

**WORLD TRADE  
ORGANIZATION**

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24 April 2003  
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**Committee on Anti-Dumping Practices  
Committee on Subsidies and Countervailing Measures  
Committee on Safeguards**

Original: Spanish

**NOTIFICATION OF LAWS AND REGULATIONS  
UNDER ARTICLE 18.5 AND 32.6 OF  
THE RELEVANT AGREEMENTS**

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

MEXICO

Supplement

The following communication, dated 11 April 2003, has been received from the Permanent Mission of Mexico.

**MINISTRY OF THE ECONOMY  
DECREE amending, supplementing and repealing various provisions of the  
Foreign Trade Act**

In the margin, a stamp with the national emblem and the words United Mexican States – Office of the President of the Republic.

I, **VICENTE FOX QUESADA**, President of the United Mexican States, hereby inform Mexican citizens:

That the Honourable Congress of the Union has notified me of the following

**DECREE**

"THE CONGRESS OF THE UNITED MEXICAN STATES DECREES:

**THAT VARIOUS PROVISIONS OF THE FOREIGN TRADE ACT  
ARE AMENDED, SUPPLEMENTED AND REPEALED**

**SINGLE ARTICLE** – The following are **AMENDED**: Articles 28; 29; 31, second paragraph and subparagraph I; 32, second paragraph; 35; 36; and 37; the heading of Title V, Chapter IV; Articles 39; 40; 41; 42; 43; 44; 45; 46; 47, first paragraph; and 48, first paragraph and subparagraphs I to III; the heading of Title VII, Chapter I; Articles 49, first paragraph; 50, first paragraph and subparagraph II, and second paragraph; 52; 53, first paragraph; 57, first paragraph, subparagraph III, and second paragraph; 59, first and second paragraphs; 64; 66; 67; 68, first

paragraph; 70; 71; 74; 75; 76, first paragraph; 77; 80, first and second paragraphs; 83; 86; 88; 90, first paragraph and second paragraph, subparagraph III; 91; 93, subparagraphs III and V; 94, subparagraph IX; 95, second, third and fourth paragraphs; 96, subparagraph IV; 97, subparagraph I; and 98, subparagraph III; the following are **SUPPLEMENTED**: Article 23 by a third paragraph; Article 33 by a second paragraph; Article 39, first paragraph, by subparagraphs I to III, and by a third paragraph; Article 42 by a penultimate paragraph; Article 44, first paragraph, by subparagraphs I and II, and by a second paragraph; Article 45 by a fourth paragraph; Article 47 by a second paragraph; Article 48 by a final paragraph; Article 51 by a second paragraph; Article 53 by a third paragraph; Article 64 by a second paragraph, including subparagraphs I to III, and by a final paragraph; Article 68, by a second paragraph, existing paragraph 2 becoming paragraph 3, and by a final paragraph; Article 70, first paragraph, by subparagraphs I and II, and by a final paragraph and Article 70A and 70B; Article 71, first paragraph, by subparagraphs I to V, and by a final paragraph; Article 72 by a second paragraph; Article 83 by a second, third, fourth and fifth paragraph, existing paragraphs 2, 3 and 4 becoming paragraphs 6, 7 and 8; Title VII by a Chapter V entitled "Special Procedures", containing Article 89A to 89F; and Article 94 by subparagraphs X and XI, existing subparagraph X becoming subparagraph XII; the following are **REPEALED**: Articles 48, subparagraph IV; and 60; all of the foregoing are part of the **FOREIGN TRADE ACT**, which now reads as follows:

**ARTICLE 23 – ...**

...

In determining the volume or value of the quotas, the Ministry shall take into account the terms of supply and domestic availability of the product subject to quotas, due regard being paid to the opinion of the parties involved in the production chain.

**ARTICLE 28** – The term "unfair international trade practices" means the importation of goods under conditions of price discrimination or subsidization in the exporting country, whether the country of origin or the country of source, which cause injury to a domestic industry producing identical or like goods within the meaning of Article 39 of this Act. Natural or legal persons importing goods in circumstances involving unfair international trade practices shall be obliged to pay a countervailing duty, in accordance with the provisions of this Act.

