

QUESTIONS POSED BY THE REPUBLIC OF KOREA ON THE  
ANTI-DUMPING LEGISLATION OF THE EEC<sup>1</sup>

1. Sub-paragraph 3(a) of Article 2: deductions of rebates and discounts

- Exactly how long a period is the term "prior periods" in the expression "..... consistent practice in prior periods ....."?

- If exporters are able to prove that discounts are directly linked to the sales and are actually granted, are the discounts deducted from the normal value automatically or with additional conditions?

If the latter, what are the additional conditions?

- Are the same conditions as those for deduction of Sub-paragraph 3(a) of Article 2 required even when discounts and rebates are to be deducted pursuant to Sub-paragraph 8(a) of Article 2?

If not, what are the reasons for easier deductions in calculating export price?

In the case of Sub-paragraph 8(a) of Article 2, who has the responsibility to prove deduction?

2. Sub-paragraph 3(b) of Article 2: Calculation of constructed value

- In case the domestic market value of export country does not exist, is the export price to third country applied before the constructed price?

Is there any priority in applying the export price to a third country and the constructed price?

- When there are several domestic producers of the like product, is the constructed price calculated on the basis of average costs and profits or of specific company costs?

If it is the latter, what are the reasons for not using the average expenses and profits?

---

<sup>1</sup> See document ADP/1/Add.1/Rev.1

Even when the expenses and profits of the selected producer are much higher than those of other producers, does the EEC consider them to meet the provision " . . . . . not exceed the profit normally realized on . . . . . " of Sub-paragraph 4 of Article 2 of the Anti-Dumping Code?

3. Sub-paragraph 8(b) of Article 2: export price under special association

- How does the EEC calculate the export price when the exported goods are not resold to an independent third party in the import country?

- Can the direct advertisement expense borne by the exporter in the domestic market be deducted when the normal value is calculated?

If not, is the deduction of direct advertisement expense borne by exporter in the foreign market also not allowed?

Does the provision "The cost shall include those normally borne by an importer but paid by any party . . . ." mean, for example, that the direct and indirect expense for foreign advertisement borne by the exporter is deducted from export price?

4. Sub-paragraph 10 of Article 2: Adjustment

- What is the meaning of "the value of the difference in the physical characteristics" in Sub-paragraph 10(a) of Article 2?

Is it calculated on the basis of the difference of production cost or estimated by other methods? If it is the latter, what is the reason for not calculating it on the basis of the difference of production cost?

- Are any adjustments not enumerated in Sub-paragraph 10 of Article 2 not allowed?

If so, does it mean that the adjustments caused by the differences in quantity or the differences in the cost of producing different quantities are not allowed?

- Are the salaries paid to salesmen who engage in selling activities partially not deducted at all or deducted partially pursuant to the allocation of expenses?

- Is the provision in Sub-paragraph 10(e) of Article 2 equally applied when the export price is calculated by Sub-paragraph 8(b) of Article 2?

- What are the reasons for disregarding the insignificant adjustments in Sub-paragraph 10(e) of Article 2?

Even when the total of the insignificant adjustments amount to a considerable sum, are they still disregarded?

In this case, wouldn't it be more reasonable to disregard them only when the total is less than, for example, 1 per cent?

5. Sub-paragraph 7(b) of Article 7: False information

- What is the meaning of "misleading"?

What is the difference between "false information" and "misleading information"?

Can the information which is not clearly false be regarded as misleading information?

If so, does the EEC have objective criteria for determining misleading information?

6. Sub-paragraph 10 of Article 13: Imposition of Anti-Dumping duty on semi-assembled products

- The semi-assembled products are produced in an importing country by the companies which are established pursuant to the domestic law of that country. Imports into the EEC represents parts, not semi-assembled products. The imposition of customs duties, including anti-dumping duties, without the existence of import cannot and should not exist. What is the opinion of the EEC concerning this matter?

In reality, isn't it true that the imposition of anti-dumping duty on products assembled in the EEC represents new domestic duties on foreign related companies that are not equally imposed on the EEC's domestic firms?

- It is understood that the EEC uses Article XX(d) of GATT to justify this provision.

Does it mean that this provision cannot be justified by Article 6 of the GATT and the present Anti-Dumping Code?

In case the portion of used parts is changed after anti-dumping duty has been imposed on the semi-assembled products, will the request for review on the products produced in local companies be recognized?

If not, what are the reasons for that?

7. Sub-paragraph 11 of Article 13: Imposition of additional anti-dumping duty

- It is kindly requested that the EEC provide clarification on "any party directly concerned" in Sub-paragraph 11(b) of Article 13.

If the material which shows that the export price was not raised to the imposed amount of anti-dumping duty is submitted, will the investigation be initiated automatically?

- Can the causality for the export price to be raised up to the same amount as anti-dumping duty be established?

If so, what is the rationale for such establishment?

Theoretically, as long as the supply elasticity of the imported product on which an anti-dumping duty is imposed is not infinite (or the demand elasticity of the imported product is not zero) the price is not raised up to the imposed amount.

Does the EEC consider the supply elasticity of all products on which an anti-dumping duty is imposed as infinite (or the demand elasticity as zero)?

- In relation to Sub-paragraph 11(c) of Article 13, what are the reasons for not recognizing the reduction in the production cost and/or profit of the exporter for the product concerned?

Even when the export price is not raised due to the reduction of production cost or profit and the normal value declines, will the EEC impose an additional anti-dumping duty?

- Does the EEC investigate the trend of export price as well as the trend of normal value of exporter in case of price investigation pursuant to Sub-paragraph 11 of Article 13?

- Which provision of GATT is this Article based on?

Even though the total anti-dumping duty is larger than dumping margin due to the additional imposition of an anti-dumping duty, does the EEC consider this to coincide with Sub-paragraph 3 of Article 8 of the GATT Code?