

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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Sub-Committee on Non-Tariff Barriers  
Group on Anti-Dumping Policies

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## ANTI-DUMPING CHECKLIST

### Addendum

Comments by Finland on Items I to V and IX to XIII

#### I. Concept of dumping

##### A. Price discrimination criteria

Determination of margin dumping: price comparison taking into account conditions of sale and other factors considered relevant

In considering the comparability of the two prices attention should be paid to conditions of sale in general.

It might be advisable to include in the international code a provision regarding the way in which the comparison of prices ought to be made.

In some cases, due attention should be paid also to the structure of trade. In this context such factors as domestic and export markets actually in question and quantities delivered to individual customers should be taken into consideration.

##### B. Hidden dumping by associated houses

###### 1. Goods imported for resale

The effect of price adjustments in cases of hidden dumping by associated houses can be eliminated for goods imported for resale by basing the export price on the wholesale price or the price paid by the final customer.

#### II. Limitation criteria

##### A. Percentage criteria

The idea of permitting dumping when the dumped price differs from the normal price not more than a certain percentage may lead to a situation inconsistent with the price criterion in Article VI of the GATT, as even small differences from

the normal value may cause considerable injury in the importing country. For that reason the adoption of a mathematical percentage criterion is inadvisable.

B. Alignment of export prices

Alignment of export prices to the level of the prices of another exporter who, without committing dumping, is able to sell same goods to the importing country, seems to be contrary to the price criterion as laid down in Article VI of the GATT, and its approval in the code would, in fact, amount to an amendment of the Article, which may not be the intention of the CONTRACTING PARTIES.

III. Concept of material injury

A. Possible elements to be examined in this context: profits - sales - market share - employment

It is hardly possible and expedient to try to enumerate all elements which could serve as a basis for the examination of material injury. In estimating injury, consideration should be given to the situation as a whole in the light of all contributing factors.

As regards the concept of returns in particular, it might be most convenient to use gross figures instead of net figures when comparing returns of various dates. Too detailed provisions should be avoided in this context.

C. Concept of retardation of establishment of an industry

The injurious effects of dumping are naturally first felt as a retardation of the establishment of new domestic industries. Therefore this question should be dealt with in the code.

IV. Sporadic or intermittent dumping

A. Seasonal movements in sales and prices

B. Other

In the absence of a comparable domestic price of the exporting country the provision of Article VI:1(b)(ii) on the cost of production could be applied. These cases would seem to fall within the range of application of provisional measures.

V. Definition of an industry

A. Product coverage

The definition of an industry on the basis of articles produced is difficult. It is important to decide whether an industry has the right to claim injury only when it produces identical articles or whether injury can be established also when the products of the domestic industry are substitutes for the imported products. In the second case, the following criteria could be used: in the absence of an identical product or of a product having identical physical characteristics, the imported product should be compared with a product which is either of the same or of a similar kind or destined for similar use.

B. Geographic coverage

In principle, injury should be related to total national output. It may, however, be necessary to accept material injury in relation to a certain economic region if the country in question can be regarded as consisting of several economic regions. The condition for this should be that the economic region is so important that the injury can be regarded as significant also from the national point of view.

IX. International procedures

In order to arrive at a uniform anti-dumping procedure and practice, it would be advisable to bring all the concluded dumping cases to the knowledge of the GATT secretariat.

X. Third-country dumping

Anti-dumping action on behalf of third countries should be possible only on the condition that the decision whether or not to proceed with a case rests with the importing country. A provision to this effect should be included in the international code.

XI. Countervailing duties

Countervailing duties ought to be applied on a non-discriminatory basis.

XII. Other

The international code should be completed by a provision inviting the member countries to take action against such initiators of unfounded anti-dumping investigations that have started investigations carelessly or against their better judgment.

XIII. Possible international agreement

A. Need of agreement

It is obvious that an international code on the procedure and practice of anti-dumping and countervailing duties is desirable.

B. Form of agreement

As there is no intention to amend Article VI of the GATT, it would be advisable to agree among the member countries upon a uniform interpretation of the Article.