

**QUESTIONS PERTAINING TO THE UNITED STATES' PAPER  
ON BASIC CONCEPTS AND PRINCIPLES OF THE  
TRADE REMEDY RULES**

The following communication, dated 5 February 2003, has been received from the Permanent Mission of Japan.

Japan would like to thank the United States for its paper on Basic Concepts and Principles of the Trade Remedy Rules (TN/RL/W/27) and would appreciate a response to the following comments and questions related to Anti-Dumping (AD). We reserve our right to submit additional comments and questions at a later stage.

1. Questions related to the primary objective of the AD Negotiations under the Doha Mandate

Q1. The first paragraph of the US paper implies that the focus of the negotiations on anti-dumping should be "preserving the basic concepts, principles and effectiveness" of the AD Agreement. The language cited by the United States simply provides context. The objective of the negotiations is to clarify and improve the disciplines under the AD Agreement while preserving the basic concepts, principles and effectiveness of the agreement. Would the United States agree that the language it cites is intended to place the clarification and improvement of the AD Agreement in context?

Q2. The United States asserts in section B of its submission that trade remedies were provided to ensure that the balance struck was not nullified. However, part of the balance struck was to ensure that trade-liberalizing measures were not negated by actions of the Contracting Parties in, for example, the application of anti-dumping measures. It is in this context important to note that trade distortions occur not only as a result of dumping or subsidization, but also from inappropriate application of AD/CVD measures. Thus, would the United States agree that the anti-dumping rules are intended both to discipline injurious dumping and to discipline the application of anti-dumping measures?

Q3. The United States indicates in section C.1. of its paper that anti-dumping measures are necessary to help create a level playing field. In the United States' view, is it necessary to impose duties in excess of those necessary to eliminate the injurious effects of the dumping in order to have a level playing field? If so, could the United States explain why? To maintain a level playing field among Members, in the view of the United States, isn't it necessary to clarify provisions of the AD Agreement to ensure uniform application of rules?

Q4. If the United States is concerned about "adding to or diminishing the rights and obligations of Members" in the dispute settlement context, could the United States agree that one way, perhaps the best way, of addressing this concern is to clarify the rules so that they are less susceptible to inappropriately broad or narrow interpretation, rather than weakening the ability of the dispute settlement mechanism?

2. Questions related to government involvement

Q5. Referring to section C of the United States paper, is it the US contention that dumping would not take place absent “inappropriate government involvement”? If so, given that the existing AD Agreement includes no mechanism for distinguishing pricing practices resulting from “inappropriate government involvement” from those based on normal business decisions, would the United States not consider that the AD Agreement should be improved in this respect? Is it the United States’ view that the finding of “inappropriate government involvement” should be an element that has to be proved in order to impose anti-dumping measures?

Q6. The United States, in Section C of its paper, indicates that the trade distorting practices are the root cause of unfair trade. The United States also argues in said section that government policies can create “sanctuary markets” that allows producers to earn high profits in the domestic market and, therefore, dump their product in export markets. Could the United States agree that the existence of a sanctuary market or other trade distorting practice causing dumping be an element that has to be proved in order to impose anti-dumping measures?

Q7. Over the past decade, various US exporters, such as those in food industry, chemical industry and so on, have been subject to anti-dumping measures, whereas the US did not challenge many of the cases in the WTO dispute settlement. Is it the US Government’s policies that triggered the trade distorting practices in these industries, which were subject to imposition of anti-dumping duties by the governments of importing countries?

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