

**Committee on Anti-Dumping Practices
Ad Hoc Group on Implementation**

**DRAFT RECOMMENDATION CONCERNING
THE RELATIONSHIP BETWEEN ARTICLES 5.4 AND 5.6**

The Committee notes that Article 5.4 of the Agreement on Implementation of Article VI of the GATT 1994 provides that "An investigation shall not be initiated pursuant to paragraph 1 unless the authorities have determined, on the basis of an examination of the degree of support for, or opposition to, the application expressed by domestic producers of the like product, that the application has been made by or on behalf of the domestic industry." (footnotes omitted).

The Committee further notes that Article 5.1, referred to in Article 5.4 ("paragraph 1") provides that "Except as provided for in paragraph 6, an investigation to determine the existence, degree and effect of any alleged dumping shall be initiated upon a written application by or on behalf of the domestic industry".

The Committee further notes that Article 5.6, referred to in Article 5.1 ("paragraph 6") provides that "If, in special circumstances, the authorities concerned decide to initiate an investigation without having received a written application by or on behalf of a domestic industry for the initiation of such investigation, they shall proceed only if they have sufficient evidence of dumping, injury and a causal link, as described in paragraph 2, to justify the initiation of an investigation".

The Committee recognizes that, as a general matter, the cooperation of the domestic industry is necessary for an investigation to be properly carried out. However, the Committee considers that, since Article 5.4 requires the responsible authorities to "examine the degree of support for, or opposition to, the application", while Article 5.6 provides for initiation of an investigation in the absence of a written application, the requirements of Article 5.4 are not specifically applicable in the case of an investigation initiated pursuant to Article 5.6.

In light of these considerations, the Committee recommends that, in the case of an investigation initiated pursuant to Article 5.6, the responsible authorities need not, before initiating the investigation, examine or determine whether the initiation of the investigation is supported by the domestic industry within the meaning of Article 5.4.
