

# WORLD TRADE ORGANIZATION

WT/GC/W/330  
23 September 1999

(99-3922)

General Council

Original: Spanish

## PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE

### Proposal on Anti-Dumping

*Communication from Guatemala*

The following communication, dated 22 September 1999, has been received from the Permanent Mission of Guatemala.

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#### **Background**

1. The lack of clarity of the concept of "like product" could give rise to some abuse of discretion in the application of the Anti-Dumping Agreement, which could encourage protectionism. The current definition should be expanded to include both physical and functional similarities of products and thus avoid one of the most obvious problems of evasion. This would also help to establish a definition of likeness that would be in line with developments in the marketplace for the product under consideration.

#### **Proposal**

2. Like other Members, Guatemala considers that some definitions in the present Anti-Dumping Agreement need to be improved. Thus, the definition of "like product" in Article 2.6 should be revised. The definition given in the present Anti-Dumping Agreement refers to a product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration. Now, for example, some countries consider functional similarity or use as an important factor in determining whether products are alike. In other countries, particular emphasis has been placed on physical similarities between products to determine likeness. This state of affairs fosters conflicts between commercial reality and the Anti-Dumping Agreement. Apart from this, anti-circumvention practices tend towards innovation and product differentiation, playing with the concept of "like product".

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