behalf of a domestic industry in accordance with the WTO Agreements;
- (b) if insufficient evidence is submitted to justify opening the investigation.

The resolution rejecting an application shall be notified, within 10 days of its date of issue, to the interested party, who may use the legal remedies provided by the legislation of the State party concerned against it.

ARTICLE 9. (Notification of the exporting government). The investigating authority shall notify the government of the country of origin or export of the product under investigation concerning the application for the opening of the investigation into unfair business practices. This notification shall be made prior to the opening of the investigation.

ARTICLE 10. (Opportunity for holding consultations). In the case of subsidies, together with the notification provided for in the previous Article or at any time prior to the opening of the investigation, the investigating authority shall afford an opportunity to the governments of the countries of origin or export of the product under investigation to hold consultations for the purpose of clarifying the facts raised in the application and arriving at a mutually agreed solution. Consultations for this same purpose may be held during the investigation.

ARTICLE 11. (Resolution for the opening of an investigation). Where the investigating authority decides, following the examination referred to in Article 7 above, that there is sufficient evidence to

justify opening an investigation, it shall issue a resolution announcing the initiation of the investigation procedure in question. The resolution shall contain at least the following information:

- (a) Identification of the investigating authority initiating the procedure, and date and place of issuance of the resolution;
- (b) indication that the application and its accompanying documentation have been accepted;
- (c) name or business name and domicile of the domestic producer or producers of like products;
- (d) country or countries of origin or provenance of the products presumed to be the object of unfair business practices;
- (e) the reasons and justification for the resolution;
- (f) detailed description of the product that has been or is being imported under presumed unfair business practices;
- (g) description of the like domestic products to the product imported under presumed unfair business practices;
- (h) time-limit granted to the defendants and, where appropriate, the foreign government or governments mentioned, to submit whatever evidence they see fit and the place at which they may present their submissions;
- (i) determination of the persons from whom the pertinent information is to be requested by means of the form to be provided by the investigating authority.

This resolution shall be notified to the interested parties within 10 days of its date of issue, and the interested parties shall have a period of 30 days, running from the day following the notification, in which to object.

ARTICLE 12. (Time-limit for the investigation). The investigation shall be concluded within 12 months from the date of its initiation, but may be prolonged for a further period of up to six months, in exceptional circumstances, on the initiative of the investigating authority or at the request of an interested party.

ARTICLE 13. (Preliminary determination). The investigating authority shall issue an affirmative or negative preliminary determination as to the existence of unfair business practices, and the existence of injury, threat of injury or retardation of the establishment of a domestic industry.

Such determination shall take the form of an opinion issued by the investigating authority within a period of 60 days from the initiation of the investigation.

ARTICLE 14. (Provisional measures). During the investigation, the investigating authority may recommend to the Minister the adoption of provisional measures in supposed cases of dumping or subsidization, in conformity with the provisions of the WTO Agreement.

ARTICLE 15. (Requirements for the imposition of provisional measures). Provisional measures shall be imposed only if the following conditions are fulfilled:

- (a) The investigation has been initiated in conformity with the provisions of these Regulations and at least 60 days have elapsed since such initiation;
- (b) there has been an affirmative preliminary determination of the existence of dumping or subsidization involving serious injury or prejudice to a domestic industry or retardation of the establishment of a domestic industry, in conformity with the WTO Agreement;
- (c) the investigating authority judges that such measures are necessary to prevent serious injury or prejudice to a domestic industry, in conformity with the WTO Agreements.

ARTICLE 16. (Duration of provisional measures). The application of provisional measures shall be limited to as short a period as possible, not exceeding four months, or, with respect to dumping, on decision of the authorities concerned, upon request by exporters representing a significant percentage of the trade involved, for a period not exceeding six months. When the authorities, in the course of an investigation, examine whether a duty lower than the margin of dumping would be sufficient to remove injury, these periods may be six and nine months, respectively. Within 10 days of its adoption, the resolution imposing provisional measures shall be notified to the interested parties and to the competent authority for implementation.

ARTICLE 17. (Termination of the investigation). The investigation shall be terminated if it is determined that the margin of dumping or amount of subsidy is *de minimis* or that the volume of imports or the injury is negligible.

