

CAUSATION

Communication from Egypt

The following communication, dated 1 June 2006, is being circulated at the request of the Delegation of Egypt.

Egypt has benefited from the discussions on the proposal (TN/RL/GEN/128) by the United States that were held at the last meeting of the Negotiating Group on Rules. Egypt shares the view that Article 3.5 of the Anti-Dumping Agreement should be clarified and has, thus, built on the proposal made by the United States.

Egypt considers that the assessment of causation may, in many cases, be a cumbersome and time-consuming exercise, given the fact that injury is often caused by various cumulative factors, one of them being injurious dumping. In cases where several factors are causing injury to a domestic industry, the obligations imposed on interested parties and investigating authorities by the present rules are not entirely clear. In particular, Article 3.5 does not clearly determine the scope of the assessment that must be carried out to determine whether or not injury is the consequence of dumped imports. As a result, Egypt is concerned that the present rules may be interpreted in a way that would require the isolation and distinct analysis of all the factors that have allegedly caused injury to a domestic industry. Such an interpretation would obviously result in a discrimination against investigating authorities of developing country Members and new users of the anti-dumping instrument as these lack the expertise and resources to carry out such extensive assessments. Egypt therefore submits that developing country Members and new users of the anti-dumping instrument have a vital interest that the present rules be clarified insofar as it should be explicitly stated that there is no requirement for investigating authorities to assess the detailed impact of different injury factors.

Egypt has closely analysed the previous submissions made on Article 3.5¹ and agrees that it is necessary to clarify its existing wording. In view of Egypt's above-described concerns, Egypt considers that the central objective of the clarification of Article 3.5 should be the insertion of an explicit reference to the scope of the non-attribution assessment. Egypt believes that the amendments that are proposed, which are to a significant extent based on the most recent proposal by the United States, would eliminate any ambiguities about the scope of the determination of injury factors and would, for the above-mentioned reasons, clearly be in the interest of developing countries.

Proposed amendments to Article 3.5

In light of the above, it is proposed to modify Article 3.5 as follows:

¹ See documents TN/RL/W/6-66-98-188 and TN/RL/GEN/28-38-42-59-60-128.

“It must be demonstrated that the dumped imports are, through the effects of dumping, as set forth in paragraphs 2 and 4, causing injury within the meaning of this Agreement. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of all relevant evidence before the authorities. The authorities shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, *inter alia*, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry. It is understood that the effects of either the dumped imports or the other known factors shall not be isolated or quantified, either individually or collectively. Also, it shall not be determined whether the effects of the dumped imports are more important than the effects of the other known factors, either individually or collectively.”
