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TARIFFS AND TRADE

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Committee on Anti-Dumping Practices

Ad-Hoc Group on the Implementation
of the Anti-Dumping Code

REVISION OF UNDERTAKINGS

Working Paper by the Secretariat

Revision

This revision is based on the discussion in the Ad-Hoc Group at its meeting of 30 May 1988.

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1. An undertaking can be accepted to eliminate the injurious effects of the dumping on the domestic industry of the importing country. Any price increase under an undertaking shall not be higher than necessary to eliminate the margin of dumping. It is desirable that the price increase be less than the margin of dumping if such lesser increase would be adequate to remove the injury to the domestic industry.
 2. A revision of an undertaking may be appropriate where relevant changes in the normal value of the exporter concerned or in the market situation in the importing country have occurred since its acceptance. Any revision should normally be made as a result of a formal review except where an adaptation is provided for in the undertaking itself or the exporter and the authorities of the importing country agree to an adaptation. Any revision of prices must be based on positive evidence substantiating the need for such a revision. A copy of the letter to the exporter from the authorities of the importing country suggesting a major adaptation should be sent to the authorities of the exporting country if so requested by the exporter concerned.
 3. A review of an undertaking should be carried out, where and insofar as warranted, either on the initiative of the authorities of the importing country or at the request of the exporters or importers concerned or the domestic industry. Such request for a review shall be granted if the requesting party submits sufficient information to justify the need for such review. In deciding on the necessity for a review, the authorities of the importing country can also take into account the period of time that has elapsed since the acceptance of the undertaking although this factor would not necessarily be determining. If the investigating authorities decide not to undertake a review, they should provide the applicant with an explanation of the reasons for that decision.

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4. A [review] [formal review in the sense of paragraphs 2 and 3] shall be initiated and carried out to the extent necessary to take into account the information substantiating the need for such review. In carrying out the review, the same procedural rules and guarantees should be respected, insofar as applicable and appropriate, as during the original investigation. In particular, all interested parties should be given the opportunity to make their views known and to provide evidence.¹

5. When the relevant investigating authorities consider revising an undertaking they shall [make every effort to] take particular account of the special situation of the developing countries.

[As one example - and not to the exclusion of others - such measures could relate to the possibility of not reviewing an undertaking except at the request of the exporter if the volume of imports from the developing country concerned has not increased during the previous six months in relation to the base period.] [As one example - and not to the exclusion of others - such measures could relate to the possibility of not reviewing an undertaking except at the request of the exporter. If the volume of imports from the developing country concerned has increased in relation to the internal consumption of the importing country during the previous six months in relation to the base period, the importing country could proceed to such a review.]

¹At the meeting of the Group on 30 May 1988, the following proposal was made for an additional subparagraph:

[Contracts existing prior to the initiation of a revision of a price undertaking shall be subject to the terms stipulated in the undertaking in force at the time when the contracts were concluded. The exporter shall notify to the competent authorities of the importing country all necessary information and evidence with a view to the precise determination of such contracts.