

GENERAL AGREEMENT ON

RESTRICTED

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TARIFFS AND TRADE

Special Distribution

Committee on Anti-Dumping Practices

Ad-Hoc Group on the Implementation
of the Anti-Dumping Code

TERMINATION OF UNDERTAKINGS

Working Paper by the Secretariat

Revision

This revision is based on the discussion in the Ad-Hoc Group at its meeting of 24 October 1988.

1. [Bearing in mind that an exporter is always free to denounce an undertaking and that the authorities of the importing country are free, under the Code, to refuse its acceptance, it is only logical to conclude that the authorities are also free to denounce an undertaking, in particular if it is subsequently found that the terms of an undertaking have been violated.] [Bearing in mind that an exporter is always free to denounce an undertaking and that the authorities of the importing country are free, under the Code, to refuse its acceptance, it is only logical to conclude that the authorities are also free to denounce an undertaking if it is subsequently found that the terms of an undertaking have been violated or that the undertaking is no longer satisfactory or practical.] [In such a case the exporters concerned shall be given an opportunity to make comments].

[Unless an undertaking has been violated by the exporter, the authorities of the importing country may terminate it only if the circumstances have changed to such an extent after the undertaking was accepted that it can no longer serve the purpose of eliminating the injury to domestic producers, if such changes could not reasonably be foreseen when the undertaking was accepted and if the situation cannot be redressed by a review or revision of the undertaking, as foreseen in document ADP/W/139. Before an undertaking is terminated the exporters concerned shall be given an opportunity to make comments.]

2. [Anti-dumping duties may be imposed when an undertaking has been denounced by the importing country only after consultation and after the exporter concerned has been given the opportunity of submitting his observations on the matter]. If the authorities of the importing country denounce an undertaking then it is considered that they should be free to

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impose an anti-dumping duty instead, provided that such imposition is consistent with the provisions of the Code and that affirmative findings have been made of the existence of dumping and injury. [Where the denunciation takes place shortly after the conclusion of the initial investigation [and where circumstances of that investigation have not changed or where a party has not presented new information] it is considered that the duty may be based on the facts established during that investigation. In all other cases] the authorities of the importing country shall make every effort to ensure that definitive duties are based on as up-to-date information as possible, normally by carrying out a formal review of dumping and injury resulting therefrom. [No duties may be imposed on the import of goods for which binding contracts have been concluded during the period of validity of an undertaking which has been denounced by the importing country for reasons other than a violation of the undertaking.]

3. [Provision should be made for a review of the need for an undertaking after a reasonable period of time has lapsed since its acceptance.] [It is recognized that the need for an undertaking may lapse after a reasonable period of time. The undertaking should be terminated after the investigating authorities have determined that it is no longer necessary.] [Provision should be made for the termination of an undertaking when it is no longer necessary, e.g. after a reasonable period of time has lapsed since its acceptance.] However, where an interested party shows that there is a need to continue the undertaking the authorities of the importing country should carry out a review during which the undertaking shall remain in force.