**ARTICLE 29** – The existence of price discrimination or subsidies, injury and a causal link between them and the imposition of countervailing duties shall be determined on the basis of an investigation, in accordance with the administrative procedure prescribed in this Act and its Regulations.

Evidence of injury shall be required whenever the country of origin or source of the goods in question observes reciprocity. Otherwise, the Ministry may impose countervailing duties without having to prove the existence of injury.

**ARTICLE 31 – ...**

However, when there are no sales of identical or like goods in the country of origin, or when such sales do not permit a proper comparison, the normal value shall be deemed to be:

**I.** A comparable price of identical or like goods when exported from the country of origin to a third country in the ordinary course of trade. This shall be the highest price, provided that it is representative, or

**II. ...**

**ARTICLE 32 – ...**

Sales in the country of origin or export to a third country may be disregarded in calculating the normal value if the Ministry finds that such sales reflect sustained losses. Such sales shall be deemed to include transactions whose prices are insufficient to cover the costs of production and general costs incurred in the ordinary course of trade within a reasonable period of time, which may be more extensive than the period of investigation.

...

**ARTICLE 33 – ...**

Subject to contrary evidence, a centrally planned economy is an economy that does not reflect market principles. In the case of each sector or industry under investigation, the Ministry may determine whether such sector or industry operates according to market principles. The Ministry shall make such determinations in conformity with the Regulations.

**ARTICLE 35** – In cases where there is no export price or where it appears to the Ministry that the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, that price may be calculated on the basis of the price at which the imported products are first resold to an independent buyer in the national territory, or if the products are not resold to an independent buyer, or are not resold in the condition in which they were imported, on such reasonable basis as the authority may determine.

**ARTICLE 36** – The Ministry shall make the necessary adjustments to enable the export price and normal value to be compared, making allowance *inter alia* for terms and conditions of sale and difference in quantities, physical characteristics or tax charges. When an interested party requests that a particular adjustment be taken into consideration, it shall be incumbent upon that party to provide the corresponding supporting evidence.

**ARTICLE 37** – For the purposes of this Act, the term "subsidy" means:

**I.** A financial contribution that is granted by a foreign government, its public or semi-public agencies, its entities or any regional, public or semi-public body comprising various countries, either directly or indirectly, to an enterprise or industry or group of enterprises or industries, thereby conferring a benefit;

**II.** Any form of income or price support that confers a benefit.

As an example, subsidies are taken to mean those listed in Annex I to the Agreement on Subsidies and Countervailing Measures.

**TITLE V**  
**UNFAIR INTERNATIONAL TRADE PRACTICES**  
**CHAPTER IV**  
**INJURY TO A DOMESTIC INDUSTRY**

**ARTICLE 39** – For the purposes of this Act, and with the exception of serious injury in the case of safeguard, injury shall be taken to mean:

- I.** Material injury to a domestic industry;
- II.** A threat of injury to a domestic industry; or
- III.** Retardation of the establishment of a domestic industry.

The administrative investigation must establish that imports under conditions involving price discrimination or subsidization are causing injury to the domestic industry, within the meaning of this Act.

The Ministry shall consider additional factors known to it, other than importation under conditions involving price discrimination or subsidization, that might affect the domestic industry. The impact of such factors shall not be attributed to imports under conditions involving price discrimination or subsidization.

**ARTICLE 40** – For the purposes of determining injury, the term "domestic industry" shall be understood as referring to all of the domestic producers of identical or like goods, or to those of them whose collective output constitutes a major proportion of total domestic production.

However, when producers are related to the exporters or importers or are themselves importers of the goods subject to price discrimination or subsidization, the term "domestic industry" may be interpreted as referring to the rest of the producers.

When all of the producers are related to the exporters or importers or are themselves importers of the goods subject to price discrimination or subsidization, the term "domestic industry" may be taken to mean the entire group of manufacturers of the goods produced during the immediately preceding stage in the same continuous line of production.

