

WORLD TRADE ORGANIZATION

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

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

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

PANAMA

The following communication, dated 25 July 2006, has been received from the Permanent Mission of Panama.

The Republic of Panama, pursuant to Article 18.5 of the Anti-Dumping Agreement (Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994), Article 32.6 of the Agreement on Subsidies and Countervailing Measures and Article 12.6 of the Agreement on Safeguards, as well as the related decision adopted by the Committee on Safeguards (G/SG/N/1), hereby notifies its laws and regulations relating to anti-dumping, countervailing duty and safeguard procedures.

In this connection, a copy is herewith submitted of Decree Law No. 7 of 15 February 2006 "establishing rules for the protection and safeguarding of national production and enacting other provisions", published in *Gaceta Oficial* (Official Journal) No. 25,491 of 22 February 2006.

Under Articles 3, 24 and 61 of the above-mentioned Decree Law No. 7, the Ministry of Trade and Industry is responsible for dealing with applications for the initiation of administrative investigations regarding the application of anti-dumping, countervailing and safeguard measures.

ANNEX

NATIONAL EXECUTIVE ORGAN DECREE LAW NO. 7 (of 15 February 2006)

Establishing Rules for the Protection and Safeguarding of National Production
and Enacting Other Provisions

THE PRESIDENT OF THE REPUBLIC,
in exercise of his constitutional powers and in particular the power conferred upon him
by Article 1, paragraphs 3 and 4, of Law No. 1 of 3 January 2006,

and having heard the favourable opinion of the cabinet council

HEREBY DECREES:

Title I

Purpose, Coverage and Competence

Article 1. Purpose. The purpose of this Decree Law is to establish mechanisms and procedures of protection and defence against unfair trading practices, as well as to introduce emergency measures to counteract imports of goods in such quantities or under such conditions as to cause or threaten to cause serious or material injury to national producers of like or directly competitive products, or to a domestic industry, and/or material retardation of the establishment of a domestic industry or branch of production.

Article 2. Coverage. The provisions of this Decree Law shall apply to natural or legal persons, associations, cooperatives and any other group engaged in the production, marketing, import or export of products, including entities of other countries, if their operations, activities or business transactions generate or are capable of generating consequences or adverse effects in the Republic of Panama.

Article 3. Scope and Competence. The provisions of this Decree Law are public policy provisions applicable throughout the Republic of Panama. For administrative purposes, the Executive Organ, through the Ministry of Trade and Industry, hereinafter the Ministry, shall be responsible for implementing these provisions.

Title II

Unfair Trading Practices

Chapter I

Definitions

Article 4. Definitions. For the purposes of this title, the following definitions shall apply:

1. **Financial contribution:** Government practice involving a direct transfer of funds (e.g. grants, loans and equity infusion), potential direct transfers of funds or liabilities (e.g. loan guarantees), or the forgoing or non-collection of public revenue otherwise due

(e.g. fiscal incentives such as tax credits), or where a government provides goods or services other than general infrastructure, or purchases goods, or where a government makes payments to a funding mechanism or entrusts one or more of the functions described above to a private entity.

2. **Objective criteria or conditions:** criteria or conditions which are neutral, which do not favour certain enterprises over others, and which are economic in nature and horizontal in application.
3. **Injury:** material injury caused to a domestic industry, a threat of material injury to a domestic industry, or material retardation of the establishment of such a domestic industry, unless otherwise specified.
4. **Material injury:** any material prejudice, loss or impairment, or deprivation of any significant lawful and normal gain which the domestic industry suffers as a result of any of the unfair trading practices.
5. **Anti-Dumping duty:** a special duty, independent of import duties, established with a view to counteracting or preventing dumping.
6. **Countervailing duty:** a special duty, independent of import duties, established with a view to counteracting any direct or indirect subsidization of the manufacture, production or export of a foreign product.
7. **Certain enterprises:** an enterprise, entity, organization, industry or any form of association; or a group of enterprises, entities, organizations or industries. This definition applies to enterprises, entities, organizations or any form of association, whether private, public or semi-public.
8. **Dumping:** the introduction of products from another country into the national territory at less than their normal value.
9. **Dumping to be condemned:** dumping which causes or threatens material injury to an established domestic industry or which materially retards the establishment of a domestic industry.
10. **Facts available:** facts substantiated by evidence and data provided by the interested parties or additional parties in a proper and timely fashion, and by the information gathered by the investigating authority.
11. **Margin of dumping:** the price differential resulting from a fair comparison of the normal value of the foreign like product and the export price of the product destined for the domestic market, in accordance with the provisions of this Title.
12. **WTO:** World Trade Organization.
13. **Interested parties:** exporters, foreign producers or importers of the product under administrative investigation; trade or business associations, a majority of whose members are producers, exporters or importers of the product under administrative investigation; the government of the exporting country, and known producers or trade or business associations of the like product in the national territory.

This list is not exhaustive, and the Ministry of Trade and Industry shall not be prevented from including other known persons as interested parties in the administrative investigation.

14. **Unfair trade practices:** subsidization and dumping.
15. **Domestic industry:** domestic producers as a whole of the like products or those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products destined for internal consumption, provided that they are not related to the exporters or importers or are themselves importers of the product under investigation.

Where the Ministry of Trade and Industry determines that one or more producers are related to the exporters or importers, or are themselves importers of the product concerned by the application for investigation, this term may be interpreted as referring to the rest of the producers, without expressly specifying those that are related.

16. **Like product or good:** a product or good which is alike in all respects to the one with which it is compared, or which, although not alike in all respects, has characteristics that strongly resemble those of the product or good under consideration, taking into account elements such as its nature, use or function.
17. **National territory:** customs territory of the Republic of Panama.
18. **Normal value:** the comparable price for the like product when destined for consumption in the exporting country, in the ordinary course of trade.

Chapter II

Subsidies

Article 5. Definition of subsidy. Subsidy shall be taken to mean any benefit derived from any of the following actions:

1. The direct or indirect granting of any financial contribution, incentive, tax concession or assistance by the State or any of its institutions for the manufacturing, production, marketing or export of a good, including any assistance, support or benefit granted for transport.
2. The forgoing or remission of, or exemption from, any public revenue which would otherwise be due.
3. The granting of a financial contribution, incentive, tax concession or assistance and forgoing or exemption in respect of inputs (goods and/or services) subsequently to be used in the production of a final product.
4. The provision of goods or services other than general infrastructure by a State or by any of its institutions or agencies.
5. Any of the benefits enumerated in paragraphs 1 and 4 above, when a State or any of its institutions or agencies entrusts them to, or directs them to be provided by, one or more

private bodies, and those benefits correspond to practices normally followed by or within the competence of a government.

