

WORLD TRADE
ORGANIZATION

RESTRICTED

G/ADP/N/1/PER/1/Suppl.1
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5 June 1996

(96-2124)

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

The following communication, dated 12 April 1996, has been received from the Permanent Mission of Peru.

The Permanent Mission of Peru to the United Nations Office and Other International Organizations at Geneva presents its compliments to the Secretariat of the World Trade Organization, the Committee on Anti-Dumping Practices and the Committee on Subsidies and Countervailing Measures, and has the honour to notify Supreme Decree No. 01-94-ITINCI approving the updating of the Sole Text of the Administrative Procedures (TUPA) of the National Institute for the Defence of Competition and the Protection of Intellectual Property (INDECOPI). A copy of the above-mentioned legislation is appended hereto.

El Peruano, Thursday, 3 February 1994, Pages 120717-120720

LEGISLATION

MITINCI

Supreme Decree No. 01-94-ITINCI to Approve the Updating of the Sole Text
of the Administrative Procedures of INDECOPI

THE PRESIDENT OF THE REPUBLIC

CONSIDERING:

That Legislative Decree No. 757 - the Framework Act for the Growth of Private Investment - established the obligation upon all private administrative bodies to approve and publish the updating of their corresponding Sole Text of Administrative Procedures (TUPA);

That Supreme Decree No. 094-92-PCM lays down the rules to be observed in order to comply with the obligation referred to in the previous paragraph, which provide for the TUPA to be subject to compulsory annual updating by 31 January of each year at the latest;

That the updating of the Sole Text of the Administrative Procedures of the public administrative bodies which come under the authority of the Central Government must be approved by Supreme Decree;

In accordance with the provisions of Article 22 of Legislative Decree No. 757;

DECREES:

Article 1. The updating of the Sole Text of the Administrative Procedures (TUPA) of the National Institute for the Defence of Competition and the Protection of Intellectual Property (INDECOPI), approved by Supreme Decree No. 009-93-ITINCI, as amended by Supreme Decree No. 014.93-ITINCI, contained in the annex hereto, which forms an integral part of this Supreme Decree, is hereby approved.

Article 2. Without prejudice to the procedures which the Offices, Commissions and Tribunal are responsible for initiating *ex officio* and the legal powers assigned to them, the only procedures to be followed by the National Institute for the Defence of Competition and the Protection of Intellectual Property (INDECOPI) shall be those which appear in the Annex hereto.

Article 3. The fees chargeable for services other than the administrative procedures set out in this Sole Text of Administrative Procedures shall be approved and published regularly by the Board of INDECOPI.

Article 4. This Supreme Decree shall be endorsed by the Ministry of Industry, Tourism, Integration and Intentional Trade Negotiations and shall enter into force on the day following its publication.

Government House, Lima, 25 January 1994

ALBERTO FUJIMORI FUJIMORI
Constitutional President of the Republic

ALFONSO BUSTAMANTE Y
BUSTAMANTE
Chairman of the Council of Ministers and
Minister of Industry, Tourism, Integration and
International Trade Negotiations

ANNEX-S.D. No. 01-94-ITINCI

II. DUMPING AND SUBSIDIES COMMISSION

(A) AUTOMATIC APPROVAL PROCEDURES

Not envisaged in the case of this Commission.

(B) PRIOR EVALUATION PROCEDURES SUBJECT TO AFFIRMATIVE ADMINISTRATIVE SILENCE

Not envisaged in the case of this Commission.

(C) PRIOR EVALUATION PROCEDURES SUBJECT TO NEGATIVE ADMINISTRATIVE SILENCE

Not envisaged in the case of this Commission.

(D) PROCEDURES NOT SUBJECT TO TIME-LIMITS OR ADMINISTRATIVE SILENCE

(1) PROCEDURES TO PREVENT AND REMEDY DISTORTIONS OF COMPETITION CAUSED BY DUMPING

(a) Requirements:

- A complaint, which must contain the following:
- General information:
- The name or business name, domicile and telephone number of the complainant. Where the complaint is submitted by a legal person, general information must be supplied concerning its representative (name, identity documents and legal entitlement to represent).
- Principal economic activity of the complainant(s).
- Complainant's production as a percentage share of total domestic production in the activity concerned.
- Names of the principal domestic producers of the product.
- Detailed description of the domestic product(s) affected by dumping, with indication of the trade and technical names, make or model, tariff heading and technical specifications.
- Detailed description of the product imported at a dumped price, with indication of the trade and technical names, make or model and technical specifications, tariff heading, and duties and other import taxes on the product covered by the complaint.
- Country of origin or provenance (or both where they are not the same) from which the product is imported.
- Name and domicile of foreign producers or exporters.

