SPECIAL PROBLEMS OF DEVELOPING COUNTRIES

Communication from Israel

At its meeting on 29 September 1970 the Council invited developing countries to submit explanations of their specific problems in adhering to the Anti-Dumping Code and detailed proposals for their adherence and for the application of the Code to their exports (C/M/64, page 11).

In reply to this invitation the permanent mission of Israel has transmitted to the secretariat the following communication.

I refer to the Council decision of 29 September 1970 establishing the Working Party on Acceptance of the Anti-Dumping Code which "invited developing countries to submit in writing to the secretariat explanations of their specific problems ... and detailed proposals for their adherence and for the application of the codes to their exports".

I wish to inform you that I have now received detailed instructions from my authorities and wish to make the following comments on Israel's position in regard to her possible future adherence to the Anti-Dumping Code.

As we have explained on previous occasions our main objection to the Code as it now stands relates to the definition of "normal value" as the home market price in the exporting country (Article 2(a) of the Code).

Our objection is based on the fact that for a variety of reasons the home market price in a developing country is usually far higher than the price of the comparable commodity on the international market. The reason for this is inherent in the very process of development. Firstly the tariffs and fiscal taxes maintained both on imports of materials used as inputs for goods produced in the country and on the finished goods themselves result in an inflation of domestic prices which, under the fiscal systems in force, cannot be fully corrected through procedures for drawback or refund. Secondly, the creation of a new industry in a developing country almost inevitably involves the complete protection of the home market for reasons arising out of the well-known economic concept of the "infant industry". In its early years the costs of such infant industries will be considerably higher than those prevailing on the international market not only because of the lack of technical know-how and experience and the lack of a basic industrial infrastructure, but also because of the very smallness of the local market which prevents the achievement of economies of scale. Thus the typical new factory in a developing country may produce a large
variety of items in very small runs, a situation which, as is generally agreed, is not conducive to maximum efficiency and leads to high costs per unit of production.

In order to break into the competitive international market it is quite obvious that the new exporting industry will have to sell at a price below that which is prevailing in the home market. It may do this in one of the following ways:

(a) By fixing a price which covers variable costs only - leaving overheads to be covered by the higher returns achieved on the home market;

(b) by achieving economies of scale through production in much longer runs than is possible for the local market.

In many branches of industry the developing country producer will still be at a great disadvantage vis-à-vis his developed country competitor, even if he sells at the same price on the international market because of the built-in buyers' preference for brand names of international repute.

Proposed solution

We would propose that developing countries wishing to accede to the Anti-Dumping Code do so under the following understanding:

1. It would be agreed by the present signatories to the Code that Article 2(d), which speaks of a "particular market situation", would apply automatically to all exports of developing countries.

2. In cases where questions arise as to the price of a developing country's export on the importing country's market a comparison would be made with the price ruling for the like commodity on the international market and in no case will the home market price or a price constructed from costs of production be taken into consideration in determining the existence of dumping.

3. We would suggest that "normal" price for exports of developing countries be defined along the lines of Article 1(1) of the Brussels Definition of Value, namely: "the price which the goods would fetch at the time when the duty becomes payable on a sale in the international market between buyer and seller independent of each other".

(M.B. We have slightly amended the wording of the B.D.V. by replacing the words "open market" by "international market".)

My authorities are of the opinion that the above definition of "normal price" need raise no problems in regard to c.i.f. or f.o.b. methods of valuation as it would be used solely for purposes of price comparison for determination of dumping and not for valuation for customs.