QUESTIONS CONCERNING THE LEGISLATION OF SWEDEN

Responses by Sweden

Reproduced herewith are replies by the Swedish authorities to questions put by the United States (SCM/W/110) and the European Community (SCM/W/115) on the Swedish countervailing duty legislation (SCM/1/Add.2/Suppl.1).

Answers to question from the United States concerning the Countervailing Duty legislation of Sweden (SCM/W/110)

Question 1

Does Section 9 of the Swedish law require preliminary findings of both injury and subsidization prior to the imposition of provisional measures?

Answer

The National Board of Trade shall as stated in section 2 of the Ordinance conduct countervailing investigations in accordance with the provisions of the Subsidies Code. The Board is not to refer the matter of taking provisional measure to the Government until it deems it necessary following the prerequisites in Article 5:1 of the Code. Neither will the Government - as a matter of international law - decide upon provisional measures unless those prerequisites about subsidies sufficient evidence of injury and necessity to prevent injury during the period of investigation are fulfilled.

Question 2

Section 4.1 refers to the filing of a petition by "the industry affected". Does this mean that an affected industry can file a petition even if it is not producing a like product as required by Article 4:51 of the Code.

Answer

No, the notion "industry affected" in this context has the same meaning and extent as in Article 6:5 of the Subsidies Code.

1 Probably "6:5".

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Question 3

The Supplement submitted by the Swedish delegation (ADP/1/Add.2/Suppl.1) states that the Swedish authorities will choose between "three basic types" of duties, "namely variable duties, ad valorem duties and specific duties". Please explain how these types of duties will operate and under what circumstances a particular type of duty might be appropriate.

Answer

Variable duties vary with the import price. The duty increases when the prices are being lowered, decreases when the prices are being raised, and becomes zero when the actual import price correspond to the lowest, in advance fixed, import price.

Ad valorem duties are calculated as a certain percentage of the import price.

Specific duties are calculated on the import quantity and not the import price.

Variable duties have one disadvantage in that they are demanding to administer and control. Ad valorem duties are simpler in those respects but have one weakness insofar that they change parallelly with the import price. Hence, if the latter price rises, the duty might well exceed the margin of dumping.

Margins of dumping and amounts of subsidies are often being fixed per unit for the dumped or subsidized goods, i.e. in specific terms. In the light of this anti-dumping or countervailing duties may well take the form of specific duties. However, the ordinary Swedish duties for most goods are ad valorem duties, which speak in favour of also shaping the anti-dumping or countervailing duties likewise.

As was stated in the exploratory statement by the Swedish Government it is not possible to give a general recommendation in favour of one type of duty above the other. A choice will have to be made in each individual case.
Answers to questions from the EEC concerning the Countervailing Duty legislation of Sweden (SCM/W/115)

Question

Under what conditions, if any, will the Swedish authorities initiate a countervailing duty investigation on the basis of a petition lodged in accordance with Section 4 of the Ordinance of Dumping and Subsidy investigations by a third country?

Answer

The Swedish Ordinance is a short complement to the Anti-Dumping and the Subsidies Codes themselves. The Ordinance contains in its main parts rules about investigations on alleged dumping and subsidies which are considered inconsistent with the Codes, as well as rules about the decision procedure and appeal. The rules are valid for both Codes.

Authorities in a third country are, according to Article 12 in the Anti-Dumping Code, allowed to apply for anti-dumping actions on behalf of that country. The Subsidies Code does not explicitly provide for such a possibility. A petition lodged in accordance with Section 4 in the Ordinance and referring to the Subsidies Code will therefore in practice not lead to an investigation. The Board shall - according to Section 2 of the Ordinance - follow the Subsidies Code in its considerations.