

**COMMENTS FROM AUSTRALIA ON THE UNITED STATES' PAPER
ON INVESTIGATORY PROCEDURES UNDER THE ANTI-DUMPING
AND SUBSIDIES AGREEMENTS (TN/RL/W/35)**

Submission by Australia

Australia welcomes the United States' paper (document TN/RL/W/35) submitting a number of topics for further consideration relating to investigatory procedures in anti-dumping and countervailing duty investigations. Australia looks forward to further papers elaborating on these issues. Australia provides some preliminary comments on some of the areas identified for discussion and poses some specific questions.

Availability of Relevant Information from National Authorities

Australia agrees on the importance of providing timely opportunities to interested parties to see all non-confidential information used by authorities in investigations. In Australia's case, a public record is maintained of an investigation or review containing a copy of all non-confidential submissions from interested parties, the statement of essential facts compiled in relation to the investigation or review, and a copy of all relevant correspondence in relation to the investigation.

Under ADA Article 6.4/SCM Article 12.3, the United States notes that there is no definition of what is "timely" in regard to these opportunities to interested parties. What is the United States' view of the implication or relevance of "whenever practicable" regarding "timely opportunities" under ADA Article 6.4/SCM Article 12.3?

What does the United States consider is the scope of "all information that is relevant to the presentation of their cases, that is not confidential as defined in paragraph 5, and that is used by the authorities in an anti-dumping investigation" under ADA Article 6.4? Would non-confidential information that is made available, for example, extend to the information that investigating authorities consider in the determination of injury?

Sufficient Detail in Determinations

Australia agrees that there should be sufficient details in determinations to meet the requirements set down in ADA Article 12 and SCM Article 22.

The United States notes that ADA Article 12.2.1(iii) "provides that the public notice should contain, *inter alia*, an explanation of the reasons for the methodology used to determine the dumping margin; however, it does not require an explanation of the methodology itself." Given that ADA 12.2.1 provides that "sufficiently detailed explanations for the preliminary determinations of dumping and injury" shall be set forth, does the United States consider that "considerations relevant to the injury determination" in ADA Article 12.2.1 (iv) should include disclosure or explanation of the calculation methodology for the determination of injury? What factors should be disclosed?

Conduct of Verifications

In the second paragraph of this section, the United States notes that “pre-verification advice is not required under the Agreements”. Could the United States explain what it means by “pre-verification”? How does the United States relate this to ADA Annex I and the provision within ADA Article 6.7/SCM Article 12.6 that verification investigations may be carried out by authorities “provided they obtain the agreement of the firms concerned and notify the representatives of the government of the Member in question”?

Protection and Disclosure of Confidential Information

Australia considers that the issue of confidentiality of information merits discussion in particular. It is the subject of a separate paper containing detailed views on the treatment of confidential and non-confidential information.
