

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Committee on Anti-Dumping Practices

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ANTI-DUMPING INVESTIGATION IN THE UNITED STATES IN RESPECT OF IMPORTS OF RAILWAY TRACK MAINTENANCE EQUIPMENT FROM AUSTRIA

Notification by Austria

On 16 August 1977, the United States Department of the Treasury published in the Federal Register a determination of sales at less than fair value in respect of railway track maintenance equipment from Austria and referred the case to the United States International Trade Commission for a determination concerning possible injury to an industry in the United States.

The Federal Register Notice states that the weighted average dumping margin, on those sales where margins were found, is approximately 32 per cent.

As basis for comparison was used the exporter's sales price, the third country price of similar merchandise and the constructed value of such merchandise, respectively.

1. Under Article 2(f) of the Anti-Dumping Code due allowance should have been made for all differences affecting price comparability in order to achieve a fair comparison.

2. However, the price comparisons reflected in the above mentioned determination fail to make due allowance for economic and technical differences between the sales of machines in the United States and sales of different machines to third countries, with which the sales in the United States were compared.

3. First of all, when comparing the higher price of technically more sophisticated machines sold to a third country with the lower price of simpler machines sold in the United States, an adjustment has been allowed only for the direct material and labour cost differentials, while other pricing elements have been disallowed.

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4. The above-mentioned determination further indicates that the United States Department of the Treasury considers that certain claims for adjustment had not been adequately verified.
5. However, the firm concerned understood that the United States Customs Service was satisfied that all information had been adequately verified.
6. The firm's representatives were also advised that the United States Customs Service had found no dumping margins on two of the machine types and only minimal margins (less than 5 per cent) on the other two machine types compared.
7. Nevertheless, the United States Department of the Treasury subsequently disregarded these results of the investigation. This substantial change in the analyses of the case also raises serious questions concerning the fairness of the anti-dumping proceeding in question, in particular since the Customs Service is an integral part of the Department of the Treasury.
8. In the event that anti-dumping duties were imposed in the amounts indicated by the above-mentioned determination of the United States Department of the Treasury, such duties would doubtless constitute a major trade barrier against the Austrian exports concerned.
9. With respect to the state of the case and especially with regard to the relevant provisions of Article 2(f) of the Anti-Dumping Code the United States are requested to initiate an expeditious revision of the above-mentioned determination of sales at less than fair value.