

SENIOR OFFICIALS' STATEMENT ON ANTI-DUMPING NEGOTIATIONS

The following communication, dated 11 February 2003, has been received from the delegations of Brazil; Chile; Colombia; Costa Rica; Hong Kong, China; Israel; Japan; Korea; Mexico; Norway; Singapore; Switzerland; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand and Turkey.

*“Substantial Results in Anti-Dumping Negotiations
Key to Overall Market Access Liberalization
and Success of the Doha Development Agenda.”*

Senior Officials responsible for trade of Brazil; Chile; Colombia; Costa Rica; Hong Kong, China; Israel; Japan; Korea; Mexico; Norway; Singapore; Switzerland; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand and Turkey met in Geneva on 5 February 2003 to coordinate action in the negotiations on the disciplines of the Anti-Dumping Agreement.

Officials noted that active and intense discussions are taking place in the negotiations and invited other WTO Members to join them in the pursuit of the objectives set out below.

Abuse of AD Rules Proliferates

The number of anti-dumping investigations and measures has shown a growing trend. An annual average of 138 cases were initiated in the 1980's; 237 in the 1990's; 330 between 1999 and 2001. Currently, there are over 1100 AD measures in place all over the world.

We are concerned that a major part of this increase could be attributed to the abusive use of AD rules against legitimate exports, in order to protect domestic industries beyond responding to injurious dumping.

Some examples of abusive practices are unwarranted and repetitive investigation on the same products, different protective measures applied for the same industry at the same time, unjustified extension of AD duties, and cases intended to disrupt trade.

Many AD Measures Found to be Inconsistent with the Anti-Dumping Agreement

Most of the anti-dumping measures that have been subject to WTO dispute settlement have been found to be inconsistent with the WTO rules. Failure to properly implement rulings adopted by the WTO Dispute Settlement Body has further weakened the proper functioning of the rules-based multilateral trading system. This situation should be rectified.

Abusive AD Measures Seriously Affect Market Access and Economic Development

The proliferation of abusive anti-dumping measures serves as a substitute for the trade barriers that have been eliminated through painstaking negotiations. The initiation of an investigation alone has significant chilling effects, not only for the companies directly involved, but also on trade in general. The administrative and financial burdens for exporters affected by the initiation of investigations also have a substantial negative impact on business. This is particularly the case when the initiation is poorly justified.

Thus, the use of such measures has become a handy tool for protectionism at the expense of other legitimate economic interests at both the national and international level. In the importing countries, abusive AD measures punish downstream industries and consumers due to unnecessarily higher price; in the exporting countries, competing industries lose markets and export returns.

Of particular concern is the disruptive impact of these measures on developing countries, whose exporting industries in many cases are highly vulnerable. Their economic growth and the diversification of exports are hampered by the imposition of anti-dumping measures.

Further Market Access Liberalization Difficult without Substantial Result on AD

The anti-dumping negotiations are closely related to other areas of the negotiations. Without improving the disciplines on anti-dumping measures, benefits from further tariff liberalization will be seriously undermined. As part of a single undertaking, substantial results in the AD negotiations are a key component of overall market access liberalization, and are essential for the success of the Doha Development Agenda.

The Key Objectives of the AD Negotiations

Based on the above mentioned considerations, it is imperative to address the ambiguities and lacunae in the provisions of the AD Agreement that allow abusive and arbitrary application of anti-dumping measures. Clarification and improvement of the rules and disciplines are thus essential to rectify this imbalance and constitute the central objective of the anti-dumping negotiations. Specific proposals will be based on the following three key objectives:

- to improve the rules in order to prevent the abuse and misuse of anti-dumping measures, keeping in mind that they should be applied only to the extent necessary to respond to injurious dumping;
- to prevent overly burdensome investigations, taking into account current business realities, as well as the need to avoid frivolous investigations;
- to improve rules to enhance the transparency, predictability and fairness of anti-dumping proceedings.

Proposals will consider the special needs of developing countries.

Anti-Dumping Negotiations in the Doha Development Agenda

- Supplementary Factual Summary-

● WORLD-WIDE INCREASE OF ANTI-DUMPING MEASURES

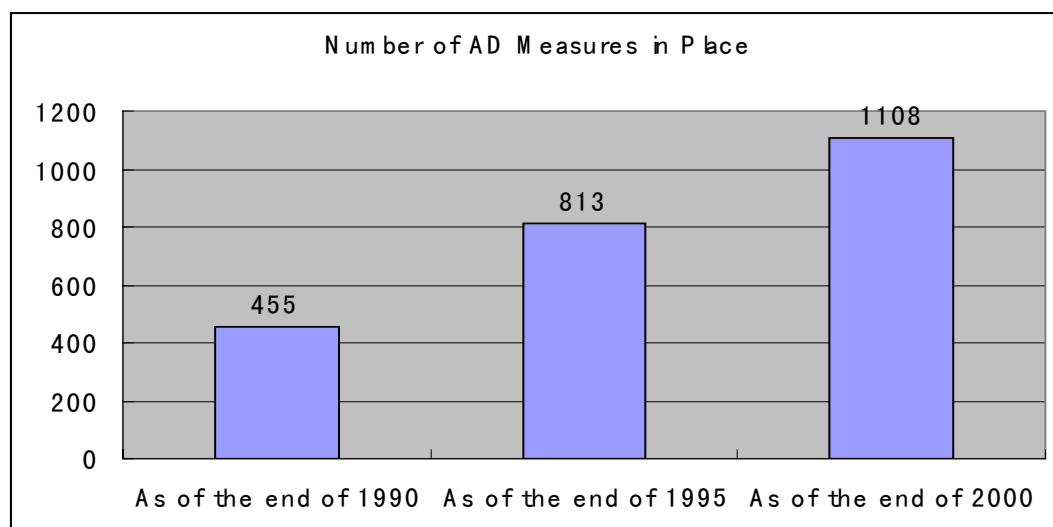
- The number of anti-dumping cases initiated has shown upward trend.

	Average Number of Anti-Dumping Cases Initiated
1980-1984	135
1985-1989	142
1990-1994	228
1995-1999	247
1999-2001	330

(Source: Data set in the US Congressional Budget Office, "Anti-Dumping Actions in the United States and Around World: An Update" and WTO web site)

- The number of outstanding anti-dumping orders all over the world has increased from 455 as of the end of 1990 to 1108 as of the end of 2000, increasing by more than double during the past decade.

(Source: WTO semiannual report)



● Anti-Dumping Cases Subject to WTO Dispute Settlement

- Most of the anti-dumping measures that have been subject to the WTO dispute settlement mechanism have been found to be inconsistent with the WTO Rules.

WTO Dispute Settlement Cases on Anti-Dumping Since the Establishment of WTO (status as of Jan. 2003)	
Cases – ADA inconsistency found	15
Cases – ADA inconsistency NOT found	1
Panel in process	4
Consultation pending	22
Terminated	3

(Source: Information collected from WTO web site)

● The Impact of Anti-Dumping Measures

- Misapplication of anti-dumping measures substantially undermines the achievements to improve market access. Indeed successive rounds of negotiations have contributed to lowering the tariff rates for industrial goods, for instance, average tariff rates for industrial goods in Quads economy is about 5%. However, average dumping margin is still over 40%.

Average Tariff Rates

Mean bound rate for all products	
OECD countries total	15%

(Source: OECD, "Review of Tariffs Synthesis Report", 1999)

Average Dumping Margins

Average dumping margin for all cases	
1990-1994	44.5%
1995-1999	44.9%

(Source: Data set in the US Congressional Budget Office, "Anti-Dumping Actions in the United States and Around World: An Update")