

**GENERAL AGREEMENT ON
TARIFFS AND TRADE**

Committee on Anti-Dumping Practices

Original: English

Committee on Subsidies and
Countervailing Measures

QUESTIONS CONCERNING THE LEGISLATION OF PAKISTAN
AND THE LEGISLATION OF INDIA

Australia

The following comments and questions were submitted by Australia. It should be noted that some questions cover both anti-dumping and countervailing measures while others are specific to one or other of these measures.

1. Legislation of Pakistan (SCM/1/Add.24 & ADP/1/Add.24)

(i) The definition of normal value (pages 3-4) includes the provision "...and such price shall in no case be deemed to be less than ...". The preference in the drafting appears to favour constructed value. This coupled with the above language would lead to highest possible normal value. What assurances can Pakistan give that their definition of normal value would not be interpreted and applied in a manner contrary to the objectives and provisions of the Agreements?

(ii)(a) Section 3 does not have a material injury threshold and extends the scope for anti-dumping action to situations where dumping "is likely to hinder or retard the establishment of a potential industry in Pakistan and adversely affects the local market conditions in Pakistan."

- (b) Also this Section, unlike the provisions covering countervailing measures, does not appear to put a limit on the level of anti-dumping duties.

Could Pakistan give a justification for these provisions in (a) and (b) above in terms of the Anti-Dumping Code?

- (iii)(a) Section 6 of the legislation provides only 30 days between the announcement of an investigation and the imposition of duties. Is this sufficient time for the appropriate Pakistani authorities to conduct an adequate investigation of the facts and to reach a judgement on them?
- (b) In Section 6, what is meant by the phrase "... provided that nothing in this section shall apply to the levy of the provisional duty"?
- (c) Also with regard to the arrangement for the imposition of provisional duties, could clarification be provided on the extent of any preliminary investigation and the constraints on the level of duty since the legislation refers to "such provisional duties as it may think fit".
- (d) Is there any provision to cover price undertakings? If not, what arrangements are being made to amend the legislation to provide for price undertakings?
- (iv) The legislation provides for a review of both anti-dumping and countervailing duties within 15 days of the imposition of a duty. Is any later review provisions being contemplated?

2. Legislation of India (SCM/1/Add.25 & ADP/1/Add.25)

Rule 14.1 of the legislation covering countervailing measures and Rule 15.1 covering anti-dumping measures allow the designated Indian authority to use its own discretion to suspend or terminate an investigation in cases where it is satisfied that there is not sufficient evidence of either a subsidy or injury. The Subsidy Code (Article 2.12) and the Anti-Dumping Code (Article 5.3) both provide that in these circumstances an investigation shall be terminated. Why does the legislation of India substitute discretionary powers when the Codes are mandatory?