

GENERAL AGREEMENT ON  
TARIFFS AND TRADE

RESTRICTED

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Committee on Anti-Dumping Practices  
Committee on Subsidies and Countervailing  
Measures

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INFORMATION ON IMPLEMENTATION AND  
ADMINISTRATION OF THE AGREEMENT

Legislation of Finland

The following communication, dated 3 March 1980, has been received from the Permanent Mission of Finland.

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The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade and the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade have been enforced in Finland by a so-called "blank law" given by the Parliament. This means that the Agreements in question have the status of a law and are thus enforced as such.

In order to facilitate the application of the previous Anti-Dumping Code a special Act on the Prevention of Dumping was, however, given in 1968. This Act is being revised so that it corresponds to the detailed provisions of the above-mentioned two Agreements. Enclosed is the text of the Bill which has been submitted to the Parliament for approval in February 1980.

However, it must be emphasized that the enforcement of the above-mentioned Agreements is not linked with the passing into law of the revised Act.

ACT ON THE PREVENTION OF DUMPING AND SUBSIDIZED IMPORTS

In accordance with the decision of the Parliament made in the order stipulated by Article 67 of the Parliament Act, it is prescribed that:

General Provisions

Article 1

The measures prescribed in this Act may be undertaken in order to prevent dumping and import of goods receiving export subsidies, when such import is causing injury to domestic industry.

Article 2

An anti-dumping duty is levied on imported products that are being dumped and a countervailing duty is levied on products that are imported by the use of export subsidies..

Article 3

By dumping is meant import of a product at a price that is less than its normal value.

Article 4

By the term "export subsidy" is meant any support measure or premium granted in the country of origin or in the country of export directly or indirectly to the manufacture, production or export of products.

#### Article 5

By the term "export price" is understood the purchase price of the imported products not including costs for selling the products or costs incurred in connection of delivering the products to the place of import.

#### Article 6

Normal value is considered to be the comparable price for the like product when destined for consumption in the exporting country.

When there are no sales of the like product in the domestic market of the exporting country or when, because of the particular market situation, such sales do not permit a comparison, the normal value is considered to be the representative, comparable export price of the like product when exported to any third country, or the cost of production in the country of origin plus a reasonable amount for administrative, selling and any other costs and for normal profits.

In cases where there is no export price or when the export price is not considered to be reliable because of association or compensatory arrangement between the exporter and the importer or a third party, the normal value is determined on the basis of the price at which the products are resold in Finland to an independent buyer, or where there is no such price, on other reasonable basis.

#### Article 7

In the case where products are not imported directly from the country of origin, the export price may be compared with the price in the country of origin, if the products are merely transported through the country of export, or if such products are not produced in the country of export, or if there is no comparable price for the products in the country of export.

## Article 8

By the term "injury" is meant material injury to a domestic industry, or threat thereof or material retardation of the establishment of a new domestic industry, which is caused by import.

Dumping or import by the use of export subsidies are considered to cause material injury to a domestic industry, when such injury affects producers, the production of which constitutes a major proportion of the total domestic production of the products.

When the producers are related to the exporters or importers or are themselves importers of the products, the industry is considered to refer to the rest of the producers.

## Article 9

In the determination of injury into consideration shall be taken the volume of the dumped or subsidized imports, and the effect of dumping or export subsidies on prices, on turnover, market share, productivity and employment of the domestic industry and on other factors affecting the said industry.

## Levy of anti-dumping and countervailing duties

## Article 10

The Ministry of Finance is empowered to impose an anti-dumping duty or a countervailing duty when in the investigations concerning dumping or export subsidies it has been shown that the imported products have been dumped or sold by the use of export subsidies in the country of origin or the country of export, that the industry in

question has been injured and that the injury has been caused by dumping or by imports by the use of export subsidies.

#### Article 11

The amount of the anti-dumping duty must not exceed the difference between the normal value of the products and their export price.

The amount of the countervailing duty must not exceed the calculated or estimated amount of export subsidy per unit of the product.

#### Article 12

The procedure on measures against dumping or imports by the use of export subsidies shall be initiated upon a request made to the Ministry of Finance by the industry in question or by an organisation representing it.

The request shall include information which makes it probable that the imported products are being dumped or that the imports have taken place by the use of export subsidies, that the industry in question has been injured and that the injury is caused by dumping or imports by the use of export subsidies.

The Ministry of Finance is also empowered on its own initiative to undertake measures in accordance with this Act, when the conditions prescribed in Article 10 exist.

#### Article 13

The Ministry of Finance is empowered to undertake measures prescribed in this Act in order to prevent dumping which injures an industry of a Contracting Party to the General Agreement on Tariffs and Trade.

The country concerned has the right to make an application for the measures referred to in paragraph 1.

#### Article 14

Subject to the provisions in Articles 15 and 16 an anti-dumping duty or a countervailing duty is levied on products which enter for consumption at the date when the decision on the imposition of an anti-dumping or a countervailing duty enters into force or, on a subsequent date.

#### Article 15

When provisional measures in accordance with Article 24 are applied to certain products, anti-dumping or countervailing duties may be levied retroactively on products which enter for consumption at the date when the temporary measures came into force or, on a subsequent date.

When products have previously been imported as dumped or when the importer of the product was, or should have been aware that dumping is practiced, anti-dumping duties may be imposed on products which were entered for consumption not more than 90 days prior to the date of application of provisional measures, provided that products are imported in a large volume in a relatively short period and in order to preclude recurring of such dumping it is necessary to levy an anti-dumping duty retroactively on those imports.

