

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Sub-Committee on Non-Tariff Barriers

GROUP ON ANTI-DUMPING POLICIES

Note on Meeting on 20-21 October 1965

General

1. The Group on Anti-Dumping Policies met on 20 and 21 October 1965 to discuss a Draft International Code on Anti-Dumping Procedure and Practice (Spec(65)86), prepared by the United Kingdom.
2. The representative of the United Kingdom stressed that the Draft Code was based on Article VI of GATT and on the report of the GATT Group of Experts. The members of the Group agreed that the British Draft Code was a good basis for discussion in the Group. Several representatives, however, pointed out that their governments had not had time enough for a thorough examination of the Draft. Some members indicated that not all provisions in the present British Draft were acceptable to their governments.
3. A member said that the first task of the Group should be to find out to what extent consensus could be reached on some basic issues. It would be no point in going into details unless it was clear that the Group could agree on these issues, among which he mentioned the definition of dumping, the definition of an industry and the determination of injury. He also made it clear that the fact that his government was willing to base the discussion on the United Kingdom Draft Code did not exclude the possibility that it might ultimately find that a more modest approach was to prefer.
4. Some members pointed out that the Draft mainly took up the problems of persistent dumping. They wished that casual dumping should also be covered by the Code.
5. Some members said that the provisions relating to anti-dumping action on behalf of third countries seemed to go beyond the provisions of Article VI and would need a careful study.
6. It was pointed out that the idea that dumping in itself was not reprehensible and actionable was not fully shared by all members.

7. In reply to a question, the United Kingdom representative said that the Draft Code only dealt with anti-dumping and not with countervailing duties. It would, however, not meet with difficulties to add a few special provisions relating to countervailing duties, either at relevant places in the Draft or in an additional section to be added to it.

8. During a preliminary discussion of the Draft the representative of the United Kingdom answered questions raised in order to clarify certain points contained in the various provisions. The main points are summarized below.

Examination of the text of the Code

9. Section A (Conditions governing the acceptance and preliminary consideration of applications for imposition of anti-dumping duties.) Members of the Group pointed out that the proportion of the industry, on behalf of which an application for the imposition of an anti-dumping duty should be made, had to be judged against the background of the size of the country. In a large market there could obviously be serious regional problems to take into account, which did not appear in a small market. The question was also raised whether a labour organization would be authorized to make an application for anti-dumping action. It was pointed out that the demands on the information required in support of an application should not be too severe, as it was sometimes difficult for an industry to get access to relevant data. The main aim should be to turn down totally unfounded applications.

10. Section B (Notification to and provision of information by foreign governments and suppliers.) Members of the Group stressed the importance of an absolute faith on the part of the suppliers in the confidential treatment of information transmitted by them to the investigating authorities. It was pointed out that producers could be reluctant to supply information which they would not wish to be known by their own government for fear, for example, of anti-cartel action.

11. Section C (Provisional measures.) It was argued that withholding of appraisal in many cases would cause less harm for the importers than payment of provisional duties or deposit of a security.

12. Section D (Determination of dumping in accordance with Article VI:1(a).) It was asked if the provisions of 9(a) implied that there was no dumping if the net return from export sales was not lower than the net return from domestic sales. The United Kingdom representative pointed out that such a determination did not fit in with the definition of dumping in Article VI of GATT. It would furthermore necessitate very difficult calculations.

13. Section E (Determination of dumping in accordance with Article VI:1(b)(i) and (ii).) The representative of the United Kingdom made it clear that the alternatives listed in Provision 11 were intended to be equal.
14. Section F (Definition of an industry.) Attention was called to the special problems of widespread markets, where the division into virtually independent sub-markets might make an overall application of an anti-dumping duty meaningless (cf. also paragraph 9 above).
15. Section G (Determination of material injury.) Members of the Group said that in their opinion the provisions relating to material injury were too restrictive; a more limited degree of injury than that of the Draft Code should be considered to be sufficient to justify the imposition of an anti-dumping duty.
16. Section H (Determination of duties.) The United Kingdom representative said that it was generally agreed that the anti-dumping duty might be less but should never be more than the margin of dumping. The basic price was meant to put a further limit to the amount of the anti-dumping duty by fixing a price above which it had been determined that imports would not cause or threaten material injury.
17. Section I (Imposition of the duties.) The United Kingdom representative pointed out that it was not the intention that an anti-dumping duty should be partly repaid in cases where the margin of dumping had decreased after the actual imposition of the duty.
18. Section J (Duration of anti-dumping duties.) Members suggested that there should be a provision added to the effect that the application of anti-dumping duties should be periodically reviewed, for example once or twice a year. The United Kingdom representative said that such a provision certainly could be added. The practical effects would, however, probably be limited as it was in the interest of the parties concerned to ask for a review as soon as they felt that it could be justified.
19. Section K (Anti-dumping action on behalf of third countries.) The United Kingdom representative said that the text of Provisions 22-24 was rather based on the report by the experts than on Article VI itself. It was pointed out that anti-dumping action on behalf of third countries would raise special problems which were more complicated than those in normal anti-dumping cases and which had to be very carefully studied. The importing country would probably normally tend to proceed with cases of third country dumping reluctantly as it would be in its own interest to import products at as low a price as possible.

Next meeting of the Group

20. The Group agreed to reconvene early in December 1965 to pursue its discussion of the Draft Code. Delegations should transmit any general suggestions or opinions on the provisions of the Draft Code as soon as possible to the secretariat for circulation to the members of the Group.