

# GENERAL AGREEMENT ON

RESTRICTED

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# TARIFFS AND TRADE

Special Distribution

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Committee on Anti-Dumping Practices

Original: English

## QUESTIONS SUBMITTED BY HONG KONG ON THE OMNIBUS TRADE AND COMPETITIVENESS ACT 1988 OF THE UNITED STATES<sup>1</sup>

### 1. Section 1317 - Third Country Dumping

- (a) In what circumstances would the United States take action upon refusal of any agreement country to act in response to a US request concerning third country dumping?
- (b) Will the US representatives state whether the refusal of an agreement country to act could be construed as a violation of Section 301?
- (c) Would the US ever consider the failure of an agreement country to enact municipal legal authority to permit it to act with regard to third country dumping a violation of Section 1317 or any other provision of US law?
- (d) Does the United States have legal authority to enforce comparable requests from other countries, and if so, what is the authority?

### 2. Section 1319 - Fictitious Markets

- (a) Since dumping is the selling in an export market at a price lower than in the home market (or third country) is it the position of the United States that an exporter may not take steps to eliminate dumping by reducing the home market (or third country) price?
- (b) In actual practice, will exporters be required to prove that particular sales are not "fictitious"?

### 3. Section 1320 - Downstream Monitoring

- (a) How is this section justified under Article 5:1 of the AD Code which allows self-initiation only under special circumstances and how does the monitoring arrangement satisfy the requirement of Article 5:1 of the AD Code that there must be sufficient evidence of dumping, injury and causal link before proceeding to an investigation?

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<sup>1</sup>Document ADP/1/Add.3/Rev.4.

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4. Section 1321 - Prevention of Circumvention of Anti-Dumping and Countervailing Duty Orders

- (a) At what point what assembled products be considered as being "introduced into the commerce" of the US, given the AD duties apply only at the border?
- (b) Is there an objective standard of the term "small" in section 781(a)(1)(B)/(b)(1)(C)?
- (c) In determining whether third country operations involving assembly or further processing of an article constitute circumvention, will the United States apply its normal rules of origin?
- (d) Would it be possible, by means of Section 1321, for the United States to consider an article produced in country A by the substantial transformation of materials from country B, to be subject to an anti-dumping order applicable to country B and at the same time to originate in country A for any other purpose?
- (e) If the United States subjects products originating in one country to an anti-dumping order applicable to another, how does it justify doing so without the investigation and determination of dumping and injury required by the Anti-Dumping Code?

5. Section 1330 - "Cumulation"

- (a) What is the basis for this practice in the Anti-Dumping Code?
- (b) When exports from two or more countries are cumulated, with varying margins of dumping, how does the United States determine that any resulting injury is caused "through the effects of dumping" as required by Article 3, paragraph 4 of the Anti-Dumping Code?
- (v) Is cumulation used domestically in the United States in the applicable of its domestic price discrimination statutes?