WORLD TRADE ORGANIZATION

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Negotiating Group on Rules

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CURRENCY CONVERSIONS

Paper from Egypt

The following submission, dated 30 June 2005, is being circulated at the request of the Delegation of Egypt.

The determination of dumping almost always require a currency conversion since the normal value and the export price are normally not expressed in the same currency. Currency conversions for the purpose of determinations are governed by Article 2.4.1 of the WTO Anti-Dumping Agreement (hereinafter, the "AD Agreement"). This Article provides that when a conversion of currencies is required, it should be made using the rate of exchange on the date of sale or, when a sale of foreign currency on forward markets is directly linked to an export sale, the rate of exchange in the forward sale should be used.

Since currencies fluctuate in relation to one another, and these fluctuations can have a significant impact on dumping margin determinations, Article 2.4.1 further provides that, when sustained movements in exchange rates occurred during the period of investigation, investigating authorities should allow exporters at least 60 days to adjust their export prices to reflect these sustained movements. Article 2.4.1 also provides that fluctuations in exchange rates shall be ignored.

Article 2.4.1 provides no guidance on what constitutes "sustained movements"; how sustained exchange rates fluctuations should be reflected and which "fluctuations in exchange rates" should be ignored. Egypt[1] and other Members[2] have already identified this matter as one that requires to be clarified and improved in the framework of the current negotiations. Egypt reserves its right to modify or complement its paper, as appropriate.

Issue: Currency conversions

Relevant Provisions:

Article 2.4.1 of the AD Agreement.

Description of Problems:

The absence of definition of the terms "fluctuations" and "sustained movements" make it difficult for exporting producers and investigating authorities to determine when they should depart from the general currency conversion methodology set forth in the first sentence of Article 2.4.1. Also, in the absence of definitions, Members remain free to determine, on a case-by-case basis, whether or not exchange rates fluctuations should be ignored or sustained movements reflected.

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[1] See TN/RL/W/105.
[2] See TN/RL/W/130 and TN/RL/W/149/Rev. 1.

Elements of a Solution:

- Define the term "fluctuations" and precisely set forth when currency conversion fluctuations are to be ignored pursuant to Article 2.4.1.

- Define the terms "sustained movements" and set forth how sustained movements in exchange rates should be reflected. Also, clarify the time periods during which these sustained movements should be reflected.

Explanation:

In order to ensure that exporting producers receive a fair and similar treatment in all anti-dumping investigations with respect to currency conversions and also, to assist investigating authorities in performing the necessary currency conversions to only determine the actual dumping margin, it is submitted that it is necessary to clarify and improve the second sentence of Article 2.4.1 of the AD Agreement. The aim of Egypt is not to ensure that investigating authorities be required to apply identical rules concerning currency conversions in all circumstances. Exchange rate fluctuations must be analysed on a cases-by-case basis in order to ensure that their effects on the dumping margin calculations are minimised. However, it is important that Members agree on a common definition of the basic terms of Article 2.4.1 to ensure its consistent implementation.

Before proposing specific elements of a solution to the problems that it has identified, Egypt would welcome information from Members on the rules and practices followed when performing currency conversions. Egypt believes that this exchange of information will be helpful to determine the elements shared by most Members with respect to this matter.

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