

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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LIST OF PRIORITY ISSUES IN THE ANTI-DUMPING FIELD

Submissions by Governments

Addendum

The following communication, dated 9 October 1978, relating to the four priority issues to be discussed at the next meeting of the Anti-Dumping Committee has been received from Japan.

1. Sales at a loss

1.1 The way to deal with sales at a loss

(1) What circumstances entitle sales at a loss to permit a proper price comparison? (i.e., In what circumstances can sales at a loss be justifiably regarded as a sale in the ordinary course of trade as provided for in Article 2:(a) of the Anti-Dumping Code?)

(2) What kind of cost components can provide appropriate criteria with which to determine sales at a loss?

(3) With respect to "a reasonable amount for profits" which is enumerated as a component to be added to the cost of production for allowing a proper comparison, Article 2:(d) provides that, as a general rule, the addition for profit shall not exceed the profit normally realized on sales of products of the same general category in the domestic market of the country of origin. In this respect, is it appropriate to add to the cost of production the amount of profit at a low level (including zero) or a minus profit which tends to be shown at the time of a stagnant market situation, an ascending phase of the business cycle or inventory adjustment?

(4) What is considered eligible for providing a prima facie evidence for the existence of sales at a loss? (Whether or not balance-sheets as such should be always taken to provide prima facie evidence for sales at a loss?)

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1.2 Investigation on the cost of production

In case the initiation of investigation on the production cost is based upon a purposeful allegation of sales at a loss, or a prima facie evidence thereof which, in the judgement of the exporting country concerned, seems incorrect or false, there should be opportunities assured for interested parties in the exporting countries concerned to rebut the allegation or the prima facie evidence without being asked to submit information on the cost of production.

2. Allowances relating to price comparability

Those countries that have experience of investigations on dumping are requested to describe, in empirical terms based on the actual cases, the way in which due allowances are to be made for the differences in conditions and terms of sale and for other differences affecting price compatibility.

3. Regional protection

With regard to a divided market as defined in Article 4:(a)(ii) and a unified market in the economic integration as defined in Article 4:(b), description is requested on criteria for the application of Article 8:(e).

4. Price undertaking

(1) Whether or not it is appropriate for the importing authorities to require, as a prerequisite to the acceptance of price undertakings, a voluntary undertaking by the exporters to restrain their export quantities.

(2) Price undertakings should be received whenever they are deemed practicable.

(3) When the authorities concerned accept the price undertaking during the examination of a case, whether or not it is appropriate to terminate the investigation, at least, on the margin of dumping, unless the exporters desire completion of the investigation. What is the case where the authorities concerned deem it necessary to complete the investigation in spite of their acceptance of price undertakings?

(4) So long as the liquidation of anti-dumping duties is suspended, the exporters concerned are deprived of an opportunity to proceed with price undertakings. Suspension for a long period of time of liquidation of anti-dumping duties is likely to result in a punitive application of anti-dumping practices, being incompatible with the spirit of the Anti-Dumping Code.

(It is doubtful whether suspension of the liquidation is in compliance with Article 9:(a)).