

GENERAL AGREEMENT ON

RESTRICTED

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TARIFFS AND TRADE

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Committee on Anti-Dumping Practices

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LEGISLATION OF THE EUROPEAN COMMUNITIES

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Follow-up Questions Raised by the United States

Article 13.11

1. Paragraph (b) of this article refers to "the resale price to the first independent buyer" (emphasis added). Could the EC authorities therefore confirm that this provision would apply exclusively in the case of importations made through importers related to or associated with the foreign seller/exporter?

2. Paragraph (c) suggests that the absence of a price increase reflecting the amount of the anti-dumping duty might be justifiably explained by evidence showing a reduction in the costs and/or profits of the importer. In this regard, however, the EC has stated in reply to an earlier question posed by the United States that "it would not be the intention to base the profit of a related importer on the transfer price of his related supplier." Using this same underlying rationale, would not any reduction in the actual cost (i.e. transfer price) of the imported merchandise to the importer also be considered unreliable? If so, what other types of cost or profit reductions might be considered as admissible evidence to explain the lack of a price increase?

3. In further reply to the same question noted above, the EC has stated "although it is agreed that a reduction in the manufacturer's costs could explain a reduction in the export price, the point at issue in an Article 13(11) investigation would be whether the exporter had borne the cost of the duty, not whether the manufacturer's costs had been reduced. Moreover, changes in the manufacturer's costs would only affect the normal value when this was constructed in accordance with the provisions of Article 2:4 of the Code. If this were to be the case, then a request for an Article 14 review would be justified."

Would a reduction in the exporter's home market price (whether or not his costs are reduced) also justify a request for an Article 14 review? Could the EC provide any historical data indicating the number of Article 14 reviews that have been requested and, of those, the number of reviews which have been initiated?