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

Original: English

**NOTIFICATION OF LAWS AND REGULATIONS UNDER  
ARTICLES 18.5 AND 32.6 AND 12.6 OF THE AGREEMENTS**

Replies to Questions Posed by the UNITED STATES<sup>1</sup>  
Regarding the Notification of KUWAIT<sup>2</sup>

The following communication, dated 24 October 2011, is being circulated at the request of the Delegation of Kuwait.

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**Question 1**

Please clarify how the *GCC Common Law on AD, CVD and SG* are implemented in Kuwait's national laws. If there is a discrepancy between the *GCC Common Law on AD, CVD and SG* and Kuwait's national laws, which law shall prevail?

Reply

The Implementation of the GCC Common Law as Kuwait's national law is enforced as soon as it is promulgated in the Kuwaiti official gazette "Kuwait Al-Youm". There will be no discrepancy.

**Question 2**

With regard to Article 3, Definitions, Permanent Committee (PC) and Article 9, Permanent Committee of the *GCC Common Law on AD, CVD and SG*, could Kuwait please clarify whether this Permanent Committee (PC) would be the administering authority for conducting the dumping, subsidies or surge of imports investigations as well as determining injury under the *GCC Common Law on AD, CVD and SG*? If the PC would not be analysing and determining dumping, subsidies or surge of imports investigations and injury to the domestic industry, could Kuwait please clarify which entity (ies) would be doing so?

Reply

The competent authority responsible for conducting the investigation, analysing and determining dumping, subsidies or surge of imports and injury to the domestic industry, is the **Bureau of Technical Secretariat** of anti-injurious practices in international trade "**GCC-TSAD**". The **Permanent Committee** is responsible for initiating the investigation, imposing provisional measures,

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<sup>1</sup> G/ADP/Q1/KWT/1-G/SCM/Q1/KWT/1-G/SG/Q1/KWT/1.

<sup>2</sup> G/ADP/N/1/KWT/1-G/SCM/N/1/KWT/1-G/SG/N/1/KWT/1.

accepting price undertakings, in addition to its other responsibilities stipulated in the Common Law and its rules of implementation.

### Question 3

With regard to **Article 3, Definitions, Judicial Commission** of the *GCC Common Law on AD, CVD and SG*, could Kuwait please explain the role of the Judicial Commission, how it will be established, and what role, if any, the Judicial Commission would play in relation to the appeals process described in **Article 11, Protest and Appeal**?

#### Reply

The role of the Judicial Commission is settling appeals, cassation, or affirmation. It consists of three judges and it is held as needed.

### Question 4

With regard to **Article 5, Measures** of the *GCC Common Law on AD, CVD and SG*, and in light of Members' obligations under Article VI(1) of the General Agreement on Tariffs and Trade (GATT) regarding whether imports from one country "cause or threaten{} material injury to an established industry in the territory of a contracting party or materially retard{} the establishment of a domestic industry", could Kuwait please explain how the standard "caused of delay or obstruction to GCC industry and there is causal link" in Article 5 is consistent with GATT Article VI(1)?

#### Reply

It is a translation issue, since the official language of the GCC Common Law is Arabic, thus the right translation for "caused of delay or obstruction to GCC industry and there is causal link ..." shall be corrected as follow "**caused material retardation of establishing** the GCC industry and there is causal link ...".

### Question 5

In **Article 7, Implementation of the Common Law and Its Rules of Implementation** of the *GCC Common Law on AD, CVD and SG*, Kuwait notes "The ministerial committee, the permanent committee and the technical secretariat are each one within its competence, responsible for implementing this Law and its rules of implementation".

- When will Kuwait notify each committee's or secretariat's rules on implementation for the relevant portion of the *GCC Common Law on AD, CVD and SG* so that interested parties better understand the roles and responsibilities of each group, including how decisions of each committee or secretariat may be appealed?

Reply

The delegation of Kuwait will notify the WTO respective Committees of the rules of implementation of the GCC Common Law, as soon as they are translated into a WTO working language.

**Question 6**

With regard to **Article 8, Competence of Ministerial Committee** and **Article 9, Permanent Committee** of the *GCC Common Law on AD, CVD and SG*, are the decisions of the Permanent Council and Ministerial Committee final or are decisions made by the Permanent Council and Ministerial Committee subject to approval by another entity? If so, which entity must approve those decisions?

Reply

There are no other entities that need to approve the decisions of the Ministerial Committee.

**Question 7**

With regard to **Article 8** of the *GCC Common Law on AD, CVD and SG*, could Kuwait please clarify when all the rules and regulations referenced in Article 8 will be promulgated?

Reply

The rules and regulations stated in article 8 of the GCC Common law will be promulgated when it is published in the GCC-TSAD official gazette.

**Question 8**

**Article 11.2, Protest and Appeal** of the *GCC Common Law on AD, CVD and SG*, briefly discusses the rights of parties to appeal decisions. However, it states that "The complaining rejected party can appeal to the judicial committee in Member States within 30 days from the date of notification".

- Under what laws or regulations will appeals in Member State judicial committees be conducted?
- Do decisions by the judicial committee of a Member State supersede determinations by the Ministerial Committee?
- Does a decision by an individual Member State's judicial committee apply to AD, CVD, and SG practice in all Member States?

Reply

Please strike out "... in member states ..." as it is a typographical error which does not exist in the official Arabic version.

#### Question 9

With regard to **Article 12, Confidentiality of information** of the *GCC Common Law on AD, CVD and SG*, could Kuwait please clarify whether confidential treatment of submitted information will apply to just the information being submitted and claimed as confidential or to the entire document which may contain partial confidential information?

#### Reply

The submitted information requested to be treated as confidential, shall be treated as such whether it is a document or a part of a document, provided that proper justification and public summary of the submitted confidential information are also submitted.

#### Question 10

With regard to **Article 15, Entry into force** of the *GCC Common Law on AD, CVD and SG*, please provide the name and date of the official gazette or publication in which Kuwait published this law. If this publication is publicly available on the internet, please provide a website address for the publication or gazette.

#### Reply

The GCC Common law was published in the official gazette of Kuwait "Alkuwait alyawm" dated 7 May 2007 *no. 818 year 53*. The amended GCC Common Law will be published in the official gazette of Kuwait "Alkuwait alyawm" soon.

#### Question 11

According to the *GCC Common Law on AD, CVD and SG* would an antidumping, countervailing duty or safeguard measure apply to imports into all members of the GCC or may such measures be applied to imports into individual members of the GCC?

#### Reply

According to the GCC Common Law, the antidumping, countervailing duty or safeguard measure imposed on imports will be applied to all GCC member States.

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