

**ANTI-DUMPING ACTION ON BEHALF OF A THIRD COUNTRY**

Communication from Mexico

The following communication, dated 20 April 2006, is being circulated at the request of the delegation of Mexico.

The submitting delegation has requested that this paper, which was submitted to the Negotiating Group on Rules as an informal document (JOB(06)/97), also be circulated as a formal document.

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The proposal contained in this document does not represent a final position and may be subject to further additions and/or amendments in the course of the negotiations.

**Objective**

To afford Members a real opportunity to carry out procedures whereby anti-dumping action on behalf of a third country can actually be imposed. This, in our view, will require substantive modification of Article 14 of the Anti-Dumping Agreement.

**Problem with the current text of the Anti-Dumping Agreement**

The requirement in Article 14.4 of the Anti-Dumping Agreement whereby the importing country initiates the approach to the Council for Trade in Goods seeking its approval in order to take anti-dumping action on behalf of a third country, makes the provisions of this Article inoperative. The reason being that, under Article IX of the Marrakesh Agreement, decision-making in the Council for Trade in Goods is by consensus; consequently, the exporting country need only express disagreement for the Council to disallow anti-dumping action by the importing Member.

**Proposed amendment**

Delete the sentence in Article 14.4 of the Anti-Dumping Agreement concerning approval by the Council for Trade in Goods and move the sentence "The decision whether or not to proceed with a case shall rest with the importing country." from Article 14.4 to the end of Article 14.3 of the Anti-Dumping Agreement.

*Proposed Amendment of the Anti-Dumping Agreement*

*(The new text is underlined and the deleted text is in strike out type)*

*Article 14*

*Anti-Dumping Action on Behalf of a Third Country*

14.1 An application for anti-dumping action on behalf of a third country shall be made by the authorities of the third country requesting action.

14.2 Such an application shall be supported by price information to show that the imports are being dumped and by detailed information to show that the alleged dumping is causing injury to the domestic industry concerned in the third country. The government of the third country shall afford all assistance to the authorities of the importing country to obtain any further information which the latter may require.

14.3 In considering such an application, the authorities of the importing country shall consider the effects of the alleged dumping on the industry concerned as a whole in the third country; that is to say, the injury shall not be assessed in relation only to the effect of the alleged dumping on the industry's exports to the importing country or even on the industry's total exports. The decision whether or not to proceed with a case shall rest with the importing country.

~~14.4 The decision whether or not to proceed with a case shall rest with the importing country. If the importing country decides that it is prepared to take action, the initiation of the approach to the Council for Trade in Goods seeking its approval for such action shall rest with the importing country.~~

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