

**Committee on Anti-Dumping Practices
Committee on Subsidies and Countervailing Measures**

Original: English

**NOTIFICATION OF LAWS AND REGULATIONS UNDER
ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS**

Replies to Questions Posed by VENEZUELA¹
Regarding the Notification of KOREA²

The following communication, dated 10 November 1998, has been received from the Permanent Mission of Korea.

Q1. Article 4-2, paragraph 1, of the Decree of the Customs Act establishes that the Minister of the competent ministry in charges of an industry affected by the unfair practice may request the Minister of Finance and the Economy to impose an anti-dumping duty under the conditions prescribed by the Ordinance of the Prime Minister.

Would Korea please explain the circumstances or parameters under which the competent Minister may request imposition of an anti-dumping duty in accordance with Article 4-2, paragraph 1, of the Decree of the Customs Act?

Reply

Article 5.6 of the A-D Agreement stipulates that an investigation can be initiated without an application by the domestic industry in such special circumstances as there is sufficient evidence of dumping, injury and a causal link. Instead of providing for the investigation authority to initiate an investigation by itself, Korean law allows the competent Minister responsible for the injured industry to request an investigation by submitting a written application. Therefore, the circumstances under which the Minister may request the imposition of an anti-dumping duty would be similar to those for self-initiated investigations in other countries. The same evidence of dumping, injury and a causal link as described in Article 5.2 of the Agreement is required in the application by the Minister. No such application by the Minister has been made in the Korean anti-dumping investigation history.

Q2. In accordance with paragraph 2, indent 5, of Article 4-3, the Trade Commission may reject an application "... in case it becomes unnecessary to initiate an investigation, e.g., a measure has been taken prior to the initiation of an investigation to eliminate any adverse effect on the domestic industry".

Would Korea please clarify what measures the above Article refers to for the purposes of eliminating any adverse effect of dumping on the domestic industry?

¹ G/ADP/Q1/KOR/13-G/SCM/Q1/KOR/13

² G/ADP/N/1/KOR/4 & G/SCM/N/1/KOR/3

Reply

The measures could include safeguard measures on the product, or anti-dumping measures or price undertakings on like products. If any of these measures are already in force, imposition of a new measure would be unnecessary.

Q3. In accordance with Article 4-10, paragraph 2, provisional measures may be applied for a period of four (4) months, which may be extended to a maximum of six (6) months, at the request of a supplier of significant importance in the trade of the product. However, Article 17.4 of the Agreement on Subsidies and Countervailing Measures provides that provisional measures may not be applied for more than four (4) months.

Would Korea please explain how the provision of the Decree of the Customs Act is compatible with the provision of the Agreement on Subsidies and Countervailing Measures?

Reply

Article 4-10, paragraph 2, of the Decree originates from the provision of Article 7.4 of the Anti-Dumping Agreement. In Korean law, the articles for anti-dumping measures are generally applied also to countervailing measures. With regard to the period of provisional countervailing measures, however, the Korean investigating authority will directly apply the Agreement on Subsidies and Countervailing Measures and limit the period to four months.

Q4. In accordance with paragraph 1, indent 1, of Article 4-7 of the Regulation of the Customs Act, "... where an exporter wishes to propose undertakings to the Trade Commission ... such undertakings shall include the following items: 1. an undertaking that the exporter ... will cease exporting within such a period as determined after consultation with the Minister of Finance and the Economy".

Would Korea please explain the objective and scope of this provision and how it is consistent with the Articles on undertakings in the WTO Agreements?

Reply

According to Article 8.1 of the Agreement, Korean law provides undertakings to cease dumped exports. When any exporter voluntarily offers undertakings to cease dumped exports, a consultation over the period of the undertaking will be conducted between the exporters and the authority. The period will not be longer than five years and not longer than necessary to counteract dumping which is causing injury, as described in Article 11 of the Agreement. Therefore, Article 4-7 of the Regulation is consistent with the Agreement.