6. The granting of a financial contribution by a State or by any of its institutions or agencies, in the form of payments to a funding mechanism.
7. Any other form of income or price maintenance which directly or indirectly benefits or adversely affects the export product.

Article 6. Specificity. A subsidy shall be considered specific when any of the following circumstances contribute to its application:

1. The State or the granting authority, or the legislation pursuant to which the State or granting authority operates, explicitly limits access to a subsidy to certain enterprises, activities or industries.
2. The State or the granting authority, or the legislation pursuant to which it operates, earmarks the subsidy for exported products or products incorporating domestic raw materials or inputs.
3. The subsidy is limited to certain enterprises located within a designated geographical region within the jurisdiction of the State or granting authority.

Even though a subsidy may be specific, but is not classified in the terms set out above, the Ministry may determine the subsidy to be specific having regard to the following elements: exclusive use of the subsidy by a limited number of enterprises or by an industry; predominant use of the subsidy by certain enterprises or industries; the granting of disproportionately large amounts of subsidy to certain enterprises; or the fact that the manner in which discretion has been exercised by the granting authority indicates that the subsidy is not generally available.

Notwithstanding the provisions of the preceding paragraphs, a subsidy shall not be considered specific where the criteria or conditions governing eligibility for the subsidy and/or its amount are objective, neutral and horizontal in application, so that they do not favour a certain enterprise or industry, the subsidy is not limited to a certain enterprise or industry, and eligibility for the subsidy and its amount are automatic.

Article 7. Determination of subsidies subject to countervailing duties. A subsidy shall be subject to the imposition of countervailing duties only when it is specific. The determination of subsidization, injury and causal link and the recommendation of the imposition of countervailing duties shall be made by the Ministry following an investigation, in accordance with the administrative procedure provided for in this Decree Law.

Chapter III

Dumping

Article 8. Determination of dumping to be condemned. The determination of the existence of a dumped product whose introduction into the national territory causes injury to the domestic industry, and the recommendation that anti-dumping duties be imposed shall be made by the Ministry following an investigation, in accordance with the administrative procedure provided for in this Decree Law.

Article 9. Determination of the margin of dumping. In order to determine the margin of dumping, the Ministry shall determine the normal value of the like product in the exporting country in the ordinary course of trade, and the export price, and shall make a fair comparison thereof.

Article 10. Determination of normal value. The normal value shall be determined on the basis of the price of the like product or good destined for consumption in the exporting country, in the ordinary course of trade. When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or when, because of the particular market situation or the low volume of the sales in the domestic market of the exporting country, such sales do not permit a proper comparison, the normal value shall be determined by one of the following means:

1. By comparison with a comparable price of the like product when exported to an appropriate third country, provided that this price is representative.
2. By comparison with the cost of production of the product in the country of origin, plus a reasonable amount to cover administrative, selling and general costs, and for profits.

Article 11. Determination of export price. The export price shall be the price actually paid or payable for the good or product when it is sold in or destined for the national territory.

In cases where there is no export price or where the Ministry considers that the export price is unreliable because of association or a compensatory arrangement between the exporter and importer or a third party, the export price may be constructed on the basis of the price at which the imported products are first resold to an independent buyer; or if the products are not resold to an independent buyer, or not resold in the condition as imported, on a reasonable basis.

Article 12. Fair price comparison. In order to determine the margin of dumping, the fair comparison between the normal value and the export price shall be made with due regard for the following parameters:

1. On the basis of sales made at as nearly as possible the same time, using the exchange rate in effect at the time.
2. On the basis of sales made at the same level of trade, which shall in principle be the ex factory level.
3. Taking into account differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics and any other differences which are also demonstrated to affect price comparability.
4. The Executive Organ shall establish the appropriate statistical methodology to be used for making fair price comparisons for the purpose of determining dumping margins.

Chapter IV

Injury

Article 13. Determination of injury. A determination of injury shall be based, *inter alia*, on positive evidence and shall involve an objective examination of:

1. The volume of imports subject to unfair trade practices and the effect of such practices on prices in the domestic market for like products.
2. The impact of these imports on domestic producers of such products.

Article 14. Determination of threat of material injury. In order to determine a threat of material injury to the domestic industry, account shall be taken, *inter alia*, of the following factors: an increase in dumped imports into the domestic market; the export capacity of the exporter under investigation; the likelihood of domestic price depression or suppression caused by the prices of those imports, and the stocks or inventories of the product under investigation.

No one of these factors by itself can necessarily give decisive guidance, but the totality of the factors considered must lead to the conclusion that, unless protective action is taken, further dumped imports are imminent that will cause material injury.

Article 15. Cumulative assessment of the effects of imports from two or more countries. In measuring the injury or threat of injury, the volume and effects of imports of products from two or more countries may be cumulated if such products are under investigation and are competitive with each other and with the domestic product, provided the volume of imports from each country is not negligible and the margin of dumping or amount of the subsidy of each country is not *de minimis*.

Article 16. De minimis subsidies and dumping. A subsidy shall be considered to be *de minimis* if it less than one per cent (1%) *ad valorem*.

If the product is imported from a developing country Member of the World Trade Organization, a maximum subsidy level of two per cent (2%) *ad valorem*, calculated on a per unit basis, shall be tolerated.

Similarly, the volume of subsidized imports from a developing country Member of the World Trade Organization shall be considered negligible if it accounts for less than four per cent (4%) of total imports of the like product, unless the imports from developing country Members of the WTO which individually account for less than four per cent (4%) of total imports collectively account for more than nine per cent (9%) of imports of the like product.

The margin of dumping shall be considered to be *de minimis* if this margin is less than 2 per cent (2%), expressed as a percentage of the export price.

The volume of dumped imports shall normally be regarded as negligible if the volume of dumped imports from a particular country Member of the WTO is found to account for less than three per cent (3%) of imports of the like product, unless countries which individually account for less than three per cent (3%) of the imports of the said product collectively account for more than seven per cent (7%) of such imports.

Article 17. Determination of de minimis dumping and subsidization. When it is determined that the subsidy or the dumping is *de minimis*, or when it is determined that the import of subsidized or dumped products is negligible, in accordance with Articles 15 and 16 above, the investigation shall be terminated without the imposition of any protective measure.

Article 18. Causal link. There shall be a causal link between the imports that are the subject of unfair trade practices and the injury to the domestic industry when the actual or potential material

injury, damage, prejudice or impairment to the domestic industry producing the like product is a consequence of such imports.

