

WORLD TRADE ORGANIZATION

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Negotiating Group on Rules

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REPLIES TO QUESTIONS PRESENTED TO THE UNITED STATES ON SUBMISSION TN/RL/W/27

The following communication, dated 5 February 2003, has been received from the Permanent Mission of the United States.

The United States thanks Australia for its comments on TN/RL/W/27, the US paper on the *Basic Concepts and Principles of the Trade Remedy Rules*, which comments Australia initially made during the meeting of the WTO Negotiating Group on Rules in November 2002. This paper responds to those comments, formally submitted by Australia in document TN/RL/W/38.

Q. Does the United States consider trade-distorting practices are the subject of the wider universe of rules covered by the WTO Agreements?

Reply

Yes, the United States recognizes that there are other WTO agreements that address trade-distorting practices. However, the trade-distorting practices that are the focus of the United States' Basic Concepts paper are specifically those that lead to the need for the trade remedies provided by the WTO Agreements on Implementation of Article VI of the GATT 1994 (the Anti-Dumping Agreement) and on Subsidies and Countervailing Measures.

Q. Does the United States consider that addressing trade-distorting practices should exclude consideration of improving and clarifying trade remedy rules?

Reply

The Doha Mandate calls for the clarification and improvement of disciplines under the Antidumping and Subsidies Agreements, including disciplines on trade-distorting practices. Thus, it is clear that the Ministers at Doha did not consider the clarification and improvement of disciplines on trade-distorting practices and the clarification and improvement of disciplines on trade remedy rules to be mutually exclusive; indeed, the Mandate indicates that they should be addressed simultaneously.

Q. Would the United States agree that trade remedy instruments are designed to respond to certain trade-distorting practices?

Reply

The United States would agree that the antidumping and countervailing duty remedies are an indirect response to the Trade distorting practices that help foster injurious dumping and subsidization. In TN/RL/W/24, the United States circulated a paper that it prepared for the OECD's special process

on steel that discusses a number of such practices in the steel sector. We presented this paper in part to illustrate that if meaningful steps can be taken to eradicate such distortions, whether in steel or more generally, the need for and use of trade remedies may well be lessened as a consequence of such reforms.

Part C, Section 1: Anti-Dumping Rules as a Remedial Mechanism

Q. Does the United States consider that dumping by companies *per se* stems from government industrial policies or government intervention in the marketplace, or only injurious dumping?

Reply

The United States believes that dumping by companies can stem from a variety of underlying causes. These include, but are not limited to, government industrial policies, government intervention, and tariffs and non-tariff barriers. Injury is a separate question that relates to the impact that dumped imports may have on a domestic industry.

Part C, Section 2: The Use of Countervailing Duties to Address Subsidization

Q. How would the United States propose strengthening disciplines on subsidies?

Reply

We believe that there are a variety of ways in which subsidies disciplines could be strengthened, clarified and improved, and we intend to identify these areas in more detail in future submissions.

Q. In terms of the four core principles outlined in the paper, could the United States explain on which specific areas relating to transparency and due process it wishes to see further refinement?

Reply

The United States refers Australia to its submission entitled *Investigatory Procedures Under the Antidumping and Subsidies Agreements* (TN/RL/W/35). The submission elaborates further on some of the transparency and due process-related issues the United States wishes to address in these negotiations.

Q. The United States refers to work begun in the OECD relating to trade distorting practices in the steel sector. The United States proposes that participants agree to prohibit substantially all subsidies to steel (with some exceptions) (refer page 4 of the US steel paper contained in TN/RL/W/24). It notes that this work could provide a basis for the work of the Rules Negotiating Group. Is the United States proposing within the Rules Group that substantially all subsidies be prohibited?

Reply

In the context of the OECD process, the United States generally believes that the basic discipline that should be developed for steel subsidies is a blanket prohibition on all subsidies that are specific to the steel industry, whether on a *de jure* or *de facto* basis, providing exceptions for certain narrowly articulated forms of assistance that would facilitate the permanent closure of uneconomic steelmaking capacity. However, under this approach, subsidies that are not “specific” to all or part of

the steel industry would not be prohibited. The goal of the OECD process is to develop the elements of an agreement appropriate to address the problems of steel, with the expectation that the results of this work would be recommended for integration and reflection within the framework of WTO subsidy rules that apply to steel trade. How these results could best be integrated or reflected is, of course, a question for WTO Members to consider and decide. Notwithstanding that all of the participants in the OECD process are either currently WTO Members or are in the process of acceding to the WTO, the United States still considers it important for all WTO Members at the very least to be well informed of the progress being made in the OECD with respect to consideration of improved steel subsidy disciplines so that they may be able draw conclusions, as appropriate, with respect to our work in the Rules Negotiating Group. We also believe it is possible that certain recommendations might be developed in the OECD process that could merit a broader application than for steel alone, although clearly some results may only be appropriate or feasible for the steel sector. All of these questions will necessarily have to be assessed at a later stage, as work both in the OECD process and the Rules Negotiating Group progresses.
