

**EGYPT'S PAPER REPLYING TO THE QUESTION POSED BY THE  
UNITED STATES IN DOCUMENT NUMBER TN/RL/W/103**

The following communication, dated 17 June 2003, has been received from the Permanent Mission of Egypt.

Egypt appreciates the United States' question addressing the issue of the concerns of the public record, contained in our document number TN/RL/W/56.

**Question**

**Egypt stated that it does not “consider it necessary to request each investigating authority to maintain a public record of all the non-confidential information submitted and of all the determination issued”. If such a record is not maintained, how does Egypt propose that a reviewing dispute settlement panel can ensure that its examination of the matter is in conformity with Article 17.5(ii)?**

**Reply**

Egypt would like to provide a response to the US question as follows:

Egypt considers that requiring an investigating authority to maintain a public record of all the non-confidential information submitted by interested parties in the context of an anti-dumping investigation exceeds the requirements set forth in Article 6.4 and 17.5(ii) of the Anti-Dumping Agreement.

Under Article 6.4, an investigating authority is requested, whenever practicable, to provide interested parties with the information relevant to the presentation of their cases and that is used in the anti-dumping investigation. As mentioned by Egypt in document number TN/RL/W/56, each investigating authority enjoys a certain discretion and margin of flexibility under the Anti-Dumping Agreement in deciding how to organize and grant access to non-confidential information.

Provided that access to non-confidential information is guaranteed as stipulated under Article 6.4 an investigating authority remains free to organize the access of interested parties to non-confidential information. The flexibility guaranteed under Article 6.4 is important considering the different resources available to investigating authorities and the environment in which they operate in.

It must be noted that the decision of a Member not to maintain a public record of non-confidential information does not prevent it from complying with its obligation under Article 17.5 (ii). Regardless of the organization of the non-confidential information submitted to it, a Member must ensure that the necessary information is submitted by the interested parties to the importing Member.

Furthermore, Article 17.5(ii) of the Anti-Dumping Agreement does not imply directly or indirectly that an Investigating Authorities should maintain a public record of all the non-confidential information collected and all the determinations made in the course of an anti-dumping investigation. A panel is established according to article 17.5 of the Anti-Dumping Agreement to examine the matter referred to it, based on the facts made available to the Investigating Authorities in conformity with appropriate domestic procedures of the importing Member. In this respect there is no obligation on the Investigating Authorities to use a specific tool or form to keep such information. Article 17.5(ii) focuses on the facts on which the panel will base its findings and recommendations, rather than the form or manner in which these facts should be kept by the Investigating Authorities not the manner in which non-confidential information should be kept. If a specific form is required, Article 17.5 (ii) would have specified it, instead of inserting the following wording "in conformity with appropriate domestic procedures of the importing Members".

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