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TARIFFS AND TRADE

RESTRICTED

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Committee on Anti-Dumping Practices

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Countervailing Measures

REPLIES BY PAKISTAN TO QUESTIONS RAISED BY AUSTRALIA¹ CONCERNING THE ANTI-DUMPING LEGISLATION OF PAKISTAN²

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 the other of these measures.

Question (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?

Answer

The definition of normal value is in accordance with the provisions of Article VI of the General Agreement; and it is in accordance with the provisions of the Code. The phrase referred to in the question deals with the problem of fictitious or manipulated home consumption value.

Question (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.". Could Pakistan give a justification for these provisions in terms of the Anti-Dumping Code?

¹ See documents ADP/W/120 and SCM/W/111.

² See document ADP/1/Add.24.

Answer

Pakistan legislation refers to "injury". The word "injury" has been used in the legislation in the same sense as in the Code.

Question (ii)(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 terms of the Anti-Dumping Code?

Answer

The rules enacted under paragraph 11 of the legislation will provide for the manner of calculation of definitive anti-dumping duties, which will be in accordance with the provision of the Anti-Dumping Code.

Question (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?

Answer

Section 6 does not provide for a 30 days limit between the announcement of an investigation and the imposition of duties. It only provides that objections, comments or views may be filed by interested parties with the Government within 30 days of the publication of a notice proposing the levy of additional duty.

Question (iii)(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."?

Answer

The proviso relates only to sub-section (4) which deals with the levy of definitive anti-dumping duties.

Question (iii)(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."

Answer

In section 4(1), the phrase "as the Federal Government may think fit" means that as the Government may determine after an appropriate investigation. The term "as it may think fit" does not mean that the provisional duties will be levied in an arbitrary manner; these will be in accordance with the provisions of the Code.

Question (iii)(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?

Answer

The legislation deals with the essentials. The question of price undertakings will be taken care of in the rules to be framed under Section 11 of the legislation.

Question (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?

Answer

The legislation provides for a review by the Federal Government after application by an aggrieved party within 15 days of the issue of notification.

The question of review cannot be kept open indefinitely, therefore, the time-limit of application for review of the anti-dumping has been limited only to 15 days from the date of notification. However, if after practical experience it is felt that the time-limit needs revision, the issue could be duly considered.