**ARTICLE 41** – In determining material injury to the domestic industry, the Ministry shall consider the following factors:

**I.** The volume of imports of the goods subject to price discrimination or subsidization. The Ministry shall consider whether there has been a significant increase in such imports, either in absolute terms or relative to the country's domestic production or consumption;

**II.** The effect which the importation of goods subject to price discrimination or subsidization has or may have on prices in the domestic market for identical or like goods. The Ministry shall consider whether the imported goods are sold in the domestic market at a price significantly lower than that of identical or like goods, or whether the effect of such imports is otherwise to depress prices to a significant degree or to prevent price increases, which would otherwise have occurred, to the same degree;

**III.** The impact which such imports have had or may have on the domestic industry in question, considering the relevant economic factors and indices having a bearing on the state of the industry, such as actual or potential decline in sales, profits, output, market share, productivity, return on investment, or utilization of installed capacity; factors affecting domestic prices; where appropriate, the magnitude of the margin of price discrimination; negative actual or potential effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investment. This list is not exhaustive, nor can any one of these factors necessarily give decisive guidance; and

**IV.** Any other elements that the Ministry deems necessary or that may be provided by the domestic industry, as appropriate.

**ARTICLE 42** – In determining a threat of injury to the domestic industry, the Ministry shall consider, *inter alia*, the following factors:

**I.** A significant rate of increase in imports into the domestic market of goods subject to price discrimination or subsidization, indicating the likelihood of substantially increased importation;

**II.** Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter, indicating the likelihood of substantially increased exports subject to price discrimination or subsidization to the Mexican market, taking into account the availability of other export markets to absorb any additional such exports;

**III.** Whether imports are entering at prices which will have a significant depressing or suppressing effect on domestic prices and will likely increase demand for further imports;

**IV.** The inventory of the goods under investigation;

**V.** Where appropriate, the nature of the subsidy in question and the trade effects likely to arise therefrom; and

**VI.** Any other elements that the Ministry deems necessary or that may be provided by the domestic industry, as appropriate.

No one of the above factors will by itself necessarily be sufficient to determine a threat of injury, but the totality of the factors must lead to the conclusion that further exports subject to price discrimination or subsidization are imminent and that, unless countervailing duties are applied, injury within the meaning of this Act would occur.

A determination of threat of injury shall be based on facts and not merely on allegation, conjecture or remote possibility.

**ARTICLE 43** – For the purposes of determining injury, the Ministry may cumulate the volume and the impact of imports of identical or like goods from two or more countries under investigation.

**ARTICLE 44** – For the purposes of determining injury to a domestic industry, the national territory may be divided into two or more competitive markets and the producers within each market may be regarded as a separate industry if:

**I.** The producers in such market sell all or almost all of their production of the goods in question in that market; and

**II.** The demand in that market is not to any substantial degree supplied by producers of the goods in question located elsewhere in the territory.

In such circumstances, the Ministry may find injury to exist even where a major portion of the total domestic industry is not injured, provided that there is a concentration of imports subject to price discrimination or subsidization into such an isolated market and provided further that such imports are causing injury to the producers of all or almost all of the production in that market.

**ARTICLE 45** – Safeguard measures are measures which, in the terms of Article 4, subparagraph II, temporarily regulate or restrict imports of goods identical or alike to or directly competitive with products of the domestic industry to the extent necessary to prevent or remedy serious injury to the industry in question and facilitate adjustment by the domestic producers.

Such measures shall be imposed only when it has been determined that the goods are being imported in such increased quantities, either in absolute terms or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the relevant domestic industry.

Safeguard measures may consist, *inter alia*, of specific or *ad valorem* duties, licences or quotas, or any combination of the former.

For the purposes of determining serious injury or threat of serious injury, the domestic industry shall be understood as meaning all of the domestic producers of the identical, like or directly competitive goods, or to those of them whose collective output constitutes a major proportion of the total domestic production of such goods.

**ARTICLE 46** – Serious injury means significant overall impairment of a domestic industry. Threat of serious injury means serious injury to a domestic industry that is clearly imminent.