- Name or business name and domicile of the domestic enterprises which are importing the product covered by the complaint.
- Value and volume of imports entered and expected to be entered (covering a minimum period of six months prior to the date of the complaint).
- In cases where the complainant covers products from Member States of the Cartagena Agreement, the complainant must submit a sworn statement in which he certifies that a similar complaint in respect of a like product has not been submitted to the Board of the Cartagena Agreement, and undertakes not to submit any such complaint without first notifying the Dumping and Subsidies Commission so that it can terminate its investigation.
- Export price of the product in the country of origin or of export, with a general indication of the conditions of sale.
- Selling price on the market of the country of origin or of exportation of the product under investigation, with a general indication of the terms and conditions under which it is marketed.
- The levels of duty requested and the method of collection.
- Information concerning the domestic industry and producers:
 - Statistical data for at least the last three years (or the period for which the enterprise has been in operation, if shorter) and monthly statistics for the past year concerning:
 - The production of the complainant enterprise.
 - The installed capacity of the complainant enterprise and the extent to which it is utilized.
 - Sales of the product concerned on the domestic market and abroad, in terms of both quantity and value.
 - Selling prices and marketing conditions on the domestic market and the export market, where appropriate.
 - Cost structure for the manufacture of the product.
 - Information concerning the injury or the threat of injury:
 - Evaluation of the impact which dumped imports are having or may have on the domestic industry (sales, domestic prices, production, utilization of capacity, inventories, employment, investment, wages, etc.).
- Documents which must be attached to the complaint:
 - Proof of corresponding payment.
 - Where appropriate, copies of the documents granting the power to represent the natural or legal person submitting the complaint.
- Sufficient copies of the complaint for all the parties complained against.

- Where the complaint is submitted by a sector, association or grouping, the information must be consolidated.
 - At the request of the Commission or at its own initiative, the complainant enterprise shall submit any document with a close bearing on the complaint.
 - Where the parties, and especially the complainants, supply information which they consider to be confidential, the investigating authority may request them to make non-confidential summaries of that information so that it can be disclosed in this form to the other parties concerned. Where the party providing the information declines to provide the requested summary, it must give reasons for its refusal. In cases where it is impossible for the information considered confidential to be disclosed by the party supplying it, such information shall only be taken into account if the investigating authority has sufficient evidence to show that it is correct.
- (b) This procedure shall be initiated following the submission of the documents and the corresponding complaint.
- (c) The administrative fees for this procedure are:
- For receiving the complaint: 0.25 UIT.¹
 - For initiating the investigation: 0.75 UIT.
- (d) The service to which the complaint must be submitted is the Technical Secretariat of the Dumping and Subsidies Commission.
- (e) The authority which is competent to issue decisions relating to this procedure is the Dumping and Subsidies Commission.
- (f) For the purpose of challenging a final decision recourse may be had to:
- An application for reconsideration, which shall be submitted to the Dumping and Subsidies Commission within 15 working days of the day following notification of the decision, subject to payment of 0.5 UIT.
 - An appeal, which shall be submitted to the Dumping and Subsidies Commission within 15 working days of the day following notification of the corresponding decision, subject to payment of 1 UIT. The authority with the power of decision on such appeals is the Defence of Competition and Intellectual Property Tribunal.

These remedies are not available for use against decisions imposing precautionary measures intended to ensure compliance with the final decision.

(2) PROCEDURES TO PREVENT AND REMEDY DISTORTIONS OF COMPETITION CAUSED BY SUBSIDIES

- (a) Requirements:
- A complaint, which must contain the following:

¹Fiscal unit subject to taxation (UIT), equivalent to US\$685 (1994 value).

