

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(79) 584 final

Brussels, 25th October 1979

GATT – MULTILATERAL TRADE NEGOTIATIONS

(Communications from the Commission to the Council)

SUPPLEMENT TO THE FINAL REPORT ON THE GATT MULTILATERAL

TRADE NEGOTIATIONS IN GENEVA (TOKYO ROUND)

AND PROPOSAL FOR A COUNCIL DECISION

(doc. COM(79) 514 final)

ANTI-DUMPING

(Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade)

COM(79) 584 final

GATT MULTILATERAL TRADE NEGOTIATIONS

- Communication from the Commission to the Council
- Joint communication from MM Haferkamp, Davignon, Gundelach and Cheysson

Supplement to the "Final report on the GATT Multilateral Trade Negotiations in Geneva (Tokyo Round) and proposal for a Council Decision"
(doc. COM(79)514 final).

I. Introduction

1. In its final report (doc. COM(79)514 final, Part II, page 26) the Commission reported on the existence of two versions of the Anti-Dumping Agreement and proposed that the Council conclude the widely-approved version of the Agreement, contained in GATT doc. MTN/NTM/W/232/Rev. 1, as amended by W/258.

II. Points discussed

2. In September and October 1979, a series of meetings were held in Geneva between representatives of a number of developed and developing countries. The main problem raised by the developing countries was that their home market prices may not form an appropriate basis for the calculation of a dumping margin because of the special economic situation of these countries. After long discussions a compromise was reached which recognises this problem. Where special economic conditions exist in developing countries, the dumping calculations may be based on export prices or on the costs of production. This compromise is in full conformity with the provisions of Article VI GATT and with the Agreement. It was agreed that the compromise found would be worded in the form of a 'statement' by certain named delegations and would be annexed to the Agreement as 'Addendum I' (see attached document). It was further agreed by the delegations named in the statement that the proposal for an alternative version of the Anti-Dumping Agreement, as contained in GATT doc. MTN/NTM/W/241/Rev. 1, would no longer be maintained.
3. Secondary points raised by representatives of developing countries concerned the implementation of the Agreement in view of the adaptation of existing legislation and the lack of anti-dumping experience in developing countries. Here too a solution was found in the form of a 'statement' to be attached to the Agreement as 'Addendum 2' (see attached document).

III. Conclusion

4. The Commission considers the outcome of the discussions satisfactory and recommends the Council to approve the Anti-Dumping Agreement and its Addenda on the understanding that the Addenda will not be formally accepted on behalf of the Community until firm assurances are received from a sufficient number of developing countries that they intend to adhere to the Agreement.

5. To this end the Commission proposes the following amendments to its proposal for a Council decision, as contained in Annex 1 to Part II of its Final report (doc. COM(79)514 final):

In the list of agreements in the Preamble and in Article 1, the words "and the Addenda annexed thereto" should be inserted after the words "Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade".

Multilateral Trade Negotiations
Group "Non-Tariff Measures"

ANTI-DUMPING

Agreement on Implementation of Article VI
of the General Agreement on Tariffs and Trade

Addendum

The following statement is circulated at the request of the delegations
of

With regard to the Agreement on Implementation of Article VI of the
General Agreement on Tariffs and Trade (MTN/NTM/W/232/Rev.1) the above-
noted delegations, cognizant of the commitment in Article 13 of the Agreement
that special regard must be given by developed countries to the special
situation of developing countries when considering the application of
anti-dumping measures under this Code, agree that:

1. In developing countries, governments play a large rôle in promoting economic growth and development in accordance with their national priorities, and their economic régimes for the export sector can be different from those relating to their domestic sectors resulting inter alia in different cost structures. This Agreement is not intended to prevent developing countries from adopting measures in this context, including measures in the export sector, as long as they are used in a manner which is consistent with the provisions of the General Agreement on Tariffs and Trade, as applicable to these countries.

2. In the case of imports from a developing country the fact that the export price may be lower than the comparable price for the like product when destined for domestic consumption in the exporting country does not per se justify an investigation or the determination of dumping unless the other factors mentioned in Article 5:1 are also present. Due consideration should be given to all cases where, because special economic conditions affect prices in the home market, these prices do not provide

a commercially realistic basis for dumping calculations. In such cases the normal value for the purposes of ascertaining whether the goods are being dumped shall be determined by methods such as a comparison of the export price with the comparable price of the like product when exported to any third country or with the cost of production of the exported goods in the country of origin plus a reasonable amount for administrative, selling and any other costs and for profits.

It would be the understanding of the above-noted delegations that the proposal for an amendment to the text of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade as set out in document MTN/NTM/W/241/Rev.1 is no longer maintained.

Multilateral Trade Negotiations
Group "Non-Tariff Measures"

ANTI-DUMPING

Agreement on Implementation of Article VI
of the General Agreement on Tariffs and Trade

Addendum

The following statement is circulated at the request of the delegations of ...

It is recognized that developing countries may face special problems initially in adapting their legislation to the requirements of the Code, including administrative and infrastructural problems, in carrying out anti-dumping investigations initiated by them. Accordingly, the Committee on Anti-Dumping Practices may grant, upon specific request and on conditions to be negotiated on a case-by-case basis, time-limited exceptions in whole or in part from obligations which relate to investigations undertaken by a developing country under this Agreement.

Developed countries Parties to this Agreement shall endeavour to furnish, upon request and on terms to be agreed, technical assistance to developing countries Parties to this Agreement, with regard to the implementation of this Agreement, including training of personnel, and the supplying of information on methods, techniques and other aspects of conducting investigations on dumping practices.