**ARTICLE 47** – Serious injury or threat of serious injury and its causal link with increased imports shall be determined and safeguard measures established by conducting an investigation in accordance with the administrative procedure laid down in this Act and its Regulations.

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

**ARTICLE 48** – For the purpose of determining whether increased imports have caused or are threatening to cause serious injury to a domestic industry, the Ministry shall, as far as possible, obtain all the relevant information and evaluate all pertinent factors of an objective and quantifiable nature having a bearing on the situation of domestic producers of identical, like or directly competitive goods. Such information shall include:

**I.** The rate and amount of the increase in imports of the product concerned in absolute or relative terms;

**II.** The share of the domestic market taken by increased imports;

**III.** Changes in the level of sales, production, productivity, utilization of installed capacity, profits and losses, employment, and prices; and

**IV.** Repealed;

**V. ...**

A determination of threat of serious injury shall be based on facts and not merely on allegation, conjecture or remote possibility.

**TITLE VII**

**PROCEDURE IN RESPECT OF UNFAIR INTERNATIONAL  
TRADE PRACTICES AND SAFEGUARD MEASURES**

**CHAPTER I**

**COMMON PROVISIONS RELATING TO PROCEEDINGS**

**ARTICLE 49** – An investigation into unfair international trade practices and safeguard measures shall be initiated *ex officio* in special circumstances where the Ministry has sufficient evidence of price discrimination or subsidization, injury and a causal link; or at the request of a party, in accordance with the provisions of the next Article.

...

**ARTICLE 50** – A request may be submitted by legally constituted organizations or natural or legal persons producing:

**I. ...**

**II.** In the case of safeguard action, goods identical or alike to or directly competitive with those being imported in volumes and under conditions such as to cause or threaten to cause serious injury to the domestic industry.

The requesting parties must account for at least 25 per cent of total production of the identical, like or directly competitive goods produced by the domestic industry.

...

**ARTICLE 51 – ...**

The legal representatives of interested parties who appear in proceedings for the investigation of unfair international trade practices and safeguard measures shall possess the professional qualifications and licence to practice required under Mexican law, except for those who are members of a party's board of directors or the equivalent thereof, and shall designate a domicile in Mexico for the receipt of notifications.

**ARTICLE 52** – Following the submission of the request, the Ministry shall:

**I.** Within a period of 25 days, accept the request and declare the initiation of the investigation through a resolution to that effect; or

**II.** Within a period of 17 days, ask the requesting party for further items of evidence or information, which must be provided within a period of 20 days following receipt of the notification. If the requested elements are duly produced, the Ministry shall proceed in conformity with the preceding subparagraph. If the requested elements are not produced in a proper and timely fashion,

the request shall be considered as having been abandoned and the requesting party shall be personally so notified; or

**III.** Within a period of 20 days, reject the request if it does not fulfil the requirements set forth in the applicable legislation, through a resolution to that effect.

The Ministry shall publish the corresponding resolution in the **Diario Oficial de la Federación**, except where the request has been rejected, and shall notify the interested parties known to it.

**ARTICLE 53** – As of the day following the publication in the **Diario Oficial de la Federación** of the resolution initiating the investigation, the Ministry shall notify the interested parties known to it, so that they may appear in order to exercise their right to make representations.

...

The interested parties shall submit their arguments, information and evidence in conformity with the applicable legislation, within a period of 28 days from the day following the publication of the initiating resolution.

**ARTICLE 57** – Within a period of 90 days from the day following the publication in the **Diario Oficial de la Federación** of the resolution initiating the investigation, the Ministry shall issue a preliminary resolution by which it may:

**I.** ...

**II.** ...

**III.** Declare the administrative investigation concluded when there is insufficient evidence of price discrimination or subsidization, the alleged injury or a causal link between them.

The preliminary resolution shall be published in the **Diario Oficial de la Federación** and subsequently notified to known interested parties.

**ARTICLE 59** – Within a period of 210 days from the day following the publication in the **Diario Oficial de la Federación** of the resolution initiating the investigation, the Ministry shall issue a final resolution by which it shall:

**I. to III.** ...

The final resolution shall be published in the **Diario Oficial de la Federación** and subsequently notified to known interested parties.

