

**COMMENTS FROM AUSTRALIA ON CANADA'S SUBMISSION ON THE
ANTI-DUMPING AGREEMENT (DOCUMENT TN/RL/W/47)**

The following communication, dated 7 February 2003, has been received from the Permanent Mission of Australia.

-
- Australia welcomes Canada's latest contribution on anti-dumping issues. We agree that there is a need to look at seeking greater international convergence of methodologies in the application of anti-dumping measures.
 - Similarly, Australia agrees wholeheartedly over the need for greater predictability in the application of rules and the elimination of undue disruptions to international trade. On this latter point, we need to recall that legitimate trade remedies do not address dumping but injurious dumping.
 - On Canada's proposal for issues for negotiation under the heading in its paper "Transparency and procedural fairness", Australia would like to endorse the strengthening of transparency and fairness in relation to initiation standards. In this regard, Australia would again raise the issue of whether the burden should be placed on investigating authorities to rectify deficient applications or whether the scope of the information to be considered should be more clearly defined.
 - In regard to public hearings, Canada proposes that consideration be given to a requirement for public hearings "or other appropriate means by which interested parties can present evidence and views". We would be interested in elaboration of what Canada envisages by "other appropriate means".
 - Australia also agrees with a number of the areas identified by Canada requiring clarification to promote greater convergence in investigation methodologies and application of anti-dumping measures. Australia sees merit in clarification in particular in the areas of cost allocation, "like product", what constitutes "the domestic industry", standing, the lesser duty rule and reviews.
 - Canada proposes that recommendations adopted within the Anti-Dumping Practices Committee, through its Working Group on Implementation, be codified in the ADA. Australia supports such consideration. We agree that the findings of panels and the Appellate Body assist in identifying lacunae in the ADA as well as reinforcing Members' interpretation of the Agreement.
 - Canada also usefully raises the issue of repeated dumping as an area of the ADA where improvement is merited. Australia agrees that in the example provided by Canada, there is a need to look at the underlying practice or policy where there are repeated findings of injurious dumping. Too often in such situations, there is the suggestion that anti-dumping measures are the result of

frivolous or over-zealous claims by the domestic industry within the importing country. This also raises the issue of whether anti-dumping measures are effective trade remedy measures particularly where an exporter continues to absorb the assessed dumping margin.

- On public interest, Australian has indicated previously the difficulties of defining “public interest” and that this may more appropriately be left to individual Members to determine. However, we believe the underlying principles always should be predictability, transparency and due process. The ADA acknowledges such a concept of “public interest” through recognition that the full dumping margin may not be imposed and, as Canada notes in its submission, in the recognition of the rights of industrial users of the product under investigation and consumers.
