

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Anti-Dumping Practices

Ad-Hoc Group on the Implementation
of the Anti-Dumping Code

TERMINATION OF UNDERTAKINGS

Working Paper by the Secretariat

This Working Paper is based on the discussion of this item by the Ad-Hoc Group at its meeting of 30 October 1986 and is intended to serve as the basis for further discussion at the next meeting of the Ad-Hoc Group.

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1. [Bearing in mind that an exporter is always free to denounce an undertaking and that the authorities of the importing country are free, under the Code, to refuse its acceptance, it is only logical to conclude that the authorities are also free to denounce an undertaking, in particular if it is subsequently found that the terms of an undertaking have been violated] [In such a case the exporters concerned shall be given an opportunity to make comments].
 2. [Anti-dumping duties may be imposed when an undertaking has been denounced by the importing country only after consultation and after the exporter concerned has been given the opportunity of submitting his observations on the matter]. If the authorities of the importing country denounce an undertaking then it is considered that they should be free to impose an anti-dumping duty instead, provided that such imposition is consistent with the provisions of the Code and that affirmative findings have been made of the existence of dumping and injury. Where the denunciation takes place shortly after the conclusion of the initial investigation [and where circumstances of that investigation have not changed or where a party has not presented new information] it is considered that the duty may be based on the facts established during that investigation. In all other cases the authorities of the importing country shall make every effort to ensure that definitive duties are based on as up-to-date information as possible, normally by carrying out a formal review of dumping and injury resulting therefrom. [No duties may be imposed on the import of goods that have been shipped from the country of the exporter during the period of validity of an undertaking which has been denounced by the importing country for reasons that have nothing to do with the conduct of the exporter concerned.]
 3. [Provision should be made for a review of the need for an undertaking after a reasonable period of time has lapsed since its acceptance.] [It is recognized that the need for an undertaking may lapse after a reasonable

period of time. The undertaking should be terminated after the investigating authorities have determined that it is no longer necessary.] [Provision should be made for the termination of an undertaking when it is no longer necessary, e.g. after a reasonable period of time has lapsed since its acceptance.] However, where an interested party shows that there is a need to continue the undertaking the authorities of the importing country should carry out a review during which the undertaking shall remain in force.