

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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Committee on Anti-Dumping Practices

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**REPLIES BY THE REPUBLIC OF KOREA TO QUESTIONS
RAISED BY THE DELEGATION OF CANADA¹ CONCERNING
LEGISLATION OF KOREA**

(ADP/1/Add.13/Rev.1/Suppl.2)

The following communication, dated 3 March 1994, has been received from the Permanent Delegation of Korea.

Question 1

With respect to investigation procedures, can the Korean Delegation elaborate on who would be considered "qualified experts" for inclusion on the investigation team (e.g. industry specialists), and what mechanisms would be in place to ensure confidentiality where experts are not agents of the government?

Answer

Qualified experts can include a certified public accountant to analyse production costs and other expenses, an engineering technician to give advice regarding specific production processes and products, and a computer programmer to analyse computerized documents.

The qualified experts' activities are limited to fact finding, so they are allowed to review only information necessary for their investigation. They must take an oath, just as government officials, that they will not disclose the information acquired during an investigation and use such information for objectives other than the investigation itself.

Thus we believe that it is possible to keep the information confidential.

However, if exporters under investigation insist that specific information not be disclosed to the experts, the investigative authorities may disregard such information in accordance with Article 6:4 of the Anti-Dumping Code, unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct.

¹ADP/W/344

Question 2

Is there any sanction or penalty that could be applied to "qualified experts" if the oath taken by these experts is not honoured?

Answer

The experts participating in a dumping investigation must maintain their oath of secrecy both during and after an investigation respecting facts and secrets acquired during the investigation.

The investigative authorities may take disciplinary action against experts who fail to maintain confidentiality.

If a certified public accountant (CPA), for example, discloses a secret, the authorities may prohibit that CPA from taking part in any other investigation, as well as the investigation in question, and ask the Association of CPAs to take measures to suspend or revoke the licence of the CPA.

Question 3

Paragraph 3 of Article 4.5 of the revised legislation states that even if an investigation is suspended or terminated, the Customs and Tariff Deliberations Committee should report the results and necessity of the anti-dumping measures within three months. Can the Korean delegation elaborate on why such a report is necessary in the case of an investigation which is terminated?

Answer

An investigation team consisting of government officials belonging to the Korean Trade Committee and the Korean Customs Administration must submit an investigation report to the Customs and Tariff Deliberations Committee when it terminates the investigation in question. Then, the Committee reviews the necessity and the level of the anti-dumping duty on the basis of the investigation report. Finally, the Minister of Finance decides whether to impose an anti-dumping duty according to the results of the Committee's review. Therefore, it is necessary for the Committee to submit its report to the Minister of Finance who shall decide the necessity and level of the anti-dumping duty (decide whether to apply the lesser duty rule or not), even if the investigation team suspends or terminates the investigation in question.