

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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Committee on Anti-Dumping Practices

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QUESTIONS RAISED BY SWEDEN ON THE LEGISLATION OF THE UNITED STATES¹

The following communication, dated 21 April 1989, has been received from the Permanent Delegation of Sweden.

The Swedish delegation has the following questions to the U.S. delegation concerning the anti-dumping provisions in the Omnibus Trade and Competitiveness Act of 1988:

1. Sec. 1317 THIRD-COUNTRY DUMPING²

para (e) - What happens if the Agreement Country does not refuse but is unable to undertake anti-dumping measures?

How are the requirements in the Anti-Dumping Code article 12:4 to seek approval for an action from the CONTRACTING PARTIES taken care of in the legislation?

Are there any time-limits in the American anti-dumping law which also affect this new section?

2. Sec. 1330 CUMULATION

What are the differences between the possibility to cumulate volume and price effects when there is "material injury" and when there is "threat of injury", apart from that in the first situation it is mandatory and in the second it is permissive?

para (v) TREATMENT OF NEGLIGIBLE IMPORTS - At which stage of the investigation does the Commission determine that the import is negligible?

Does a respondent (exporter) in an anti-dumping investigation have to request the Commission to determine that the imports are negligible or does the Commission make this evaluation automatically?

¹ See document ADP/1/Add.3/Rev.4.

² References are made to sections in the Omnibus Trade and Competitiveness Act of 1988.

3. Sec. 1321 SHORT LIFE CYCLE PRODUCTS

This is a question of a more general nature concerning this section.

One could argue over the need to have a special provision concerning this kind of merchandise. As the Conference report states one example of the kind of merchandise that is intended to be included under the category is semiconductors. According to the Conference's own statement the life cycle for semiconductors is often 2-3 years. There seems to be good reasons to presume that a company selling this kind of merchandise typically sets its prices at a high level, reflecting expectations that the product might be outmoded after a relatively short period of time. Prices therefore need to reflect R&D costs etc. and be set at a level guaranteeing a profitable return on investments.

Against this background it seems strange to introduce a section in the U.S. AD-law that in some respects seems to build on a presumption of guilt i.e. dumping when it comes to a specific category of products.