

**GENERAL AGREEMENT ON
TARIFFS AND TRADE**

Committee on Anti-Dumping Practices

Original: English

QUESTIONS CONCERNING THE ANTI-DUMPING LEGISLATION
OF KOREA

Australia

The following questions are submitted by the Delegation of Australia concerning Article 10 of the Korean Customs Law and the related sections of Article 4 of the Presidential Decree of the Customs Act.

I Korean Customs Act, Article 10

Q1.

Para 2 Please explain how a person entitled to initiate a dumping investigation described in the Act as

"Any person having an interest in or the competent Minister having jurisdiction over the domestic industry subject to material injury"

would always qualify as

a person making"..... a written request by or on behalf of the industry affected", as specified in Art 5.1 of the Code?

Q2.

Para 2
& 3

Does "evidence of the importation of the dumped product" include evidence that the goods are dumped as required by Art 5.1 of the Code?

Q3.

Para 5 A complaint may be rejected if the dumping margin, quantity, or material injury etc is "insignificant". How would Korea's interpretation of "insignificant" differ from its interpretation of "negligible" which is the description used in the Code (Art:5.3) applying to this situation?

Q4.

Para 7 Please explain how circumstances which "lead to the belief" only that dumping and material injury has occurred can substantiate the "preliminary affirmative finding of dumping and sufficient evidence of injury" necessary before provisional measures are taken? (Code Art 10.1).

Q5.

Para 7 What is a "significant percentage of the trade" and does a decision in respect of that exporter apply to others as well?

Q6.

Para 9 In what circumstances would provisional measures not be cancelled if the Minister of Finance deems it necessary to continue the investigation after an undertaking has been offered?

Q7.

Para 10 What data must be provided by the exporter after an undertaking has been accepted?

Q8.

Para 10 If the exporter has complied with the undertaking provisions, why is further verification at a later date necessary?

II Presidential Decree of the Customs Act

Article 4-2 (Normal Value and Dumping Price)

Q9.

Para 3 Does the "constructed value" in a state-controlled, non-market economy mean the cost of producing the product in that country or in some third country?

Q10.

Para 3 When are sales prices in state-controlled, non-market economy countries "not recognised" as normal values?

Q11.
Para 4 If the exporter and the importer are associated, does that automatically mean that the price is "unreliable"?

Q12.
Para 4 When the dumping price is set on the basis of the first sale to an independent buyer in Korea, is the price set at FOB level or CIF level or what?

Q13.
Para 4 In other circumstances, has the Minister of Finance set 'reasonable standards' for the establishment of the dumping price? If so, what are they?

Article 4-3 (Comparison of normal value and dumping)

Q14.
Para 1 What "other factors" are considered to influence the price comparison when making due allowance for the normal values?

Q15.
Para 3 Is it necessary to establish that all producers actually receive a quantity discount, or is it sufficient if they are eligible to receive it after a certain quantity has been purchased and it can be shown that some have actually received it?

Q16.
Paras 4
& 5 In requiring that certain differences must be shown to "directly" influence market price or cost of production, what does "directly" mean?

Article 4-4 (Request for the imposition of an anti-dumping duty)

Q17.
Paras 1
& 2 Is it correct to interpret these paragraphs to mean that wholesalers and unions can lodge complaints, but that material injury must be to the producers of the goods?

Article 4-5 (Investigation of dumped import and injury)

Q18.
Para 3 What information from banks and other relevant organisation is to be provided? Do such organisations refer confidential information to the Minister for Finance without referral to the company concerned? What is such information used for?

Q19.

Para 7 Shouldn't it be automatic for non-confidential data supporting a case against an importer to be given to the exporter or importer so that they may properly defend their interests and explain the facts of the case? Is such information withheld until a specific request is made?

Article 4-7 (Review of undertaking and measures)

Q20.

Para 1 When reviewing the imposition of duties or the necessity of continuation of securities more than once per year, will a review be made of normal values in each country and of the continuation of injury?

Q21.

Para 2 If some error of law or fact occurs in the assessment of normal values or dumping margins or injury during the investigation, an affected party is not permitted to ask for correction of the error until at least 1 year after the date of imposition of the duty. Is that correct?

Q22.

Para 4 Does a request for retrospectivity by a person with an interest in the domestic industry need to be supported by other interested parties, or will the Minister impose such duties at the request of any interested person?

III General Questions

Q23. Why are there no appeal provisions apart from requesting a review?

Q24. It is not clear who makes the final decision; Is it the Minister for Finance or the Customs and Tariff Deliberation Committee?

Q25. Is Korea willing to conduct enquiries in any accused country?

Q26. Are world prices for commodities acceptable as the basis for normal value assessment?

Q27. What is Korea's attitude to the constructed value of goods made from imported raw materials where those raw materials were purchased at dumped prices?

- Q28. Can any of the powers specified in Korea's legislation be delegated?
- Q29. There are no provisions for automatic cancellation of any duties imposed (sunset clauses). Do all revocations of such duties require detailed investigation?