Chapter V

Countervailing or anti-dumping duties

Article 19. Countervailing or anti-dumping duties. Countervailing or anti-dumping duties shall in no case exceed the established subsidy or margin of dumping.

Such duties shall remain in force only as long as is necessary to counteract the unfair trade practice that is causing the injury. However, any definitive countervailing or anti-dumping duty shall be terminated at the latest five (5) years after the date on which it was imposed, unless the Ministry, in a review initiated ex officio or at the request of an authorized party, prior to that date, determines that the expiry of the duty would be likely to lead to continuation or recurrence of subsidization or dumping and injury, and its report shall be submitted to the Cabinet Council for consideration and decision.

Article 20. Review. The Ministry, at the request of an interested party or ex officio, and provided that a reasonable period of time has elapsed, may review or examine the application of a definitive countervailing or anti-dumping duty, based on changed circumstances, facts or values used in the investigation, with a view to determining whether the measures are still necessary or whether they should be modified. The results of such reviews shall be submitted to the Cabinet Council for consideration and decision.

Article 21. Revocation or modification. If, as result of a review, the Ministry determines that the countervailing or anti-dumping duty is no longer justified or should be modified, it shall issue a report and send it to the Cabinet Council for the latter to consider either immediate termination or suitable modification of the duty, whichever is appropriate.

Article 22. Imports from third countries. The provisions of this Decree Law shall apply in full where the products that are the subject of unfair trade practices are not imported directly from the country of origin but from a third country, in which case the transaction shall be deemed to have taken place between the country of origin and the Republic of Panama.

Article 23. Newcomer review. When a definitive countervailing or anti-dumping duty is being applied to certain products, exporters whose products have not been investigated or who have exported no goods during the period of the administrative investigation, may request the investigating authority to initiate an administrative procedure for new exporters with a view to assessing and issuing a recommendation on individual countervailing duties or individual margins of dumping, provided that:

1. Their exports to the national territory of the good subject to the countervailing or anti-dumping duties were subsequent to the period under investigation in the proceedings that gave rise to the countervailing or anti-dumping duty. The exporters must satisfy the investigating authority that the volume of exports during the period of review is representative; and
2. They show that they are not related in any way to the producers or exporters in the exporting country determined to be subject to a specific countervailing or anti-dumping duty.

Chapter VI

Administrative Investigation of Unfair Trade Practices

Section 1

The Administrative Investigation

Article 24. Initiation of the administrative investigation. Administrative investigations shall be initiated at the request of a party and may, in special circumstances, be initiated ex officio when the Ministry has sufficient evidence of imports that are the subject of unfair trade practices, injury to a domestic industry and causal link to justify such initiation.

The initiation of an administrative investigation on subsidies or dumping shall not be an obstacle to customs clearance or to the granting of import permits by any other government entity.

Article 25. Authority of procedural rules and practice. The proceedings shall at all stages automatically be governed by, *inter alia*, the principles of promptness, efficiency, publicity, impartiality and avoiding excessive formality.

Article 26. Entitlement. The following are entitled to initiate proceedings:

1. The domestic industry prejudiced, injured or affected by imports that are the subject of unfair trade practices;
2. Associations of producers that are being prejudiced, injured or affected by imports that are the subject of unfair trade practices;
3. The Ministry of Trade and Industry.

Article 27. Evidence of entitlement. An application for the initiation of an administrative investigation shall be considered to have been made by or on behalf of the domestic industry if it is supported by those domestic producers whose collective output constitutes more than fifty per cent (50%) of the total production of the like product or good, expressing either support for or opposition to the application.

Similarly, the investigation shall be initiated when the domestic producers expressly supporting the application account for twenty five per cent (25%) or more of the total production of the like product or good produced by the domestic industry.

The Ministry shall determine whether the above conditions have been met, using statistical techniques. In the case of fragmented production involving an exceptionally large number of producers, sampling techniques may be used. In ascertaining compliance with this requirement, the Ministry may request the accreditation of every person acting on behalf of the domestic industry.

Article 28. Initiation of an administrative investigation at the request of a party. An administrative investigation at a party's request shall be initiated by means of an application drafted by a competent attorney setting forth the arguments and reasons of fact and of law on which the application is based.

Without prejudice to any additional information required by regulation, the application shall contain the following minimum information:

1. Particulars of the applicant.
2. Detailed description of the imported good or product, including tariff heading, characteristics and other distinguishing particulars.
3. Description and information regarding the domestic industry concerned.
4. Detailed description of the like good or product of the domestic industry, and other distinguishing particulars.
5. The percentage of total domestic production of the product or good, represented by the like product or good which the applicant produces for the domestic market.
6. Names and addresses of the importers and, if known, of the exporters.
7. Volume and prices of the imports that are the subject of unfair trade practices.
8. Margin of dumping or subsidies and other facts and data leading to the presumption of the existence of unfair trade practices.
9. Country of origin and of provenance of the imports; and
10. Analysis, factors, data or documents showing material injury or threat thereof or material retardation in the establishment of the corresponding domestic industry, as a result of the unfair trade practice cited in the application.

Any information or data to be filed with the application which are issued by a government entity may be deemed to have been filed with the Ministry if the applicant provides reliable evidence of the formalities completed to obtain them.

The Ministry shall avoid all publicity regarding the application for initiation of an investigation until the latter is officially initiated.

Article 29. Procedure. Upon receiving the application, the Ministry shall examine the information it contains together with any other information before it, in order to determine whether or not there is sufficient evidence to justify the initiation of an administrative investigation. The Ministry shall determine in a reasoned decision whether or not an administrative investigation is to be initiated.

If the application does not meet the requirements set forth in this Decree Law or its Regulations or if the information submitted, while meeting those requirements, is inaccurate or unclear, or if additional information is deemed to be necessary, the Ministry shall request the applicant within five (5) working days of the date of submission of the application, to correct or supplement the information within ten (10) working days of such notification, so that the applicant may adjust the application or submit relevant evidence. If the applicant fails to meet this requirement within the stated period, the application shall be rejected and shelved by a reasoned decision. A reasonable extension to the above-mentioned period may be granted by the Ministry, either upon a reasoned request from a party or when circumstances so warrant.

Similarly, the Ministry may reject the application when the information submitted is false or immaterial, or where the application is vexatious, inadmissible or unjustified.

Once in possession of all the requisite information, the Ministry shall have fifteen (15) working days in which to assess the merits of the application and to issue a reasoned decision either to initiate or to reject the administrative investigation.

Article 30. Notification to the government of the exporters' country. Between the receipt of a party's application for initiation of an administrative investigation and the issuing of the decision to initiate the investigation, the Ministry shall notify, through ordinary or diplomatic channels, the government of the country of the exporters whose goods are the subject of the application.