ARTICLE 18. (Final resolution). Within three days of concluding its investigation, the investigating authority shall submit the technical study together with the relevant recommendations to the Minister, who shall, within three working days of its receipt, by means of a reasoned resolution declare the investigation concluded and whether or not a definitive anti-dumping or countervailing duty should be imposed, and, as the case may be, revoke any provisional measure adopted.

The resolution imposing a definitive anti-dumping or countervailing duty shall be put into effect in accordance with the domestic law of each country and shall be notified within 10 days of issue to the interested parties and to SIECA, for the latter to bring it to the attention of the Executive Committee.

## CHAPTER II

### PROCEDURE IN INTRAREGIONAL TRADE RELATIONS

ARTICLE 19. (Transmittal to the Executive Committee). In the case of products originating in Central America, and after the application has been handled in accordance with the preceding Chapter, the investigating authority shall, together with the notification of the resolution referred to in the last paragraph of the preceding Article, within the same time-limit indicated therein, transmit to SIECA a summary of the file, for the latter to notify the other States and convene the Executive Committee to examine the matter.

ARTICLE 20. (Convocation of the Executive Committee). Within eight days of receiving the summary, SIECA shall convene the Executive Committee to a meeting to be held within 30 days of the date of the convocation, and shall transmit to its members a copy of the summary.

ARTICLE 21. (Statements by affected parties). The State Party affected by the adopted measure shall, within 15 days of being notified of the convocation, submit to the Executive Committee through SIECA a duly substantiated statement of the case.

ARTICLE 22. (Review). Where, after receiving the reports, the Executive Committee at its meeting nevertheless considers that it needs further items of evidence, it may collect such items through SIECA, which shall submit its report to the Committee within 30 days.

ARTICLE 23. (Recommendation of the Executive Committee). Within 30 days of receipt of the corresponding report from the SIECA, the Executive Committee shall make whatever recommendations it sees fit with a view to resolving the problem.

The State Party which considers itself affected may have recourse to the regional dispute settlement procedures or to the corresponding procedures of the WTO.

### CHAPTER III

#### REGIONAL PROCEDURE

ARTICLE 24. (Regional procedure). Where the industry of a State Party other than the importer is affected, at the request of the Government concerned a regional procedure shall be opened and conducted through SIECA. The procedure shall be initiated as of the moment when SIECA receives the request of the State concerned, which shall be submitted in the original plus five copies and, as appropriate, in compliance with Article 6 of these Regulations.

ARTICLE 25. (Notification). Within 10 days of receipt of the request, SIECA shall adopt a resolution to proceed with the case, and within the next 10 days forward a copy of the file to the administrative authority of the importing State Party, which shall proceed with it in accordance with the provisions of Chapter I of this Title. The authority shall begin the review of the case as from the eighth day after SIECA transmitted the file.

ARTICLE 26. (Continuation of procedure). If the importing State Party does not initiate the investigation within the time-limit established in the preceding Article, SIECA shall, within the following 10 days, transmit a copy of the file to the other States Parties and officially notify the interested parties, thus initiating the regional procedure.

ARTICLE 27. (Time-limit for the investigation). SIECA shall carry out the relevant investigation within the period established in Article 12 of this instrument, and may gather and request any evidence and reports it considers necessary, in particular from the exporters who are the subject of the complaint and from Central American producers and importers. During the investigation period, any interested party may submit information or present written submissions.

ARTICLE 28. (Convocation and final resolution). Within five days of the conclusion of the investigation, SIECA shall issue a convocation of the Executive Committee and transmit the file together with a technical report and whatever recommendations it considers pertinent. The Committee shall meet within the following 15 days in order to settle the dispute definitively, determining the individual or joint actions to be taken by the States Parties.

ARTICLE 29. (Provisional measures). At any stage in the investigation, and provided the conditions set forth in Article 15 of these Regulations are fulfilled, SIECA may recommend the adoption of provisional measures. The Executive Committee shall examine and decide on this recommendation at its subsequent meeting.

ARTICLE 30. (Implementation of decisions). The decisions of the Executive Committee establishing provisional or final anti-dumping or countervailing duties shall be implemented by the States Parties in accordance with their domestic law.

