

# WORLD TRADE ORGANIZATION

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4 January 2002  
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**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

PERU

### Supplement

The following communication, dated 7 December 2001, has been received from the Permanent Mission of Peru.

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The Permanent Mission of Peru to the World Trade Organization (WTO) presents its compliments to the Secretariat of the WTO (Rules Division) and, pursuant to Article 18.5 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, hereby notifies Supreme Decree No. 225-2001-EF, dated 4 December last and appended hereto, which amends Article 6 of the Regulations on Dumping and Subsidies (Supreme Decree No. 043-97-EF), relating to market-economy conditions, through the addition of an Article 6 *bis*.

EL PERUANO, THURSDAY, 6 DECEMBER 2001, PAGE 213475

ECONOMY AND FINANCE

**Amendment of Supreme Decree No. 043-97-EF establishing rules to prevent and correct distortions of competition in the market caused by dumping and subsidies**

**SUPREME DECREE  
No. 225-2001-EF**

THE PRESIDENT OF THE REPUBLIC

WHEREAS:

By virtue of Supreme Decree No. 133-91-EF, as amended by Supreme Decree No. 051-92-EF, rules were adopted to prevent and correct distortions of competition in the market caused by dumping and subsidies;

By virtue of Legislative Decision No. 26407, the Agreement Establishing the World Trade Organization (WTO) and the Multilateral Trade Agreements contained in the Final Act of the Uruguay Round signed at Marrakesh on 15 April 1994 were approved;

The aforementioned Multilateral Trade Agreements include the Agreement on Implementation of Article VI of the GATT 1994, the Agreement on Subsidies and Countervailing Measures and the Agreement on Agriculture;

Pursuant to Article 18.4 of the Agreement on Implementation of Article VI of the GATT 1994 and Article 32.5 of the Agreement on Subsidies and Countervailing Measures, it is the responsibility of WTO Members to take all necessary steps, of a general or particular character, to ensure the conformity of their laws, regulations and administrative procedures with the provisions of the aforementioned Agreements;

Article 6 of Supreme Decree No. 043-97-EF establishes that, in the case of imports coming from or originating in countries where there are distortions in the economy that do not permit them to be considered market-economy countries, the normal value shall be determined on the basis of the comparable price in the ordinary course of trade at which a like product is actually sold in a third country with a market economy, or on the basis of any other method deemed appropriate by the Commission;

In order to make investigation procedures more predictable and transparent, it is necessary to specify what criteria shall be used to determine market conditions;

HEREBY DECREES:

Article 1. Add Article 6 *bis* to Supreme Decree No. 043-97-EF, which reads as follows:

"Article 6 *bis*. For the purposes of Article 6 on the determination of market-economy conditions, the following criteria shall be taken into account:

- (i) Prices shall be determined by freely operating market forces without interference or restrictions of any kind on the part of the State.

- (ii) Prices shall be set on the basis of free and fair competition.
- (iii) Marketing and production costs, inclusive of inputs, raw materials and services, shall be determined without interference on the part of the State.
- (iv) Decisions of firms regarding output, sales and investment shall be taken on the basis of the interaction of supply and demand, without interference on the part of the State.
- (v) Firms shall maintain basic accounting records independently audited in line with international accounting standards and applied for all purposes.
- (vi) The existence of rules governing ownership, market entry and market exit that guarantee legal certainty and stability for the operation of firms."

#### TRANSITIONAL PROVISIONS

Single paragraph. The provisions contained in this Supreme Decree shall apply to investigation proceedings initiated from the day following its entry into force.

#### FINAL PROVISIONS

Single paragraph. This Supreme Decree shall be endorsed by the Minister for Economy and Finance and the Minister for Industry, Tourism, Integration and International Trade Negotiations and shall enter into force on the day following its publication in the Official Journal, *El Peruano*.

Done at Government House, Lima, this fifth day of December two thousand and one.

ALEJANDRO TOLEDO  
Constitutional President of the Republic

PEDRO PABLO KUCZYNSKI  
Minister for Economy and Finance

JAVIER REATEGUI ROSSELLO  
Minister for Fisheries  
Minister for Industry, Tourism, Integration and International Trade Negotiations

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