Article 31. Publication of the initiation of an administrative investigation. Upon initiation of the investigation, the Ministry shall publish a summary of the application in the *Gaceta Oficial* or in a national newspaper recognized to be widely circulated.

If the investigation is initiated ex officio, the Ministry shall publish a summary of the decision to initiate the investigation in the *Gaceta Oficial* or a national newspaper recognized to be widely circulated.

Article 32. Notification to government entities. A copy of the application or of the decision to initiate an administrative investigation shall be sent to the Ministry of Agricultural Development when the like product or good falls within its competence and to the Ministry of the Economy and Finance, with a view to their providing information, statistics and other relevant documentation to supplement the evidence on file.

The Ministry may at any time send to these or any other government entities questionnaires and/or requests for specific information, in order to further the investigation. Such questionnaires and/or requests shall be answered and/or completed within thirty (30) calendar days at the latest.

Article 33. Communication. The decision to initiate an administrative investigation shall be communicated to the interested party or parties for a reply within thirty (30) calendar days, starting from the receipt of the communication or seven (7) calendar days after the date of its dispatch or its transmission to the competent diplomatic representative of the exporting country or countries.

The communication shall contain a copy of the decision to initiate the investigation, and of the application, where the procedure is at the request of a party, and any attachments that contain no confidential information, or, in the case of ex officio investigations, the relevant documents together with a questionnaire detailing the points to which reference should be made in the reply.

A copy of the above-mentioned documentation shall be sent to the authorities of the exporting countries in a communication to the accredited diplomatic or consular representation in the country, or in accordance with the international agreements to which Panama is a party.

Article 34. Applications for extension. At the request of an interested party, an extension to the period for communication referred to in the preceding article may be granted provided that there is sufficient justification for doing so and that it is feasible. An extension shall not exceed thirty (30) calendar days.

If the interested party fails to reply within the prescribed time-limit, the investigation shall be pursued on the basis of the best information available.

Section 2

Evidence

Article 35. Evidence. The Ministry may seek from the interested parties any evidence, information and data it deems relevant and may use forms for the purpose. If an interested party denies access to the information sought or fails to provide it in the form or within the time-limit prescribed, or significantly impedes the investigation, the Ministry shall make its recommendations on the basis of the best information available.

The Ministry may request domestic producers, distributors or traders of the product or good, and customs officials, agents, attorneys or consignees of the importers or any other person it deems appropriate, to supply information and data available to them.

The Ministry shall take the necessary steps to ensure that the evidence of dumping, injury to the domestic industry and causal link is examined upon receipt of a party's application for an investigation or notification of an ex officio investigation, and thereafter during the course of the investigation.

Article 36. Examination of evidence. The Ministry shall require and examine such evidence as is necessary to determine the accuracy of the facts under investigation, in relation to the submissions of the parties and in accordance with the provisions of this Decree Law, within a period not exceeding thirty (30) calendar days following the deadline for the communication. The Ministry may extend this period where a case so requires.

To further the proceedings, the Ministry may likewise at any time request any kind of information or technical parameters from any of the government entities, which shall be required to supply them within thirty (30) calendar days at the latest.

It may also of its own motion request the interested parties to supply at their cost questionnaires, expert reports, opinions or technical parameters, and to take such administrative steps as may contribute to verification of the facts alleged.

Article 37. Evidence abroad. With a view to verifying the information received or obtaining further details, the Ministry may conduct investigations and obtain evidence in the territory of the exporting country, provided that it has so notified the authorities of the exporting country through ordinary or diplomatic channels and has encountered no objection.

The investigation and examination of evidence may also take place in the facilities of the exporting enterprise subject to the latter's prior approval.

Article 38. Access to information. Where the authorities of the exporting country or the interested parties deny access to the necessary information, fail to provide such information within a reasonable period or significantly impede the investigation, preliminary or definitive conclusions may be drawn up on the basis of the facts available, including those appearing in the application for the initiation of the investigation, that have been submitted by the domestic industry.

Section 3

Undertakings and Suspension of Investigation

Article 39. Conciliation. During the administrative investigation, the interested parties may by mutual agreement request the Ministry to hold a conciliation meeting. At this meeting, proposals or undertakings may be put forward to resolve the case and suspend the administrative investigation, which, if admissible, shall be approved or accepted by the Ministry. The Ministry may nevertheless either pursue the administrative investigation to the recommendation stage or suspend it there and then.

The Ministry has the authority to review and ascertain compliance with the agreements or undertakings for resolving the case or suspending the administrative investigation. In the event of non-compliance, the Ministry may resume the administrative investigation from the stage at which it was suspended, or, in the event of the administrative investigation having reached the recommendation stage, draw up a final decision for consideration by the Cabinet Council.

Article 40. Publication. A summary of the Ministry's decision to approve or accept an undertaking, which shall include all relevant information on the factual and legal considerations and the reasons that led to the acceptance of the undertaking, shall be published in the *Gaceta Oficial* or in a national newspaper recognized to be widely circulated, taking due account of confidentiality provisions.

Section 4

Hearings and Final Decision

Article 41. Hearings. Having completed examination of the evidence and before issuing a final decision, the Ministry shall summon all the interested parties to a hearing for the purpose of informing them of, and hearing their views on, the facts under consideration, which are to serve as a basis for the decision whether or not to recommend definitive measures. After the hearing, the parties shall be given three (3) working days in which to submit written arguments in defence of their interests.

Representatives of the Ministry of Agricultural Development and the Ministry of the Economy and Finance may likewise attend the hearing.

Article 42. Final decision. Upon receipt of the above-mentioned submissions, the Ministry shall have ten (10) working days within which to issue a reasoned final decision with a recommendation to the Cabinet Council as to whether or not definitive countervailing duties or anti-dumping duties should be applied to the products under administrative investigation for unfair trade practices.

Article 43. Notification to the Cabinet Council. Once the final decision of the administrative investigation has been issued, the Ministry shall send an authenticated copy thereof to the Cabinet Council for consideration and a decision.

Article 44. Imposition and application of countervailing duties and anti-dumping duties. The Cabinet Council shall examine the decision sent by the Ministry and shall decide as to the imposition of definitive countervailing duties or anti-dumping duties. The Cabinet Council's decision imposing definitive countervailing duties or anti-dumping duties and setting such duties shall be notified to the interested parties and published in the *Gaceta Oficial*, taking due account of the provisions on confidentiality.

Definitive countervailing duties or anti-dumping duties established by the Cabinet Council shall be implemented by the Directorate-General of Customs of the Ministry of the Economy and Finance at the time of importation.