ARTICLE 31. (Cost of the regional investigation). The costs of the regional investigation shall be borne by the person or persons who brought the action before the complainant State Party.

ARTICLE 32. (Procedure). In addition to the special provisions established in this Chapter, the provisions of Chapters I and II of this Title shall apply, where appropriate, to the regional procedure.

#### CHAPTER IV

##### PROVISIONS COMMON TO CHAPTERS I, II AND III

ARTICLE 33. (Exceptional and provisional nature of measures). Measures imposed pursuant to these Regulations shall be exceptional and temporary in character, as they shall be in force as long as necessary to counteract the situation which caused them to be applied.

ARTICLE 34. (Causal link). For a measure to be adopted, there must be a causal link within the meaning of the WTO Agreements.

ARTICLE 35. (Congruence). Where any anti-dumping or countervailing duty is applied, its amount shall be sufficient to redress the injury or prejudice and never greater than the estimated margin of dumping or the amount of the subsidy.

ARTICLE 36. (Duration of definitive measures). Any definitive anti-dumping or countervailing measure shall be eliminated within a period of five years from the date of imposition of the provisional measure or, failing such, the final resolution.

This time-limit may be extended exceptionally when it is demonstrated that the conditions which gave rise to the measure continue to exist.

Once a measure has been adopted, it may be reviewed at any moment during its implementation.

ARTICLE 37. (Collection of duties). Where an anti-dumping or countervailing duty is imposed on a product, it shall be collected on the imports that are dumped or subsidized and causing or threatening to cause material injury or serious prejudice to a domestic industry or material retardation of the establishment of a domestic industry in accordance with these Regulations. In so far as possible it shall be applied to the supplier or suppliers of the product concerned. If, however, all the suppliers are involved in the unfair business practice concerned or it is impossible to distinguish between them, the measure shall apply to all the suppliers of the country or countries in question.

ARTICLE 38. (Guaranteed amount). If the definitive countervailing or anti-dumping duty exceeds the guaranteed amount, the difference shall not be demanded. If the definitive duty is less than the guaranteed amount, an order shall be issued for prompt reimbursement of the excess.

ARTICLE 39. (Conciliation meetings). At any stage of the investigation until such time as a definitive measure is adopted, and without interrupting the investigation, conciliation meetings may be held *ex officio* or at the request of a party in order to achieve a direct settlement.

ARTICLE 40. (Suspension of the investigation). On the proposal of the investigating authority, the Minister may suspend or terminate the investigation at any stage when there are sufficient grounds for doing so, by issuing the corresponding resolution which shall be notified within 10 days of its issue to the interested parties and SIECA, for the latter to bring it to the attention of the Executive Committee.



ARTICLE 41. (Review of undertakings). The implementation of the undertakings agreed by conciliation meetings may be reviewed *ex officio* or at the request of a party, and periodic information may be requested concerning such implementation. If the review reveals non-compliance, a recommendation shall be made to the Minister to apply provisional measures on the basis of the information available, and the interested parties shall be notified within 10 days of the date at which the measure was adopted.

ARTICLE 42. (Publication). The resolutions for the opening, suspension or conclusion of an investigation and on the application or non-application of countervailing or anti-dumping duties, or on the modification of such measures, shall, at the moment of their notification, be published, once only, at the cost of the interested party, in the Official Journal and one of the daily newspapers with national circulation of the country concerned, and, where appropriate, in the Official Journal of the Central American Integration System, in order to enable any persons concerned by the investigation process to exercise their rights.

ARTICLE 43. (Appeals). The appeals provided for in the domestic legislation of each party may be entered against the resolutions adopted by the national authorities.

The appeals provided for in the legal instruments of Central American integration may be entered against the resolutions adopted by the regional bodies.

### TITLE III

#### FINAL PROVISIONS

ARTICLE 44. (Amendments to these Regulations). The Council of Ministers shall have responsibility for amending the provisions of these Regulations at the request of States Parties or SIECA.

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

ARTICLE 45. (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 46. (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 47. (Epigraphs). The epigraphs preceding the Articles of these Regulations are exclusively indicative and therefore have no effect on their interpretation.

ARTICLE 48. (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, 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 unfair business practices are concerned.

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