When an injury which is difficult to repair is caused by massive imports in a relatively short period of a product benefiting from export subsidies, countervailing duties may be levied on products which were entered for consumption not more than 90 days prior to the date of application of provisional measures, provided that the retroactive levying of a countervailing duty is necessary in order to preclude the recurrence of imports by the use of export subsidies.

#### Article 16

Where undertakings by exporters or exporting countries referred to in Article 22 have been violated and because of the violation provisional measures in accordance with Article 24 have been undertaken, an anti-dumping or a countervailing duty may be imposed on products entered for consumption not more than ninety days before the application of such provisional measures, except that any such retroactive assessment shall not apply to imports entered before the violation of the undertaking.

#### Article 17

If it is proven that conditions for the imposition of an anti-dumping or a countervailing duty have changed or ceased to exist, the Ministry of Finance shall alter the duty accordingly or abolish it.

If, when an anti-dumping or a countervailing duty is imposed on the products of several suppliers or on products imported from several countries, the importer later can prove that the duty collected from him exceeds the difference between normal value and export price or the amount of the export subsidy, the Ministry of Finance shall upon request determine that the excess amount is repaid to the importer. Such a request must be made not later than two years after the customs clearance of the products.

### Investigations

#### Article 18

In the investigations on dumping or export subsidies referred to in Article 10 importers, exporters, authorities of the exporting country, or in cases provided for in Article 7 authorities of the country of origin, and other parties to the case shall be afforded an opportunity to present in

writing or orally their views on the request referred to in Article 12. The applicant shall, where necessary, be afforded an opportunity to present his views on the statements made.

The parties to the case shall correspondingly be heard when measures are taken at the initiative of the Ministry of Finance or on account of an application referred to in Article 13.

Any information submitted by the parties of an investigation, which is not confidential according to Article 26, shall be disclosed to other parties of the investigation.

#### Article 19

An investigation on dumping or on imports by the use of export subsidies shall not hinder the procedures of customs clearance.

#### Article 20

An investigation on dumping or on imports by the use of export subsidies shall be terminated when dumping, export subsidies or imports by use of subsidies, or injury caused by dumping or subsidized imports cannot be proven. Investigations shall also be terminated when the difference between normal value and export price is insignificant or the volume of dumped imports or imports by the use of export subsidies is negligible.

## Article 21

Investigations shall be concluded within one year after their initiation, except when the Ministry of Finance under special circumstances decides to extend the time limit for investigations.

### Undertakings by the exporter or exporting country.

## Article 22

Investigations on dumping or on export subsidies and the levying of anti-dumping or countervailing duties has to be terminated when the exporters offer the Ministry of Finance acceptable undertakings to cease dumping or to raise export prices or when the exporting country offers acceptable undertakings to eliminate export subsidies in such a way that the injurious effects of these are eliminated.

## Article 23

Although the undertakings referred to in Article 22 are accepted, the investigations on dumping or on imports by the use of export subsidies may be continued if the exporter, importer or the exporting country so desires or the Ministry of Finance so decides.

When the result of the investigations referred to in paragraph 1 is that no injury has been caused to the industry concerned, the undertaking shall lapse, provided that the prevention of the injury is not due to measures taken in accordance with the undertaking.

## Provisional measures

### Article 24

When there is just cause to suspect dumping or imports by the use of export subsidies and there is evidence of injury caused to the industry concerned, the National Board of Customs has the right to claim full security equal to the amount of anti-dumping or countervailing duties eventually imposed.

If the amount of the security is less than the anti-dumping or countervailing duty, the difference shall not be collected retroactively for the time before the imposition of an anti-dumping or a countervailing duty.

What is prescribed in this Act on anti-dumping or countervailing duties shall, where applicable, be observed in connexion with securities.

### Article 25

When an exporter or an exporting country has violated undertakings prescribed in Article 22, provisional measures may be applied immediately in order to avoid injury caused by such violation.

## Specific Provisions

### Article 26

Any fact or information in a case of dumping or imports by the use of export subsidies concerning a private business or industry, shall be kept secret ten years from the delivery of such information, unless the party concerned grants a permission to disclose it. The obligation of secrecy also applies to disclosing facts or information to the parties of the case.

#### Article 27

The decisions made by authorities on dumping, export subsidies, or on initiation or termination of investigations of dumped imports or imports by the use of export subsidies, on imposition of anti-dumping or countervailing duties and on the termination of the levying of such duties, as well as on the acceptance or termination of undertakings referred to in Article 22, shall be notified in writing to the parties concerned and published in the Official Gazette.

#### Article 28

The Standing Committee on Customs Matters prescribed in Article 27 of the Act on Customs Duties, shall upon commission by the Ministry of Finance follow and preliminary discuss matters dealing with dumping and imports by the use of export subsidies.

The Committee may also preparatorily discuss matters referred to in Article 13 and make statements in cases where products exported from Finland have been subjected to measures aimed at the prevention of dumping or imports by the use of export subsidies.

#### Article 29

What is prescribed or decreed about customs applies also, where relevant, to information submitted according to this Act to the Ministry of Finance or to the customs authorities, to imposition and payment of anti-dumping or countervailing duties, securities and to inquiries on the origin of products.

#### Article 30

More detailed provisions on the application of this Act will, if required, be issued by a Decree.

Article 31

This Act comes into force on

This Act repeals the Act on the Prevention of Dumping  
(375/68) given on June 28, 1968.