Section 5

Provisional measures

Article 45. Requirements. During the investigation period, the Ministry may recommend to the Cabinet Council in a reasoned decision the adoption of provisional measures in order to prevent imports that are the subject of unfair trade practices from imminent injury to the domestic industry that would be difficult to repair.

The reasoned decision shall set forth the applicant's arguments, if the investigation is at a party's request; the evidence on file and the case for imposing a provisional measure.

No provisional measure shall be applied before a period of sixty (60) calendar days has elapsed from the date of the decision to initiate the administrative investigation.

Article 46. Restrictions. The provisional measures shall consist of provisional countervailing or anti-dumping duties. It shall not be possible to impose both types of provisional measure in response to one situation resulting from subsidies or dumping.

Article 47. Application. The provisional measures shall involve the deposit by the importer of a guarantee in accordance with the procedures laid down by the Directorate-General of Customs of the Ministry of the Economy and Finance.

The amount of the guarantee may not exceed the subsidy or margin of dumping calculated on a provisional basis; and the duration of the provisional measures may not exceed four (4) months in the case of subsidies, and six (6) in the case of dumping.

Article 48. Setting and imposition of duties. The Ministry shall recommend the provisional countervailing or anti-dumping duties, which shall be set by the Cabinet Council and applied by the Directorate-General of Customs of the Ministry of the Economy and Finance.

Article 49. Differences in the amounts of provisional and definitive countervailing or anti-dumping duties. If, in an administrative investigation, provisional countervailing or anti-dumping duties are established, and definitive countervailing or anti-dumping duties are imposed subsequently, the difference in the amounts of the former and the latter shall be ascertained, so that if the definitive countervailing or anti-dumping duty is higher than the amount or duty established by the provisional measure, the difference shall not be claimed. However, if the definitive duty is lower than the amount or duty established by the provisional measure, the amount in excess shall be reimbursed immediately or the guarantee released for the corresponding amount.

Article 50. Retroactive application of definitive countervailing or anti-dumping duties. A definitive countervailing or anti-dumping duty may be applied as from the date from which a provisional measure could have been applied.

Notwithstanding the above, a definitive countervailing or anti-dumping duty may be levied on products entered for consumption not more than ninety (90) days prior to the date of application of the provisional measures, where the Ministry determines in respect of the product under investigation:

1. That there is a history of unfair trade practices causing injury, or that the importer was aware, or should have been aware, that the exporter was engaging in unfair trade practices and that these would cause injury, and
2. That the injury is caused by massive imports of a product that is the subject of unfair trade practices entering over a relatively short period which are likely seriously to undermine the remedial effect of the definitive countervailing or anti-dumping duty to be applied, provided that the importers concerned have been given the opportunity to comment.

Article 51. Publication. The operative part of the provisional measure adopted shall be published in the *Gaceta Oficial* or in a national newspaper recognized to be widely circulated.

Title III

Safeguard Measures

Chapter I

Definitions

Article 52. Definitions. For the purposes of this Title the following definitions shall apply:

1. **Threat of serious injury:** serious injury that is clearly imminent.
2. **Increased imports:** imports that have increased in such quantities in absolute terms or relative to domestic production as to cause or threaten to cause serious injury to a domestic industry.
3. **Serious injury:** a significant overall impairment of a domestic industry.
4. **Domestic industry:** the producers as a whole of like or directly competitive products, operating within the national territory, or those producers whose collective output of like or directly competitive products constitutes a major proportion of the total domestic production of those products.
5. **Safeguard measures:** instruments for temporary protection that are applied to prevent or remedy serious injury or threat thereof to the domestic industry, caused by increased imports, in order to facilitate adjustment.
6. **WTO:** the World Trade Organization.
7. **Directly competitive product or good:** a product which, although not the same as the product to which it is compared, is essentially equivalent for commercial purposes, being intended for the same use and interchangeable with it.
8. **Like product or good:** a product or good which is alike in all respects to the one with which it is compared, or which, although not alike in all respects, has characteristics that strongly resemble those of the product or good under consideration, taking into account elements such as its nature, use or function.
9. **National territory:** the customs territory of the Republic of Panama.

Chapter II

Safeguard Measures and Serious Injury

Article 53. Determination of safeguard measures. The Ministry, in determining application of a safeguard measure, shall consider whether the serious injury or threat thereof is a result of or related to the increase in imports of like or directly competitive products.

Article 54. Determination of serious injury or threat thereof. In determining whether increased imports have caused or are threatening to cause serious injury to a domestic industry, in the administrative investigation the Ministry shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of that industry, particularly the rate and amount of the increase in imports of the product concerned, in absolute and relative terms, the share of the domestic market taken by the increased imports, changes in the level of sales, production, productivity, capacity utilization, profits and losses and employment.

Article 55. Causal link. In the administrative investigation, the Ministry shall ascertain the existence of a causal relationship between the increase in imports of the product under investigation and the serious injury or threat thereof to the domestic industry.

When factors other than increased imports are causing injury to the domestic industry at the same time, such injury shall not be attributed to the increased imports under investigation.

Chapter III

Application of Safeguard Measures

Article 56. Application. Safeguard measures shall be applied to the product imported irrespective of the country from which it is imported.

Article 57. Form. Safeguard measures may take the following forms:

1. Tariff increases.
2. Imposition of tariff quotas.
3. Imposition of quantitative restrictions.
4. Any other measure needed to prevent or repair the injury or threat of serious injury and facilitate adjustment of the domestic industry.

Article 58. Duration. Safeguard measures shall have a maximum duration of four (4) years. This may be extended for a period of six (6) years if it is determined that the measure continues to be necessary to prevent or repair the injury or threat of serious injury and that there is evidence that the domestic industry is adjusting.

Article 59. Liberalization. When a safeguard measure is applied for longer than one (1) year, it shall be progressively liberalized by regular periods or intervals during the period of application. If a safeguard measure is extended, it may not be more restrictive than it was at the end of the initial period and shall continue to be progressively liberalized.

If the duration of the safeguard measure exceeds three (3) years, the Ministry shall review the situation not later than at mid-term of the period of application and, if appropriate, shall recommend that the Cabinet Council withdraw the measure or increase the pace of liberalization.

A safeguard measure may likewise be liberalized or suspended if the domestic industry fails to comply with the plan to overcome the circumstances alleged to be the cause of the injury, or the restructuring plan where compliance with such a plan is established in the final decision, except where the non-compliance is not attributable to the domestic industry.

