

PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE

Agreement on Implementation of Article VI of the GATT 1994
Proposal under Paragraph 9(a)(i) of the
Geneva Ministerial Declaration

Communication from New Zealand

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

Introduction

1. New Zealand has noted that there have been several proposals submitted as part of the second phase of the General Council preparatory process proposing review, in whole or in part, of the Agreement on Implementation of Article VI of the GATT 1994 (also known as the Anti-Dumping Agreement). In light of this, New Zealand submits the following specific proposal:

Proposal

2. That any review of the Agreement on the Implementation of Article VI of the GATT examine Article 14 containing provisions relating to anti-dumping action on behalf of a third country, in order to consider the continued desirability and feasibility of this Article.

Background

3. Article 14 of the Anti-Dumping Agreement provides for Members to consider anti-dumping applications in respect of imports of a particular product into that Member on behalf of third countries. The decision on whether or not to proceed with a case shall rest with the importing country. The imposition of anti-dumping duties, following a finding of injury is, however, subject to a requirement in Article 14.4 for the granting of approval by the Council for Trade in Goods.

4. Throughout the history of these provisions in the GATT and now the WTO, they have yet to be utilized by any Member. Moreover, the practical operability of these provisions must be open to serious doubt given the WTO's usual practice of decision-making by consensus.

5. Under these circumstances, it would seem timely to examine the question of the continued desirability of maintaining provisions in the Anti-Dumping Agreement in this form. In this regard, consideration would need to be given to the appropriateness of the retention of such provisions in an increasingly open global trading system.

6. In practical terms, while Article 14.4 provides that an approach must be made to the Council for Trade in Goods, the Agreement contains no indication as to the procedures for handling such an approach. Article 14 has yet to be applied by a Member and, in the absence of greater clarity, it is difficult to envisage its effective operation in practice. This suggests that, in addition to examining the continued desirability of the provisions of Article 14, consideration should also be given to the feasibility of operating these provisions.