**ARTICLE 60** – Repealed.

**ARTICLE 64** – The Ministry shall calculate individual margins of price discrimination or subsidization for foreign producers that provide sufficient evidence to that end; such individual margins shall serve as a basis for determining specific countervailing duties.

The Ministry shall determine a countervailing duty on the basis of the highest margin of price discrimination or subsidization obtained from the facts available, in the following cases:



I. When the producers fail to appear at the investigation; or

II. When the producers fail to provide the information in a proper and timely fashion, significantly impede the investigation, or supply information or evidence that is incomplete, incorrect or does not derive from their accounts, thus preventing the determination of an individual margin of price discrimination or subsidization; or

III. When the producers have not exported the product subject to investigation during the investigation period.

The facts available shall be understood to mean those 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.

**ARTICLE 66** – Importers of goods identical or alike to those subject to a provisional or final countervailing duty shall not be required to pay such duty if they can prove that the country of origin or provenance is different from the country whose goods are subject to the countervailing duty.

**ARTICLE 67** – Final countervailing duties shall remain in effect for the length of time and to the extent necessary to offset the injury to the domestic industry.

**ARTICLE 68** – Final countervailing duties shall be reviewed annually at the request of a party or *ex officio* by the Ministry at any time, as shall imports from producers for whom no positive margin of price discrimination or subsidization was determined in the investigation.

In any case, the resolutions announcing the initiation and the conclusion of a review shall be notified to known interested parties and published in the **Diario Oficial de la Federación**. The interested parties shall participate in the review process, during which they may give the undertakings mentioned in Article 72 of this Act.

...

The party requesting a review shall satisfy the Ministry that the volume of exports to Mexico during the review period is representative.

**ARTICLE 70** – Final countervailing duties shall be terminated within a period of five years following their entry into force, unless before such period has elapsed the Ministry has initiated:

I. An annual review process, at the request of an interested party or *ex officio*, to evaluate both the degree of price discrimination or the amount of the subsidies and the injury;

II. An *ex officio* review of the countervailing duty in effect, to determine whether termination of the duty would lead to the continuation or recurrence of the unfair practice.

If neither of the above procedures is initiated, the Ministry shall give notice in the **Diario Oficial de la Federación** of the elimination of such duty, which shall be notified to the interested parties known to it.

**ARTICLE 70A** – The Ministry shall give notice in the **Diario Oficial de la Federación** of the forthcoming expiry of countervailing duties in effect, at least 45 days before the date of expiry, which shall be notified to known domestic producers.

**ARTICLE 70B** – For the Ministry to initiate an *ex officio* review of countervailing duties in effect, one or more producers must inform the Ministry in writing of their interest in the initiation of such review and propose a review period of six months to one year, while the countervailing duty is in effect, at least 25 days before the duty expires.

**ARTICLE 71** – The following are not subject to countervailing duties or safeguard measures:

- I. Luggage of international passengers;
- II. Household effects belonging to and used by immigrants and repatriated or deported nationals during their residence abroad;
- III. Goods imported by border zone residents for personal use;
- IV. Goods donated for cultural, educational, research, public health or social service purposes that are imported by government agencies and non-taxpaying legal persons authorized to receive income tax-deductible donations, provided that these form part of their assets and subject to authorization by the Ministry; and
- V. Any other goods as may be designated by the Ministry.

The criteria set out in subparagraphs I to III are subject to the provisions of customs legislation.

**ARTICLE 72** – ...

The Ministry shall not proceed according to the above unless it has already established the existence of an unfair practice.

**ARTICLE 74** – The fulfilment of these undertakings may be reviewed periodically, *ex officio* or at the request of a party. If as a consequence of the review the Ministry finds that the undertaking has not been fulfilled, the investigation shall be reinitiated and, where appropriate, the corresponding countervailing duty shall be imposed on the basis of the facts available, through publication of the relevant resolution in the **Diario Oficial de la Federación**.

