

RESTRICTED

ADP/W/37

4 June 1982

Special Distribution

GENERAL AGREEMENT ON TARIFFS AND TRADE

Committee on Anti-Dumping Practices

Original: English

POSSIBLE CONTRIBUTION TO THE MINISTERIAL MEETING

Communication from India

The following communication, dated 11 May 1982, has been received by the Chairman from the Permanent Mission of India.

I am writing to you with reference to the discussions held in the meeting of the Committee on Anti-Dumping Practices held on 26-27 April 1982, under Item (F) of the agenda regarding a possible contribution that can be made for the forthcoming Ministerial level meeting. You had desired that the proposal made by my delegation be submitted to you in writing.

I am enclosing a copy of the statement which my delegation made in the meeting. In order to facilitate consideration, the points which my delegation would regard as being of concern are the following:

1. That there is no uniformity in the procedures and practices being followed by different countries insofar as the operation of the Code is concerned.
2. In the case of some Signatories, the procedures suffer from lack of transparency.
3. The provisions of Article 13 of the Code relating to developing countries are not being observed. In particular, it is our impression that anti-dumping measures are being resorted to against developing countries without other constructive remedies being explored.
4. There has been some indication that some Signatories are using concept and practice relevant only in countervailing duty investigations.
5. The questionnaires of some of the Signatories are far too complicated. Not only are these unsuitable for small firms in developing countries but well established corporate structures in developed countries also have difficulties with these.
6. There has been an attempt to legitimize basic price mechanisms despite reservations having been entered by a large number of Signatories.

I would like to clarify that it is not the intention of my delegation to undertake any major rewriting of the Code. Our proposal for the present is merely that a special session of the Committee be convened in order to discuss some of these points of concern so that an appropriate recommendation can be made to the Ministerial level meeting under the larger heading of the MTN Agreements.

STATEMENT MADE BY THE REPRESENTATIVE OF INDIA AT THE
MEETING OF 27 APRIL 1982 UNDER ITEM (F) OF THE AGENDA

My delegation fully appreciates the difficulty that a Committee like this encounters in any attempt to make a contribution for the forthcoming Ministerial meeting. However, it is our belief that a discussion under this Agenda Item in the Committee could focus on certain aspects which may be said to fall under a general stock-taking of the working of the Code since its inception.

2. One of the basic objectives of the Anti-dumping Code was and is to elaborate rules for the application of anti-dumping measures in order to provide greater uniformity and certainty in application. We believe that this objective has unfortunately not been fully achieved. Apart from the fact that dumping actions by developed countries against developing countries having increased considerably since the Code came into effect, it is our experience that there is no uniformity in the procedures and practices being followed by different countries. This may be responsible for the fact that many developing countries who had not signed the 1967 Anti-dumping Code have signed the present Code in the expectation that there would be greater certainty in the application of dumping measures now feel disappointed. The procedures being followed suffer in some cases from a complete lack of transparency. Whereas transparency is desirable as an objective by itself, it becomes all the

more serious, Mr. Chairman, in the context of Article 13 of the Code, and, in particular, the second statement appended to the Code. It is our feeling that not only have these provisions not been implemented but that anti-dumping actions are being taken without any attempt being made to explore other constructive remedies before imposing anti-dumping duties.

3. It has also been our experience that in pursuing anti-dumping investigations, some countries have been using concept and practices which are relevant only in countervailing duty investigations. It would be inappropriate in an anti-dumping investigation to go into the extent of subsidy enjoyed by an exported product and to levy an anti-dumping duty to compensate for such subsidisation. It is clear that anti-dumping and subsidy investigations are two separate streams in GATT with two separate remedies and as such must be pursued separately and independently.

4. The questionnaires used in anti-dumping investigations are not only extremely complicated but are designed for well established corporate structures in industrialised countries rather than small firms in developing countries who have neither the accounting expertise or resources to meet the requirements of such questionnaires but for whom the deadline set are impossible to achieve. In discussions on this subject in the Committee, several developed country

delegations have expressed the view that even for firms in their countries, some of the questionnaires are too complicated.

5. Furthermore, the discussions on the interpretation of Article 8.4 which have been held in the Committee so far shows that some developed countries are attempting to legitimise basic price system to trigger of anti-dumping investigations, though the agreed interpretation of the General Agreement clearly provides for investigation only on a case by case basis.

6. Mr. Chairman, these are some of the concerns of my delegation which we feel could be looked at in any stock-taking on the functioning of this Committee which is attempted in the context of a possible contribution to the Ministerial level meeting.