

**EGYPT'S PRELIMINARY COMMENTS ON THE CONTRIBUTIONS SUBMITTED
IN THE FRAMEWORK OF THE DOHA NEGOTIATIONS ON THE
AGREEMENTS ON ANTI-DUMPING AND SUBSIDIES AND
COUNTERVAILING MEASURES (TN/RL/W/72)**

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

Submission by the United States (TN/RL/W/72)

In this paper Egypt is providing its comments on the contribution submitted by the United States in the framework of the negotiations conducted by the Negotiating Group on Rules.

(a) **OVERALL WEIGHTED –AVERAGE DUMPING MARGINS**

- The United States considers in its submission that Article 2.4.2 of the AD Agreement fails to sufficiently define how investigating authorities should calculate the overall weighted average dumping margins. Also, the United States considers that Members have interpreted this provision differently and have used different calculation methods as a result thereof. Consequently, the United States is of the opinion that Article 2.4.2 must be clarified by all Members in the framework of the negotiations on the AD Agreement.
- While it is true that investigating authorities have interpreted differently Article 2.4.2 of the AD Agreement, Egypt does not believe that the Article is unclear. The obligations agreed upon by the Members during the Uruguay Round and set forth in the AD Agreement have clearly been interpreted by the Appellate Body in European Communities - Anti-Dumping Duties on Imports of Cotton-Type Bed-Linen from India and, thus, do not require to be clarified as suggested by the United States.

(b) **ALL OTHER RATES**

- The United States considers that Article 9.4 needs to be clarified in order to ensure that the “all-others” rate can be calculated using appropriate and reasonable methods. Based on the experience of the United States, in many investigations, there will not be any margins, which are completely free of the use of facts available, and, thus, Article 9.4 will not be applicable.

In such situations, Article 9.4 provides no guidance as to how the “all-others” rate should be calculated. In other words, it needs to be considered whether under some circumstances it would be appropriate for calculated margins that incorporate minimal facts available or minor adjustments to be used when calculating the “all-others” rate.

- Egypt believes that the question raised by the US with respect to the treatment of cooperating non-sampled companies is pertinent but very limited in scope. Egypt supports the proposal of the United States, which is aimed at permitting the imposition of duties based, to a small extent on facts available, on cooperating companies not included in a sample.
- Since the proposal made by the US is still imprecise, **Egypt requests the US to specify in which circumstances it could be considered that only a limited amount of facts available has been used in the anti-dumping margin determination.**

(c) NEWCOMER REVIEWS

- The United States questions the possible use of the newcomer reviews provided for in Article 9.5 of the AD Agreement by companies already found to have been exporting their products at injurious dumped prices in order to circumvent the anti-dumping measures imposed on them.
- Egypt agrees with the United States that the newcomer provisions may, in certain circumstances, be used by new companies related to companies subject to anti-dumping and/or countervailing measures, to evade their obligation.

(d) PERSISTENT DUMPING / SUBSIDIZATION

- In its submission, the United States identify two of the consequences of persistent dumping and subsidisation: (i) the replacement of dumped and/or subsidized imports by dumped imports of other origins after measures have been imposed and (ii) the re-direction of dumped imports from one destination to another after the imposition of measures.
 - Egypt agrees with the United States that persistent dumping and subsidisation can have particularly detrimental effects on the situation of industries targeted by these practices, however Egypt would like the United States to indicate what could be the conditions for a finding of persistent dumping or subsidisation.
 - Also, since the proposal of the United States implies accelerated procedures in cases of persistent dumping and subsidization, **Egypt would be grateful if the United States could specify how the rights of interested parties and due process could be guaranteed in conditions similar to those currently guaranteed under the AD and SCM Agreements.**
 - Finally, the United States refers in its proposal to "countries" and not "companies" found to be dumping or subsidizing. **Does this imply that the United States considers that findings of persistent dumping or subsidization would have to be reached for countries taken as a whole?**
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