**ARTICLE 75** – Safeguard measures shall be determined by the Federal Executive, within a period not exceeding 210 days from the day following the publication of the initiating resolution in the **Diario Oficial de la Federación**, subject to the provisions of the international treaties and conventions to which Mexico is a party.

**ARTICLE 76** – Once the investigation concerning the application of safeguard measures has been concluded, the Ministry shall submit the draft final resolution to the Commission for its opinion, prior to the publication of the resolution.

...

**ARTICLE 77** – Safeguard measures may be applied for a period of up to four years and extended for a further period of up to six years, where such extension is warranted, due regard being paid to implementation of the domestic industry's adjustment programme.

**ARTICLE 80** – The Ministry shall provide timely opportunities for interested parties to examine all information contained in the administrative dossier for the presentation of their cases.

Confidential information shall be made available only to the accredited legal representatives of interested parties and to natural or legal persons having access to such information under the international treaties or conventions to which Mexico is a party. No interested party shall have access to restricted commercial or confidential government information.

Persons with authorized access to confidential information may not use such information for their personal benefit and shall be under the obligation to take all measures necessary to prevent any disclosure thereof. Infringement of this requirement shall be punishable under the provisions of this Act, independently of such civil and criminal penalties as may be applicable.

...

**ARTICLE 83** – The Ministry may verify the information and evidence submitted during the course of the investigation and contained in the administrative dossier, subject to the consent of those interested parties determined to be subject to verification. For that purpose, it may notify in writing that a search of the legal domicile, the establishment or the place where the relevant information is located is to be carried out.

The Ministry may proceed as it deems appropriate in order to verify that such information and evidence are correct and complete and stem from the accounts of the parties concerned, to collate the documents in the administrative dossier or to make the necessary attested copies.

Natural or legal persons not required to maintain accounts in accordance with the relevant legislation shall produce evidence of the above considered reliable by the Ministry.

If, as a result of the search, the Ministry finds that the information submitted during the course of the investigation by the natural or legal person subject to verification is incorrect, incomplete or inconsistent with the relevant accounts, the Ministry shall proceed in accordance with Article 64 of this Act.

In the case of persons domiciled abroad, searches for the purpose of verification shall be notified to the government of the country concerned and conducted subject to the government's consent.

In the event of refusal, the Ministry shall proceed on the basis of the facts available.

Searches by the Ministry for the purpose of verification shall be carried out on working days and during working hours by its own designated staff. However, they may also take place outside working days and hours where necessary, in which case the official letter ordering the search shall contain the necessary authorization.

Detailed records of the searches shall be drawn up in the presence of two witnesses provided by the party subject to the search or, in the absence of the said party or in the event that the said party refuses to provide witnesses, by the authority in charge of the proceedings. These searches shall be subject to the provisions of the Regulations.

**ARTICLE 86** – If in the course of the proceedings referred to in this section the Ministry considers that elements give it cause to suspect that any of the parties was involved in monopolistic practices punishable under the relevant legislation, it shall so inform the competent authority.

**ARTICLE 88** – When imposing a countervailing measure or proposing the application of a safeguard measure, the Ministry shall grant the domestic industry the opportunity for timely defence.

## **CHAPTER V**

### **SPECIAL PROCEDURES**

**ARTICLE 89A** – Once a final countervailing duty has been determined, the interested parties may request the Ministry to decide whether a product is subject to such duty; where appropriate, the request shall lead to the initiation, within 20 days following the submission of the request, of a procedure to establish whether the duty applies to the product, and the final resolution shall be issued within a period of 60 days following the date of initiation. Such resolutions shall be published in the **Diario Oficial de la Federación**.

**ARTICLE 89B** – The following are deemed to constitute circumvention of countervailing duties or safeguard measures:

**I.** Introduction into the national territory of inputs, parts or components for production or assembly of a product subject to a countervailing duty or safeguard measure;

**II.** Introduction into the national territory of goods subject to a countervailing duty or safeguard measure that contain inputs, parts or components integrated or assembled in a third country;

**III.** Introduction into the national territory of goods from the same country of origin as the product subject to a countervailing duty or safeguard measure that have relatively slight differences from the product in question;

**IV.** Introduction into the national territory of goods subject to a countervailing duty or safeguard measure and imported at a rate lower than the applicable duty or measure; or

**V.** Any other action resulting in failure to pay the countervailing duty or safeguard measure.

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

**ARTICLE 89C** – The interested parties may at any time request the Ministry to clarify or explain a specific aspect of the resolutions under which final countervailing duties are imposed.

