

# GENERAL AGREEMENT ON

## TARIFFS AND TRADE

RESTRICTED

ADP/W/296  
SCM/W/238  
19 June 1991

Special Distribution

Committee on Anti-Dumping Practices

Original: English

Committee on Subsidies and  
Countervailing Measures

RESPONSES BY TURKEY TO THE SUPPLEMENTARY QUESTIONS  
SUBMITTED BY HONG KONG CONCERNING THE TURKISH  
LEGISLATION ON THE PREVENTION OF UNFAIR  
COMPETITION IN IMPORTATION

(a) Article 3 of Decree No. 89/14506 (Provisional and Definitive Measures)

Question 1 (Related to Hong-Kong's original question No.2 in SCM/W/226 and ADP/W/282)

Could the Turkish authorities elaborate on how the provisional and definitive anti-dumping and countervailing duties are imposed? Would there be a specific duty rate for each of the companies participating in the investigation? Would there be a separate all-others rate for companies not participating in the investigation, and, if yes, how is it determined?

Response

As is mentioned in our response shown in the GATT document SCM/W/230, the provisional or definitive measures are applied to the firms which are subject to investigation in the country concerned.

In this frame, during the investigation, in case of naming all exporters separately in the country subject to investigation, different duty rates may be determined for each exporter who is dumping.

However, when several exporters from the same country are involved and when it is impracticable to name all these exporters, provisional or definitive measures which are decided to be taken by our responsible authorities in an appropriate and separate amount may be applied to all import of product which is originating in that country and subject to investigation, in parallel with Article 8:2 of the GATT Anti-Dumping Code.

Question 2 (Related to Hong Kong's original question No.3 in SCM/W/226 and ADP/W/282)

According to the Turkish authorities' reply to Hong Kong's question in SCM/W/226 and ADP/W/282, exporters who start to export to Turkey after initiation of the investigations will be automatically subject to the provisional and definitive measures imposed on the exporting country concerned and they can only request revision of the definitive measures at least one year after the conclusion of the investigation. Would the Turkish authorities agree that this is unfair to the newcomers, as it amounts to imposition of duties before dumping or subsidies and injury are established, and that this is inconsistent with Article VI of the General Agreement and the two Codes which provide for remedy only when injury caused by dumping or subsidies is found to exist?

Response

In our implementation, we have not encountered exporters who start to export to Turkey after initiation of the investigation. If we encounter such a case, provisional or definitive measures decided to be applied on a country basis will cover all exporters other than those whose undertakings are accepted in that country.

(b) Article 5 of Decree No. 89/14506 (Definitive Measures)

Question 3 (Related to Hong Kong's original question No.5 in SCM/W/226 and ADP/W/282)

Would the Turkish authorities explain when they would examine whether the effects of the injury caused by dumped or subsidized imports have been removed? Would the Turkish authorities take the initiative to undertake a review if the anti-dumping duties or countervailing duties have already been imposed for, say, a certain number of years?

Response

As is indicated in Article 6 of the Decree on the Prevention of Unfair Competition in Importation, the decisions related to the definitive measures may be reviewed upon the request of one of the concerned parties or "ex officio" by our responsible authorities.

However, the definitive measures taken against dumped and/or subsidized imports remain in force as long as the effects of the injury caused by this import continues.

(c) Article 3 of the Regulation

Question 4 (Related to Hong Kong's original question No.6 in SCM/W/226 and ADP/W/282)

According to the Turkish authorities' reply to Hong Kong's question in SCM/W/226 and ADP/W/282, the article on the status of the complainant was prepared in conformity with Article 2:1 of the Subsidies Code which states that "An investigation to determine the existence, degree and effect of any alleged subsidy shall normally be initiated upon a written request by or on behalf of the industry affected". Could the Turkish authorities elaborate on how the term "by or on behalf of the industry affected" is interpreted in their implementation?

Response

This matter is stated in Article 4 of the Law on the Prevention of Unfair Competition in Importation. Accordingly, an investigation may be initiated upon a written application of the concerned natural or legal persons or related occupational institutions who are claiming that they are injured and/or threatened by dumped or subsidized imports or that such imports have caused the physical retardation of the establishment of an industry. In the implementation, our responsible authorities take into consideration the weight that these persons or occupational institutions carry in the sector.

(d) Articles 8 and 9 (Evidence) of the Regulation (Related to Hong Kong's original question No.7 in SCM/W/226 and ADP/W/282)

There appears to be a divergence between the answer provided to Hong Kong's question concerning the right of access by the government of the exporting country to non-confidential information relating to an investigation and the practice of the Turkish authorities. In document SCM/W/230, the Turkish authorities stated that the governments of exporting countries do indeed have the right of access to non-confidential information. However, it has been explained to my authorities in the course of an investigation that this right of access is only given if the government of the exporting country is named as a party in the proceeding. Could the Turkish authorities confirm whether or not the governments of exporting countries have a general right of access to information concerning the investigations, in particular the anti-dumping investigations, into products exported from their country?

Response

As is mentioned in our original replies already submitted to the secretariat, the government of the exporting country has general right of access to non-confidential information concerning the investigation.