

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Sub-Committee on Non-Tariff Barriers

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Group on Anti-Dumping Policies

ANTI-DUMPING CHECKLIST

Addendum

Comments by Australia

VI. ANTI-DUMPING DUTIES

A. Imposition of duties - obligatory or permissive

Article VI of the General Agreement does not imply an obligation on the part of any importing country to impose anti-dumping duties on dumped imports.

Any decision by an importing country to take anti-dumping action would normally be made in the light of investigations into the facts and circumstances of each individual case.

The importing country is free to resolve dumping problems by other means mutually acceptable to the countries concerned.

There appears no reason why these present permissive powers should be made obligatory.

B. Applicability

1. All imports from all sources.
2. Imports from country of origin of dumped goods.
3. Individual exporter only.

Anti-dumping action to protect domestic industries should be applied only to dumped goods which threaten or cause material injury.

The selection of appropriate criteria for the applicability of anti-dumping duties, when these are necessary to avoid material injury to the domestic industry of an importing country, would depend on the circumstances of the importing country concerned.

C. Amount of duty

The amount of anti-dumping duty should not exceed the margin of dumping.

It would be expected that countries depending to a large degree on the use of their tariff to promote growth and development would need to impose anti-dumping duties equal to the full margin of dumping.

This applies particularly to Australia where duties are calculated on the basis of the domestic value of goods in the country of origin.

D. Retroactive application of duties

When importing countries notify for public information that particular goods are under dumping investigation, they should be free to subsequently apply anti-dumping duties retroactively to the date of public notification.

The vulnerability of domestic industry to damage from dumping varies according to the particular geographic and economic circumstances of the importing country concerned.

In countries where manufacturing industry is developing, and markets are relatively small, the deterrent effect of the limited retroactive powers proposed would be necessary to avoid extreme injury to domestic industry from goods imported at dumped prices and stockpiled during the course of a dumping investigation.

E. Duration

There would be practical difficulties in formulating conditions for the duration of anti-dumping duties to meet the circumstances of all countries.

A "stop go" procedure would be particularly unsuited to countries with small-scale industries supplying relatively small domestic markets.

In such countries the periodic removal of anti-dumping duties could lead to pre-empting or disruption of markets by sporadic dumping.

VII. PROVISIONAL DUTIES

Importing countries should be free to require reasonable security (bond or cash deposit) for the payment of anti-dumping duties pending final determination of the facts in any case of suspected dumping.

Accordingly, importing countries would need to continue such provisional measures until the relevant dumping investigations have been concluded.

For countries which conduct full public inquiries, at which exporting interests in all countries may participate, it might be necessary to continue the provisional measures for a period as long as twelve months.

VIII. INVESTIGATION PROCEDURES AND PROCEDURAL FAIRNESS

A. Initiation of investigations and consequences thereof

1. Publicity of investigations.
2. Confidential treatment of information.

Dumping investigations should normally be initiated only when an application from a domestic industry supplies evidence of both dumping and material injury.

In some circumstances, it should be open to the government authorities in the importing country to assist its domestic industry in the collection of this evidence.

When the government authorities in an importing country decide to conduct a dumping investigation, there should be a public notification to this effect.

The authorities should not be required, under any circumstances, to divulge price, cost or other information which has been supplied to them in confidence.

B. Finding of dumping and material injury

(Opportunities given exporters, written statement, public hearings.)

Findings of dumping and material injury should only be made after investigation and assessment of all the available relevant information, preferably at an open inquiry with public hearings.

All interested parties, including overseas exporters, should be afforded the opportunity to put forward oral or written evidence including, at their request, confidential evidence.

C. Information gathering in country of export

Representatives of importing countries should be free to conduct "on the spot" discussions with exporters in the country of export.

This would enable the representatives to collect additional relevant information and give the exporter an opportunity to understand the procedures and his rights of access to any dumping inquiry.