**ARTICLE 89D** – Producers of goods subject to a final countervailing duty who exported no such goods during the period under investigation in the proceedings that gave rise to such duty may request the Ministry to initiate a procedure for new exporters with a view to assessing individual margins of price discrimination, provided that:

**I.** Their exports to the national territory of the goods subject to countervailing duties were subsequent to the period under investigation in the proceedings that gave rise to the countervailing duty. The requesting party shall satisfy the Ministry that the volume of exports during the period of review is representative; and

**II.** 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 duty.

**ARTICLE 89E** – The Ministry shall apply to an interested party that so requests the final resolutions issued as a result of an appeal for reversal, annulment proceedings or a resolution of the Ministry enforcing an award made under an alternative dispute settlement mechanism, provided that the legal circumstances of the interested party are identical to those of the successful party.

The interested party shall submit its request within a period of 30 days following the date on which the relevant resolution became final.

**ARTICLE 89F** – The Ministry shall give notice in the **Diario Oficial de la Federación** of the initiation of the review of the countervailing duty in effect and shall notify the parties known to it, so that within a period of 28 days from the day following the official publication of the initiation they may exercise their right to make representations.

Once the above time-limit has elapsed, the parties shall have eight days in which to present any counter-arguments or rebuttals.

Domestic producers, exporters and importers with a legal interest in the outcome of the review shall provide the information needed for the authority to determine whether elimination of the countervailing duty would lead to the continuation or recurrence of price discrimination or subsidization and the injury.

**I.** Within a period of 100 days following the initiation of the investigation, the Ministry shall notify the interested parties known to it of the initiation of a second, 28-day period for submitting evidence, so that they may exercise their right to present arguments and evidence.

**II.** Prior to issuing a final resolution, the Ministry may conduct any visits for verification purposes it deems appropriate; it shall hold a public hearing and grant the parties a time-limit for presenting submissions.

**III.** Once the review procedure has been completed, the Ministry shall submit the draft final resolution to the Foreign Trade Commission for its opinion.

**IV.** Within a period not exceeding 220 days from the date following the publication of the resolution initiating the review in the **Diario Oficial de la Federación**, the Ministry shall issue the final resolution, whereby it may:

**a.** Decide to extend the countervailing duty in effect for another five years following the date on which the duty lapses. In so deciding, the Ministry may modify the amount thereof;

**b.** Eliminate the countervailing duty.

Countervailing duties shall remain payable throughout the review period.

**ARTICLE 90** – The objective of export promotion shall be to increase the international market share held by Mexican products and services.

...

**I. and II.** ...

**III.** Resolve without delay the problems encountered by enterprises in penetrating international markets; including those stemming from the dispute settlement mechanisms provided for in the international treaties to which Mexico is a party.

**IV. and V.** ...

**ARTICLE 91** – The Federal Executive, acting through the Ministry and in coordination with the departments concerned, shall publish decrees in the **Diario Oficial de la Federación** establishing promotion programmes relating to infrastructure, training, coordination, organization, financing, tax and customs administration and the modernization of foreign trade mechanisms, provided that this involves internationally accepted practices.

**ARTICLE 93** – ...

**I.** ...

**II.** ...

**III.** Presentation of false information or documents, failure to provide valid information or documents, or alteration thereof, to obtain the application of countervailing duties or safeguard action: by a fine of up to the equivalent of the value of the imported goods during the period of investigation in question;

**IV.** ...

**V.** Importation, once the investigation is under way, of identical or like goods in significant quantities, as compared to total imports and domestic production, within a relatively short period, when in the light of the timing and the volume of the imports and other circumstances such imports are considered likely to undermine the remedial effect of the countervailing duty: by a fine equivalent to the amount resulting from the application of the final countervailing duty to the imports entered for up to three months prior to the date of initiation of the investigation. This penalty shall only be applied once the Ministry has issued the resolution determining the final countervailing duties; and

**VI.** ...

...