Article 60. Exception. Safeguard measures shall not be applied against a product originating in a developing country Member of the World Trade Organization, as long as imports of the product concerned do not exceed three per cent (3%) of total imports and provided that developing country Members of the Organization with less than a three per cent (3%) import share collectively account for not more than nine per cent (9%) of total imports of the product concerned.

Chapter IV

Administrative Investigation of Safeguard Measures

Section 1

The Administrative Investigation

Article 61. Initiation of an administrative investigation. An administrative investigation with a view to applying safeguard measures shall be initiated at the request of a party or ex officio by the Ministry of Trade and Industry.

Article 62. Application by a party for initiation of an administrative investigation. Where a party applies for an administrative investigation, the application shall be drawn up by a competent attorney and shall set forth the arguments on which the application is based, indicating clearly the factual and legal grounds or basis, and shall be accompanied by sufficient evidence of imports that are causing or threaten to cause serious injury to a domestic industry and of a causal link.

Article 63. Authority of procedural rules and practice. The administrative investigation shall at all stages automatically be governed by, *inter alia*, the principles of promptness, efficiency, publicity, impartiality and avoiding excessive formality.

Article 64. Entitlement. The following are entitled to apply for initiation of an administrative investigation: the domestic industry injured by the imports under investigation, provided that it constitutes a major proportion of the domestic production of the product intended for domestic consumption; chambers, unions or associations belonging to the injured domestic industry that account for a major proportion of domestic production of the product intended for domestic consumption.

Article 65. Application requirements. Without prejudice to any additional information that may be required by regulation, the application shall contain the following minimum information:

1. Particulars of the applicant.
2. Detailed description of the imported product or good that is the subject of the application, its tariff heading and any other distinguishing particulars.

3. Description and information regarding the domestic industry concerned.
4. Detailed description of the like or directly competitive product or good of the domestic industry and other distinguishing particulars.
5. Names and addresses of the importers and, if known, the exporters.
6. The percentage of total domestic production of the product or good, represented by the like or directly competitive product or good produced by the applicant for the domestic market.
7. Volume and prices of the imports under investigation and their impact on the domestic industry affected.
8. Country of origin and of provenance of the imports; and
9. Analysis, factors, data or documents showing the serious injury or threat thereof.

Any information or data to be submitted with the application that has to be supplied by a government entity may be deemed to have been submitted to the Ministry if the applicant shows reliable evidence of having completed the formalities to obtain them.

Article 66. Adjustment plan. Where the Ministry deems it necessary to the investigation, whether initiated ex officio or at the request of a party, it may require the applicant to submit a restructuring plan or a plan to overcome the circumstances alleged to be the cause of serious injury or threat thereof.

During the period of application of the safeguard measure, the Ministry shall from time to time review execution of such plans and/or ascertain their proper implementation.

Where applicable, failure by the affected domestic industry to apply the said plans may entail, following an evaluation and recommendation by the Ministry, immediate liberalization or suspension of a safeguard measure, except where such failure is not attributable to the domestic industry.

Article 67. Procedure. Upon receiving the application, the Ministry shall examine the information it contains as well as any other information before it, in order to ascertain whether initiation of an administrative investigation is justified. The Ministry shall determine in a reasoned decision whether or not to initiate an administrative investigation.

If the application does not meet the requirements set forth in this Decree Law or its Regulations, or if the information submitted is inaccurate or unclear, or if additional information is deemed to be necessary, the Ministry shall request the applicant, within five (5) working days of the date of submission of the application, to correct or supplement the information within ten (10) working days of such notification so that the applicant may adjust the application or submit relevant evidence. If the applicant fails to meet this requirement within the stated period, the application shall be rejected and shelved by a reasoned decision. A reasonable extension to the above-mentioned period may be granted by the Ministry, either by a reasoned request from a party or where circumstances so warrant.

Similarly, the Ministry may reject the application when the information submitted is false or immaterial or where an application is vexatious, inadmissible or unjustified.

Once the Ministry is in possession of all the requisite information, it shall have fifteen (15) working days within which to assess the merits of the application and to issue a reasoned decision either to initiate or to reject the administrative investigation.

Article 68. Publication of the initiation of an administrative investigation. Upon issuing a decision to initiate an administrative investigation, the Ministry shall publish a summary of the decision in the *Gaceta Oficial* or in a national newspaper recognized to be widely circulated.

Article 69. Notification to the public and interested parties. Upon issuing a decision to initiate an administrative investigation, the Ministry shall have ten (10) working days within which to notify initiation of the investigation to the public and to known interested parties. It shall grant the interested parties a period of thirty (30) calendar days, starting either from the date of receipt of the notification or seven (7) calendar days after the date of its dispatch, for the interested parties to submit their replies or any comments, views and/or documents they deem fit. Where necessary, a copy of the application shall likewise be sent to authorities or bodies specified in international agreements to which Panama is a party. Where feasible, the Ministry may entertain requests for extensions from interested parties, provided they show just cause.

The notification shall contain a copy of the decision to initiate the investigation, and of the application, where the procedure is at a party's request, and any attachments that contain no confidential information, or, in the case of ex officio investigations, the relevant documents together with a questionnaire detailing the points to which reference should be made in the reply.

If no reply is submitted within the prescribed period, the Ministry shall pursue the administrative investigation on the basis of the best information available.

Article 70. Notification to other government entities. A copy of the application or of the decision to initiate the administrative investigation shall be sent to the Ministry of Agricultural Development, where the product or good to be investigated falls within its competence, to the Comptroller-General of the Republic and to the Ministry of the Economy and Finance, so that they may supply relevant information, statistics and documentation to supplement the evidence.

With a view to furthering the investigation, the Ministry may send at any time to these and any other government entities questionnaires and/or requests for specific information. The questionnaires and/or requests must be answered and/or completed within thirty (30) calendar days at the latest.

Section 2

Evidence

Article 71. Evidence. The Ministry may seek from the interested parties any evidence, information and data it deems relevant and may use forms for the purpose. If an interested party denies access to the information sought or fails to provide it in the form and within the time-limit prescribed, or significantly impedes the investigation, the Ministry shall make its recommendation on the basis of the best information available.

The Ministry may request domestic producers, distributors or traders of the product in question, and customs officials, agents, attorneys or consignees of importers, or any other person it deems appropriate, to supply information and data available to them.

Article 72. Examination of evidence. The Ministry shall require and examine such evidence as it deems necessary and relevant to ascertain the accuracy of the facts alleged, within fifteen (15) working days of the date or time-limit set for the interested parties' replies to the notification. The Ministry may extend this period if circumstances so warrant.

To further the proceedings, the Ministry may at any time request any kind of information, and reports and technical parameters, from government entities, which shall be required to supply them within thirty (30) calendar days at the latest.

