

# GENERAL AGREEMENT ON

RESTRICTED

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## TARIFFS AND TRADE

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Committee on Anti-Dumping Practices

QUESTIONS PUT BY THE EC ON US LEGISLATION  
(OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988)  
FOR NEXT SESSION (APRIL 1989) OF COMMITTEE  
ON ANTI-DUMPING PRACTICES

[All references in US law are either to the Omnibus Trade and Competitiveness Act of 1988 or to the Tariff Act as amended]

1. Section 1317 - Third country dumping -

- Section 1317(e) - What kind of "action" is envisaged upon refusal of another signatory to the Anti-Dumping Code (the Code) to act upon a US request under Article 12 of the Code?
- How do US treat a request for anti-dumping action to be taken by the US authorities, which is submitted by another signatory pursuant to Article 12 of the Code? What is the legal basis in US domestic law for such action, if any?

If the US authorities have no domestic legal basis to act, why is it that the other alternative of Article 12 of the Code was not enacted?

2. Section 1319 - Fictitious markets -

Does this provision create a legal presumption? In the affirmative, is this presumption rebuttable and if yes by what evidence?

3. Section 1321 - Prevention of circumvention of anti-dumping and countervailing duty orders

- Section 1321(a) [Section 781(a)(1)(c)]. What does "small" mean? Can "small" be quantified in a meaningful way? Does it relate to components or merchandise sold in the US?
- Section 781(a)(2). Is it possible that parts or components are included in order or finding
  - (a) If the manufacturer or exporter of the parts or components is not related to the person who assembles or completes the merchandise in the US from the parts or components in question and imports of such parts or components have not increased after the issuance of the order or finding? or

(b) If only one of the elements (relationship or increase of imports) is present?

- Section 781(c)(1) - Minor alterations of merchandise -

What constitutes a "minor" (as opposed to a major) alteration?

4. Section 1323 - Short life cycle products [Section 739(b)(4)] -

What are the standards to be applied for deciding whether a product is likely to be outmoded within four years?

5. Section 1326 - Process Agricultural Products [Section 771(4)] -

How do the US reconcile the inclusion of producers of a raw agricultural product in the industry producing a processed product with the provision in Article 4(1) of the Code, whereby "domestic industry" shall be interpreted as referring to the domestic producers of the like products?

What may prompt the United States Trade Representative to notify the administering authority and the Commission that the definition of industry contained in Section 1326(a) [Section 771(4)(E)(v)] is inconsistent with the international obligations of the United States?

What would happen to anti-dumping orders issued and/or duties collected as a consequence of the application of Section 1362(a) if this provision will be terminated?

6. Section 1328 - Material injury [771(7)(C)(ii)(i)] -

Does this mean that imports from other countries than the one under anti-dumping investigation, which are subject to Section 303 or Section 701 investigations, can be used to establish injury to a US industry?

If the answer is in the affirmative, how can this be reconciled with the requirements contained in Article 3(1) of the Code, which requires that the dumped imports and not other events must have the impact on domestic producers?