- General information:
- The name or business name, domicile and telephone number of the complainant. Where the complaint is submitted by a legal person, general information must be supplied concerning its representative (name, identity documents and legal entitlement to represent).
- Principal economic activity of the complainant(s).
- Complainant's production as a percentage share of total domestic production in the activity concerned.
- Names of the principal domestic producers of the product.
- Detailed description of the domestic product(s) affected by the subsidies, with indication of the trade and technical names, make or model, tariff heading and technical specifications.
- Detailed description of the subsidized product imported, with indication of the trade and technical names, make or model and technical specifications, tariff heading, and duties and other import taxes on the product covered by the complaint.
- Country of origin or provenance (or both where they are not the same) from which the product is imported.
- Name and domicile of foreign producers or exporters.
- Name or business name and domicile of the domestic enterprises which are importing the product covered by the complaint.
- Value and volume of imports entered and expected to be entered (covering a minimum period of six months prior to the date of the complaint).
- In cases where the complaint covers products from Member States of the Cartagena Agreement, the complainant must submit a sworn statement in which he certifies that a similar complaint in respect of a like product has not been submitted to the Board of the Cartagena Agreement, and undertakes not to submit any such complaint without first notifying the Dumping and Subsidies Commission so that it can terminate its investigation.
- Export price of the product in the country of origin or of export, with a general indication of the conditions of sale.
- Selling price on the market of the country of origin or of exportation of the product under investigation, with a general indication of the terms and conditions under which it is marketed.
- The levels of duty requested and the method of collection.
- The bounty, aid, rebate or premium and, in general, the description of the subsidy practice granted, directly or indirectly, in the country of origin or export in connection with the production, manufacture, transport or exportation of the imported product or its raw materials or inputs.
- Authority or agency granting the subsidy.

- Where appropriate, a copy of the legislation authorizing the subsidy and describing the procedure for obtaining it, if known.
 - Value or amount of the subsidy granted to producers and/or exporters of the product in question and its impact on the price of the latter.
 - Information concerning the domestic industry and producers:
 - Statistical data for at least the last three years (or the period for which the enterprise has been in operation, if shorter) and monthly statistics for the past year concerning:
 - The production of the complainant enterprise.
 - The installed capacity of the complainant enterprise and the extent to which it is utilized.
 - Sales of the product concerned on the domestic market and abroad, in terms of both quantity and value.
 - Selling prices and marketing conditions on the domestic market and the export market, where appropriate.
 - Information concerning the injury or the threat of injury:
 - Evaluation of the impact which subsidized imports are having or may have on the domestic industry (sales, domestic prices, production, utilization of capacity, inventories, employment, investment, wages, etc.).
 - Documents which must be attached to the complaint:
 - Proof of corresponding payment.
 - Where appropriate, copies of the documents granting the power to represent the natural or legal person submitting the complaint.
 - Sufficient copies of the complaint for all the parties complained against.
 - Where the complaint is submitted by a sector, association or grouping, the information must be consolidated.
 - At the request of the Commission or at its own initiative, the complainant enterprise shall submit any document with a close bearing on the complaint.
 - Where the parties, and especially the complainants, supply information which they consider to be confidential, the investigating authority may request them to make non-confidential summaries of that information so that it can be disclosed in this form to the other parties concerned. Where the party providing the information declines to provide the requested summary, it must give reasons for its refusal. In cases where it is impossible for the information considered confidential to be disclosed by the party supplying it, such information shall only be taken into account if the investigating authority has sufficient evidence to show that it is correct.
- (b) This procedure shall be initiated following the submission of the documents and the corresponding complaint.
- (c) The administrative fees for this procedure are:

- For receiving the complaint: 0.25 UIT.²
 - For initiating the investigation: 0.75 UIT.
- (d) The service to which the complaint must be submitted is the Technical Secretariat of the Dumping and Subsidies Commission.
- (e) The authority which is competent to issue decisions relating to this procedure is the Dumping and Subsidies Commission.
- (f) For the purpose of challenging a final decision recourse may be had to:
- An application for reconsideration, which shall be submitted to the Dumping and Subsidies Commission within 15 working days of the day following notification of the decision, subject to payment of 0.5 UIT.
 - An appeal, which shall be submitted to the Dumping and Subsidies Commission within 15 working days of the day following notification of the corresponding ruling, subject to payment of 1 UIT. The authority with the power of decision on such appeals is the Defence of Competition and Intellectual Property Tribunal.

These remedies are not available for use against decisions imposing precautionary measures intended to ensure compliance with the final decision.

²Fiscal unit subject to taxation (UIT), equivalent to US\$685 (1994 value).