

PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE

Proposal on Anti-Dumping

Communication from Japan

The following communication, dated 6 July 1999, has been received from the Permanent Mission of Japan.

Proposal

1. A number of WTO Members, including developing-country Members, share the concerns about the adequacy and the fair implementation of rules governing trade remedies such as anti-dumping measures. Based on these circumstances, a review of the current provisions of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-Dumping Agreement) and appropriate amendments of the current Anti-Dumping Agreement should be undertaken with a view to ensuring appropriate implementation of the Anti-Dumping Agreement by clarifying relevant Articles, and to strengthening its disciplines.

Background

2. Successive rounds of negotiations have reduced trade barriers and the benefits of free trade have spread widely throughout the world. This is one of the most important achievements of the GATT and WTO regimes. On the other hand, anti-dumping measures have been invoked with increased frequency and by increasing number of Members. Japan is concerned that easy access to and increased dependence on such trade remedies will nullify the benefits of tariff reductions. While an anti-dumping measure is one of legitimate trade remedies permitted under current WTO regimes, due attention should always be paid to avoid its abuse for protectionist purposes.

3. Anti-dumping measures are the most frequently used trade remedies. Currently over 900 measures by WTO Members are in force. The number of WTO Members initiating anti-dumping investigations tripled in the last ten years. An anti-dumping measure is an exception to the rule of non-discrimination (MFN treatment) as well as to the rule prohibiting customs duties that exceed the bound rates. Therefore an anti-dumping measure should be taken with great care. However, in reality, resort to anti-dumping measures has become a tool for protectionist purposes in many cases, since they can be invoked relatively easily compared to other trade measures. In addition, serious problems exist even if final duties are not imposed, such as that anti-dumping investigations entail huge burdens on respondents, and that restrictive effects on the trade of the countries in question are significant.

4. The reasons of the above-mentioned problems are, *inter alia*; (i) lack of appropriate implementation of the Anti-Dumping Agreement due to its ambiguous provisions; and

(ii) insufficient disciplines in the relevant provisions of the Anti-Dumping Agreement to avoid inappropriate anti-dumping measures.

5. As to the former point, as a prerequisite of appropriate implementation, it is one of essentials to eliminate ambiguities in relevant Articles in the Anti-Dumping Agreement thus clarifying standards for judgement entrusted to the investigating authorities. This can prevent arbitrary implementation and have the advantage of facilitating implementation when measures are truly necessary. Clarification of procedures and standards for implementation can contribute to preventing unjustified petitions or investigations as well. As to the latter point, relevant Articles should be improved in order to ensure that anti-dumping measures address only dumping to be condemned and are limited to the extent necessary to eliminate the injurious effects, etc. Japan is prepared to raise specific points to be reviewed in the current Anti-Dumping Agreement at the General Council and other appropriate fora.

6. Japan shares the view of many developing-country Members which have expressed concerns about the abuse of anti-dumping measures and insisted on removing ambiguity and excessive discretion inherent in the Anti-Dumping Agreement. These characteristics have dangerously made it an instrument of protection rather than an instrument to counteract unfair dumping. Japan is concerned that this situation poses a threat to the multilateral trading system. Therefore, Japan supports clarifying and strengthening disciplines in the Anti-Dumping Agreement.

7. As to the anti-dumping measures targeted to products exported from developing countries, due consideration should be made taking into account Article 15 of the Anti-Dumping Agreement. In addition, as necessary, technical assistance for transferring know-how to developing-country Members on implementation of the Anti-Dumping Agreement is also important.
