

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Committee on Anti-Dumping Practices

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CANADIAN ANTI-DUMPING PROCEDURES

Communication from Spain

At the last meeting of the Anti-Dumping Committee, the Spanish delegation submitted to the Committee a detailed complaint (COM.AD/W/21) outlining the inconsistency with the applicable GATT requirements of the anti-dumping and valuation actions taken by the Government of Canada in respect of import of women's footwear from Spain.

At the time the Canadian delegate requested that bilateral consultations be held with respect to the Spanish complaint. The Spanish delegation acceded to this request, and in January 1972 a Spanish delegation, headed by the Director-General of Exportation of the Ministry of Commerce, had in Ottawa three days of bilateral consultations with Canadian officials on this issue. The results of that meeting are summarized in the Aide Memoire agreed to by both delegations in which the Canadian Government "undertook to ensure that a review of the question of intermediate taxes and normal value would be completed as expeditiously as possible, paying particular attention to any available GATT opinions or precedents related to cascade tax" and that "the results will be submitted to the Spanish authorities in a spirit of mutual co-operation".

Over eight months have passed since those bilateral consultations and, despite repeated inquiries by the Spanish Embassy in Canada in January, July and September 1972, there has not been any indication that the Canadian Government has completed the review which it agreed to undertake and complete "as expeditiously as possible" and no results have been submitted "to the Spanish authorities in a spirit of mutual co-operation" as agreed. The only communications received by the Spanish authorities in respect of this issue are two letters neither of which attempts to fulfil the commitment made by the Canadian Government in the bilateral consultations and which indicate that the Canadian Government is persisting in sending still more onerous and burdensome questionnaires to the Spanish footwear exporters.

It should be noted that the Federal Court of Canada on 20 January 1972 issued an order restraining the collection of anti-dumping duties on imports of women's footwear from Italy and Spain based primarily upon the apparent impropriety of the

Department of National Revenues' investigation and findings in this case. After reciting the detailed information requested in the Department of National Revenue's questionnaires, the Court stated:

"It can readily be appreciated that such a questionnaire, while no doubt seeking information highly pertinent to the Department of National Revenue, Customs and Excise, in connexion with this investigation, nevertheless asks questions which would be considered highly impertinent by an exporter in Spain or Italy,"

It should be noted that this Court decision was overturned on appeal this summer, not on the merits, but rather on the basis of the inviolability of the Minister's determination to judicial process.

There is little use in attempting to respond to such questionnaires if the Canadian Government is going to persist in applying anti-dumping duties as a result of (1) the exemption of the product from duties or taxes borne by the product when destined for consumption in Spain, or by reason of the refund of such duties or taxes, and (2) the failure to adjust for bona fide differences in selling costs, and quantity and cash discounts between the home and export markets.

On the other hand we cannot accept the point of view of the Government of Canada on the existence of injury to Canadian industry and consider that the roots of the problem are those clearly explained in document COM.AD/W/21.

The Government of Spain once again protests the action of the Government of Canada (1) in applying anti-dumping duties against women's footwear imported from Spain in clear violation of the Article VI of GATT and the requirements of the International Anti-dumping Code and (2) in increasing the value for duties purposes of such product in violation of Article VII, all for the reasons more specifically set forth in the Spanish Government communication of 22 September 1971 (COM.AD/W/21).

The Government of Spain wishes to call the attention of the Committee to the fact that it has exhausted all its efforts to obtain any result after one year of bilateral consultations.

Without prejudice to any action that Spain could take pursuant to articles XXII and XXIII of the General Agreement, the Government of Spain is prepared to consider any appropriate alternative procedure that the Anti-Dumping Committee or the Canadian Delegation might suggest in connexion with this issue.

The delegation of Spain wants to recall to the members of the Committee that the actions undertaken by the Government of Canada pose a serious threat to the future of Spanish-Canadian commercial relations. Imports of women's footwear account for over 12 per cent of Spain's exports to Canada. Inasmuch as Spain purchases from Canada almost twice as much as it sells there, and has a deficit in excess of \$30 million a year in its trade with Canada, the protectionist action taken by the Government of Canada in this case can have a significant adverse effect upon the mutually beneficial and rapidly developing commercial relations between Canada and Spain, which the Governments of our two countries have worked so hard to foster.