

GENERAL AGREEMENT ON

RESTRICTED

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Committee on Anti-Dumping Practices

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COMMUNICATION FROM JAPAN

The following communication has been received from the Permanent Mission of Japan.

On June 22, 1987, the European Community adopted the new regulation which stipulates that for the purpose of preventing circumvention of anti-dumping duties on finished products, anti-dumping duties may also be applied under certain specified conditions to the products assembled or produced in the Community using imported parts or materials (ADP/1/Add.1/Suppl.5).

From the preparatory stage of the regulation, Japan has conducted bilateral consultations with the EC on problems the regulation has in relation to GATT and the Anti-Dumping Code, and to the investments into the Community. On multilateral basis, Japan submitted a detailed questionnaire (ADP/W/162) at the previous meeting of the Committee in October. In spite of such on going consultations, the EC initiated investigations on electronic typewriters and electronic scales on September 1, 1987, excavator on October 22, 1987, and photocopiers on February 17, 1988, all of which were assembled or produced by Japanese-related companies in the region. On April 18, 1988, the decision was made by the European Council that anti-dumping duties be imposed on five companies which were investigated.

The anti-dumping measures under the new EC regulation are not based on the Article 6 of the GATT and relevant provisions of the Code, and appear to be inconsistent with GATT and the AD Code.

Japan believes that the new EC regulation has some problems in light of other provisions of GATT as well. The new regulation in effect imposes companies in EC region related to exporting company subject to AD duties to procure a fixed proportion of parts from the EC region, which, we believe, is inconsistent with Article 3(5) of GATT.

In the October meeting of the Committee the EC argued that the legal basis of the new regulation is Article 20(d) of the GATT (ADP/M/20, para. 22). Article 20(d), however, does not justify measures necessary to secure compliance with laws or regulations which are themselves inconsistent with the GATT. We believe that the new EC regulation is inconsistent with the GATT, and, therefore, that the anti-dumping measures taken under the new regulation can not be regarded as an exception permitted under this Article.

As part of our consultation with the EC, we submitted a questionnaire at the previous meeting of the Committee in order to clarify the EC's thought. The reply from the EC was to be made by March 10, 1988. Regrettably, however, the reply has not yet been made. No convincing explanation by the EC on the consistency of its new regulation with the GATT has been given. If such a regulation is condoned by the contracting parties without sufficient discussion in the Committee before the application, the significance of the AD Code and the Committee will be placed in doubt.

The EC has already imposed anti-dumping duties on products of several Japanese-related companies and is carrying out additional investigations on other products. This is already having a distorting influence on local production and trade of parts. Japan thus requests that a special meeting of Committee on Anti-Dumping Practices be convened pursuant to the Article 14(1) of the Anti-Dumping Code in order to hold an intensive examination of the consistency of the new EC regulation with GATT and the Code.

Japan also urges the EC to reply to the questionnaires submitted by signatories of the Code, and requests that they be circulated well in advance of the special meeting of the Committee.

Japan also wishes to state that it reserves the rights under the GATT and the AD Code.