Where it deems appropriate, the Ministry may likewise request interested parties to supply at their own cost, questionnaires, expert reports, opinions or technical parameters, and order any such measure as may contribute to verification of the facts alleged.

Section 3

Hearings and Final Decision

Article 73. Hearings. Having completed examination of the evidence and before deciding to end the administrative investigation, the Ministry shall summon all interested parties to a hearing for the purpose of informing them of, and hearing their views on, the essential facts under consideration which are to serve as a basis for the decision whether or not to apply safeguard measures. After the hearing, the parties shall have three (3) working days in which to submit arguments in defence of their interests and make their views known.

Representatives of the Ministry of Agricultural Development and the Ministry of the Economy and Finance may likewise attend the hearing.

Article 74. Final decision. Upon receipt of the above-mentioned submissions, the Ministry shall have ten (10) working days in which to issue a reasoned decision ending the administrative investigation, with a recommendation to the Cabinet Council as to whether or not the safeguard measure should be applied to the investigated products.

Where appropriate, the Ministry shall recommend implementation of an adjustment or restructuring plan for the affected domestic industry.

The decision submitted to the Council Cabinet for consideration shall contain any observations, comments or views on the application of the safeguard measure sent or submitted by the Ministry of Agricultural Development and the Ministry of the Economy and Finance in the context of the administrative investigation or specific case. If no such comments are submitted by the above-mentioned bodies, this shall be noted in the decision.

Article 75. Notification to the Cabinet Council. Once the final decision of the administrative investigation has been issued, the Ministry shall send an authenticated copy of it to the Cabinet Council for consideration and a decision.

Article 76. Imposition of safeguard measures. The decision to end the administrative investigation shall be sent via the Ministry of Trade and Industry to the Cabinet Council, which, pursuant the authority conferred by Article 200(7) of the Political Constitution of the Republic of Panama, shall consider the imposition of the safeguard measures.

Article 77. Publication. A summary of the Cabinet Council's decision shall be published in the *Gaceta Oficial* or in a national newspaper recognized to be widely circulated.

Section 4

Provisional Safeguard Measures

Article 78. Application. In administrative investigations initiated at the request of a party, the Ministry may be requested, while the investigation is in progress, to provide an analysis of the imposition of a provisional safeguard measure.

The Ministry may likewise carry out such an analysis for the establishment of the provisional measure where the investigation is initiated ex officio.

Article 79. Requirements. By a reasoned decision, the Ministry shall recommend that the Cabinet Council adopt provisional safeguard measures when critical circumstances arise in which any delay would result in injury to the domestic industry that would be difficult to repair, pursuant to a preliminary determination of the existence of clear evidence that the increase in imports has caused or threatens to cause serious injury.

The decision recommending that the Cabinet Council apply a provisional measure shall set out the relevant considerations, the supporting evidence and the period of application or duration recommended.

Article 80. Duration of the measure. The duration of a provisional safeguard measure shall not exceed two hundred (200) calendar days.

Article 81. Form of the measure. Provisional safeguard measures shall consist of temporary tariff increases.

Where, having completed the legal procedure for determining whether a definitive safeguard measure is to be applied, the Ministry determines that the increase in imports has not caused or threatened to cause serious injury to a domestic industry, the temporary tariff increases imposed by means of provisional safeguard measures shall be refunded to the importers.

Article 82. Application. Once it has issued a decision recommending application of a provisional safeguard measure, the Ministry shall send it to the Cabinet Council, which, in exercise of the authority conferred by Article 200(7) of the Political Constitution, or in accordance with the law, shall decide whether or not to impose such a measure.

Article 83. Publication. A summary of the provisional safeguard measure adopted by the Cabinet Council shall be published in the *Gaceta Oficial* or in a national newspaper recognized to be widely circulated.

Title IV

The Administrative Investigation

Chapter I

Common Provisions

Article 84. Administrative files. In the administrative investigation proceedings referred to in this Decree Law, the Ministry shall establish a file, in the framework of which it shall issue the necessary administrative orders.

Unless specified otherwise, the orders through which the Ministry acts in the course of administrative investigations shall be merely procedural in nature.

Article 85. Requirement for government entities to supply information. Institutions of government entities, particularly the Directorate-General of Customs, the Comptroller-General of the Republic, the Ministry of the Economy and Finance, the Ministry of Agricultural Development and the Ministry of Foreign Affairs, shall be required to provide the Ministry, within thirty (30) calendar days at the latest, with any information that it may request for the purpose of an administrative investigation.

Article 86. Access to the file and confidentiality. The Ministry shall grant interested parties timely opportunity to examine all information contained in the file, provided that it is not confidential or restricted. Information that the Ministry deems to be confidential or restricted shall not be made available to any interested party.

Where information is deemed to be confidential or restricted, the party to which it belongs shall provide a summary thereof with unrestricted access which shall include sufficient detail to permit a reasonable understanding of the substance of the information. In exceptional circumstances, the parties may indicate that such information is not able to be summarized, explaining why this is so.

Persons with authorized access to confidential or restricted information may not use it for their personal benefit and shall be under the obligation to take all necessary measures to prevent any disclosure thereof. Infringement of this requirement shall be punishable under the appropriate civil and penal provisions.

The foregoing does not apply to any information that the authorities of the Public Prosecutor or Judicial Body may require from the Ministry, in the form prescribed by the relevant provisions.

Article 87. Confidentiality rule. Public servants or professionals employed in the service of the State who, by reason of their office or in the performance of their duties, have access to the file of an administrative investigation, shall maintain due discretion and confidentiality regarding the content thereof.

Breach of the confidentiality rule shall be punishable by dismissal from office in the case of public servants, or termination of contract in the case of professionals in the service of the State, without prejudice to any civil and/or criminal liability incurred.

Article 88. Restrictions. Public servants or professionals employed in the service of the State who, by reason of their office or in the performance of their duties, have access to the file of an

administrative investigation may not work or perform services for companies directly or indirectly linked with the investigation, for at least three (3) years after the termination of the investigation.

Article 89. Notifications. The notifications referred to in this Decree Law may be transmitted: personally, by registered mail, by public display, by publication in the *Gaceta Oficial* or a national newspaper recognized to be widely circulated, or by any other direct means such as specialized messenger service, or by electronic means. Notifications transmitted by any of the foregoing means shall take effect on the working day following the day on which they were issued. The Regulations shall establish the formalities and terms for notification.

