

**QUESTIONS FROM INDIA ON AUSTRALIA'S PAPER ON
'GENERAL CONTRIBUTION TO THE DISCUSSION
OF THE NEGOTIATING GROUP ON RULES ON THE
ANTI-DUMPING AGREEMENT'¹**

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

India thanks Australia for its submission on 'General contribution to the discussion of the Negotiating Group on Rules on the Anti Dumping Agreement' (TN/RL/W/85) and wishes to ask the following questions for clarification without prejudice to India's position on the subjects.

Lesser Duty Rule

1. Article 9.1 of the Anti-Dumping Agreement does not envisage situations in which the application of the lesser duty rule would not be desirable. In Australia's view how can this be reconciled with non-application of the lesser duty rule in certain situations?
2. How should systematic and persistent dumping be defined and what methodology should be followed for establishing that there is systematic and persistent dumping?
3. The Anti-Dumping Agreement concerns itself with dumping in an importing country. There is no reference in the Anti-Dumping Agreement to disruption in world markets. In Australia's view how should disruption in world markets be defined and what methodology should be followed for establishing it ?

Duty Absorption

1. In Australia's view, is duty absorption addressed by an existing provision of the Anti-Dumping Agreement? If yes, could the relevant provision be indicated?
2. What should be the content of information on which non-movement or insufficient movement of selling prices of dumped goods would be established?
3. How will the export price level that should have been expected after the imposition of anti-dumping duty be determined?
4. The non-movement or insufficient movement of selling prices of dumped good would, presumably, require a comparison with selling prices prior to the imposition of the anti-dumping duty.

¹ TN/RL/W/85

Price for which period, prior to the imposition of the anti-dumping duty, should be considered for such comparison? Would this involve taking into consideration factors that may affect price comparability between two different time periods?

5. What will constitute "insufficient movement" of selling prices of dumped good? In Australia's view what should be the minimum increase in selling price for reaching a conclusion against duty absorption?
 6. As anti-absorption proceedings are likely to result in increased duty, in Australia's view what would be the incentive for exporters to co-operate in such proceedings, apart from the possibility of resort to facts available?
 7. How will it be ensured that deficiency in movement of selling price is not on account of factors apart from absorption? Will the burden of proof be on the exporters to establish that deficiency in movement of selling price is on account of factors other than absorption?
 8. How soon after the imposition of an anti-dumping duty can an anti-absorption proceeding be initiated?
 9. Anti-absorption would involve a comparison between products manufactured and sold at different time periods. This could result in goods identical or like to those sold during the original period of investigation, no longer being currently sold. How should this issue be addressed?
 10. How will it be ensured that lack of movement of selling price is not due to currency fluctuation?
 11. If it is established that there was no movement or insufficient movement of selling prices of dumped good, will the investigating authority determine an enhanced rate of anti-dumping duty?
-