

## COMMENTS FROM AUSTRALIA ON THE PEOPLE'S REPUBLIC OF CHINA'S PAPER ON ANTI-DUMPING (DOCUMENT TN/RL/W/66)

### Submission from Australia

Australia thanks China for this first, comprehensive contribution on anti-dumping proposals contained in document TN/RL/W/66.

China notes that anti-dumping measures have been used to minimize competition of imports to domestic industries instead of counteracting the injurious affects of dumped imports. Australia has previously noted the distinction that needs to be made between dumping which occurs as a commercial practice and the application of anti-dumping measures by governments in response to applications from domestic industry when dumping is causing injury.

Putting aside the issue of dumping and competition policies which may allow dumping to occur in home markets, Australia has also previously indicated that we consider there would be merit in the Negotiating Group on Rules examining for clarification purposes, some of those issues which China has also identified. Namely, the product under investigation; the definition of domestic industry; constructed export price; cumulative assessment of injury (on which there has been a recommendation adopted by the Committee on Anti-Dumping Practices); and reviews.

### Causality between dumping and injury (paragraph 1.9 of document TN/RL/W/66)

China states that Article 3.5 should be clarified to ensure that a causal link could only be established when the dumped import is the "substantial reason" for the injury of the domestic industry.

- Does China consider that this would undermine the causation principle which is at the heart of Article VI of GATT 1994 and the WTO Anti-Dumping Agreement?
- What does China mean by "substantial reason" and how does this relate to findings of a causal link to injurious dumping?

### "All others" rate (paragraph 1.13 of document TN/RL/W/66)

China seeks an improvement to ADA Article 9.4 through the consideration of *de minimis* margins when determining the "all others" rate.

- Australia would be interested in China's views on how *de minimis* margins would be considered for the determination of the "all others" rate for exporters/producers which are not sampled under ADA Article 9.4.

"Non market economy" clause (paragraph 1/16 of document TN/RL/W/66)

China refers to Article 2.7 and the second Supplementary Provision to Paragraph 1 of Article VI of GATT 1994.

- Does China consider ADA Article 2.2 to be relevant?

Lesser duty rule (paragraph 2.1 of document TN/RL/W/66)

China states that the lesser duty rule should be mandatory in the application of anti-dumping measures by developed country Members on the imports from developing country Members.

- Does China consider that ADA Article 9.1 should be mandatory for anti-dumping measures applied by developing countries on imports from developing country Members?

Increase of negligible import volume and *de minimis* dumping margin (paragraph 2.2 of document TN/RL/W/66)

- Does China consider that the deletion of the collective negligible volume of 7 per cent should apply to imports from both developed and developing countries, or only developing countries?

Automatic sunset of anti-dumping measures (paragraph 2.4 of document TN/RL/W/66)

China proposes that measures cease against developing country members after five years.

- Does China consider that even if injury is caused after the five year period, that the measure should still be sunsetted?
  - If there is no certainty of the fundamental principle of causal link in the application of anti-dumping measures, including for reviews of anti-dumping measures, on what basis does China consider anti-dumping measures should be imposed?
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