Article 90. Access to the file. The Ministry shall grant access to the file to interested parties and to public or private law entities which, pursuant to international treaties or agreements to which the Republic of Panama is a party, may have access to the information. Confidential or restricted information contained in the file shall be available only to the legal representatives of the party supplying it or the party's duly accredited special agents.

Persons with authorized access to confidential information may not use such information for their personal benefit and shall be under an obligation to take all necessary measures to prevent any disclosure thereof. Infringement of this requirement shall be punishable under the appropriate administrative, civil and/or penal provisions.

Article 91. Evidence and evidentiary procedure. The interested parties may submit evidence of all types other than confessions or material that is contrary to public order or offensive to morals or decency.

During the investigation period, the Ministry may at any time agree to the institution, repetition or extension of any evidentiary procedure considered necessary and conducive to the discovery of the truth regarding the facts under investigation.

Article 92. Verification of information. The Ministry may verify the information submitted in the course of the investigation, subject to prior authorization from the party supplying the information to be verified. For that purpose, the Ministry shall give notice in writing of any searches of the domicile, commercial establishment or place where the information is located.

In the course of the administrative investigation, the Ministry may request parties to provide any such information, clarification, further details or documentation as it may deem relevant to the proceedings.

Article 93. Remedies. Decisions handed down in an administrative investigation are open only to appeal, which shall be granted with devolutive effect.

In the absence of a response from the competent official within fifteen (15) working days of its filing, the appeal shall be deemed to have been rejected and the administrative remedies exhausted.

Article 94. Circumvention. The following are deemed to constitute circumvention of countervailing or anti-dumping duties or safeguard measures:

1. Introduction into the national territory of inputs, parts or components for production or assembly of a product subject to countervailing or anti-dumping duties or safeguard measures.

2. Introduction into the national territory of goods subject to countervailing or anti-dumping duties or safeguard measures with inputs, parts or components integrated or assembled in a third country.
3. introduction into the national territory of goods from the same country of origin as the product subject to countervailing or anti-dumping duties or safeguard measures that have relatively slight differences from the product in question.
4. introduction into the national territory of goods subject to countervailing or anti-dumping duties imported at a rate lower than the applicable duty.
5. any other action resulting in failure to pay the countervailing or anti-dumping duties or safeguard measures.

Goods imported under such conditions shall be subject to payment of the countervailing or anti-dumping duties or to the corresponding safeguard measure. Circumvention of provisional or definitive countervailing or anti-dumping duties or safeguard measures shall be determined through proceedings initiated ex officio or at the request of an interested party.

Article 95. Supplementary provisions. In the absence of any express provision in this Decree Law concerning administrative proceedings in respect of unfair trade practices and safeguard measures, the provisions on administrative procedure set forth in Law 38 of 2000 shall apply by default.

Article 96. Entry into force. Provisional and definitive countervailing or anti-dumping measures and safeguard measures shall apply from the day following their publication in the *Gaceta Oficial*, unless specified otherwise.

Title V

Final Provisions

Article 97. Trade agreements and treaties. Should an international agreement or treaty signed and ratified by the Republic of Panama lay down provisions that differ from, modify, or enlarge on those set forth in this Decree Law, the Ministry shall apply them in conformity with the other provisions of this Decree Law.

Article 98. Article 103(9) of Law 29 of 1996 is amended to read as follows:

"Article 103. Functions of the Commission. The Commission shall have the following functions and powers:

...

9. Establish coordination mechanisms for consumer protection and for the prevention of restrictive trade practices, and lay down administrative penalties falling within its competence;

..."

Article 99. Article 141(2) of Law 29 of 1996 shall be amended to read as follows:

"**Article 141. Competence.** Three (3) civil circuit courts are hereby created in the First Judicial District of Panama, to be known as the Eighth, Ninth and Tenth courts of the First Judicial Circuit of Panama, and one circuit court in Colón. Additional civil circuit courts are created in Coclé, Chiriquí and Los Santos to be known as the Second Court of Coclé, the Fourth Court of Chiriquí and the Second Court of Los Santos, respectively, to hear such cases in their respective judicial districts. These courts shall deal exclusively with the following cases:

...

2. Disputes arising from the implementation or interpretation of this Law in respect of monopolies and consumer protection;

..."

Article 100. (Transitional). The Ministry of the Economy and Finance shall make the necessary transfers of budgetary items currently used by the Commission for Free Competition and Consumer Affairs, in respect of matters competence for which is transferred to the Ministry of Trade and Industry pursuant to this Decree Law. Public servants working in these bodies shall likewise be transferred.

The Ministry of the Economy and Finance shall take the necessary steps to allocate the budgetary items required by the Ministry of Trade and Industry for implementation of this Decree Law.

Article 101. (Transitional). In the case of judicial proceedings or administrative investigations initiated prior to the entry into force of this Decree Law, the authorities hearing them shall decline jurisdiction in favour of the Ministry of Trade and Industry, but substantive matters shall be governed by the law in force when proceedings were initiated. Notwithstanding the foregoing, judicial or administrative proceedings that have reached the decision stage shall be ruled on by the authority hearing them at the time of entry into force of this Decree Law, and shall be governed as to substance and procedure by the law in force when they were initiated.

Article 102. The Executive Body, through the Ministry of Trade and Industry, shall issue the Regulations to this Decree Law and shall adopt the provisions it deems most suitable for its implementation.

Article 103. This Decree Law repeals Title III, Title IV, Title VII Chapter III and Title VIII Chapter III of Law 29 of 1996, as amended by Law 23 of 1997, and amends Articles 103 and 141 of Law 29 of 1996, as well as any other provisions that may conflict with it.

Article 104. This Decree Law shall take effect from the date of its promulgation.

FOR PUBLICATION AND IMPLEMENTATION

Done at Panama City on 15 February 2006

MARTÍN TORRIJOS ESPINO
President of the Republic

REYNALDO RIVERA
Minister of Labour and Labour Development

HÉCTOR B. ALEMÁN ESTÉVEZ
Minister of the Interior and Justice

ALEJANDRO FERRER
Ministry of Trade and Industry

SAMUEL LEWIS NAVARRO
Minister of Foreign Affairs

BALBINA HERRERA ARAÚZ
Minister of Housing

MIGUEL ÁNGEL CAÑIZALES
Minister of Education

GUILLERMO SALAZAR NICOLAU
Minister of Agricultural Development

CARLOS VALLARINO R.
Minister of Public Works

MARÍA ROQUEBERT LEÓN
Minister of Social Development

CAMILO ALLEYNE
Minister of Health

RICAURTE VÁSQUEZ MORALES
Minister of the Economy and Finance

UBALDINO REAL SOLÍS
Minister of the Presidency and
General Secretary of the Cabinet Council