...

...

**ARTICLE 94** – ...

**I. to VIII.** ...

**IX.** Declaring the investigation referred to in Article 73 c concluded or terminated;

**X.** Declaring the investigation referred to in Article 89B concluded;

**XI.** Concluding the investigation referred to in Article 89F, subparagraph IV; and

**XII.** Imposing the penalties referred to in this Act.

...

**ARTICLE 95 – ...**

Appeal for reversal shall be handled and resolved in accordance with the provisions of the Federal Tax Code, and shall be referred to the Federal Tax and Administrative Court only when such proceedings have been exhausted.

Resolutions issued to decide an appeal for reversal or declare such appeal not receivable may be challenged before the Federal Tax and Administrative Court by an action substantiated in accordance with the provisions of the Federal Tax Code and the Federal Tax and Administrative Court Organization Act.

Resolutions which are not appealed under the Federal Tax Code shall be considered to have been accepted and may not be challenged before the Federal Tax and Administrative Court.

**ARTICLE 96 – ...**

**I. to III.** ...

**IV.** When a case is brought before the Federal Tax and Administrative Court challenging the resolution issued to decide the appeal for reversal lodged against the fixing of the final countervailing duty, and subsequently the resolution issued to decide the implementing action is also challenged, the initial request must be extended within the relevant deadline for challenging the latter resolution.

**ARTICLE 97 – ...**

**I.** Neither the appeal for reversal provided for in Article 94, nor proceedings instituted before the Federal Tax and Administrative Court against the said resolutions or against the Ministry's resolution issued as a result of the decision emanating from the said alternative mechanisms shall be admissible, and it shall be understood that the interested party that resorts to such an option accepts the resolution stemming from the alternative dispute settlement mechanism;

**II.** ...

**III.** ...

**ARTICLE 98 – ...**

**I.** ...

**II.** ...

**III.** Interested parties who lodge an appeal for reversal, or resort to annulment proceedings before the Federal Tax and Administrative Court or to the alternative dispute settlement mechanisms referred to in this Act, may guarantee payment of the final countervailing duties in accordance with the Federal Tax Code provided the form in which the guarantee is provided is accepted by the Ministry of Finance and Public Credit.

G/ADP/N/1/MEX/1/Suppl.2

G/SCM/N/1/MEX/1/Suppl.1

G/SG/N/1/MEX/1/Suppl.1

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## TRANSITIONAL PROVISIONS

**First** – This Decree shall enter into force on the day following its publication and shall apply to the totality of imports, regardless of their origin and provenance, including imports from the United States of America and Canada.

**Second** – The Regulations of the Foreign Trade Act, as published in the **Diario Oficial de la Federación** of 30 December 1993, shall continue to apply insofar as they are not inconsistent with this Decree, until such time as the corresponding reforms are issued.

**Third** – Administrative proceedings under way at the time of entry into force of this Decree shall be resolved under the Foreign Trade Act, as published in the **Diario Oficial de la Federación** of 27 July 1993.

**Fourth** – For matters within its competence, the Federal Executive shall establish an early warning system to keep the Congress of the Union periodically informed regarding imports of vulnerable goods.

Mexico City, Federal District, 15 December 2002.- Dep. **Beatriz Elena Paredes Rangel**, Presiding.- Mr. **Enrique Jackson Ramírez** Presiding.- Dep. **Adrián Rivera Pérez**, Secretary.- Ms. **Sara I. Castellanos Cortés**, Secretary.- Signed.

Pursuant Article 89, section I, of the Political Constitution of the United Mexican States, and for due publication and observance, I issue this Decree at the seat of the Federal Executive in Mexico City, Federal District, on the tenth day of the month of March of the year two thousand and three.- **Vicente Fox Quesada**.- Signed.- The Minister of the Interior, **Santiago Creel Miranda**.- Signed.

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