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

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

Replies of SINGAPORE¹ to Questions from CANADA² and TURKEY³

The following communication, dated 13 October 1997, has been received from the Permanent Mission of Singapore.

QUESTIONS FROM CANADA

Q1. In the previous question No. 1 from Canada (G/ADP/Q1/SGP/2-G/SCM/Q1/SGP/2, dated 10 April 1997), the last part of the question was in regard to "subsection 12(4) and 26(4) - period for the conduct of reviews". The answer provided by Singapore (G/ADP/Q1/SGP/8-G/SCM/Q1/SGP/8), dated 27 May 1997) does not appear to address this part of the question. However, Canada does recognize Singapore's notification of its applicable regulations in document G/ADP/N/1/SGP/2/Suppl.1-G/SCM/N/1/SGP/2/Suppl.1 dated 13 May 1997, in which regulation 36 would appear to answer the question regarding "the period for the conduct of reviews". Accordingly, could Singapore confirm that a review conducted by the Minister shall normally be completed within 180 days from the date of publication of the notice of initiation of the review but in no case shall it extend beyond one year from that date.

Response

Confirmed.

Q2. Subsection 7(1) of Singapore's Countervailing and Anti-Dumping Duties Act 1996 contemplates a negative preliminary determination. Under subsection 7(2), where such a negative preliminary determination is made, the law indicates that the Minister may terminate the investigation. Can the Minister still decide to continue the investigation if a negative preliminary determination has been made? If yes, under what circumstances, after having made a negative preliminary determination, would the Minister continue the investigation?

¹G/ADP/N/1/SGP/2-G/SCM/N/1/SGP/2 + Suppl.1

²G/ADP/Q1/SGP/9-G/SCM/Q1/SGP/9

³G/ADP/Q1/SGP/10-G/SCM/Q1/SGP/10.

Response

Yes, under section 7(2) of the Act, the Minister "may" still continue a countervailing duty investigation when a negative preliminary determination has been made under section 7(1) of the Act. Subsection 7(2) is intended to implement the specific SCM Agreement provision that requires termination of an investigation when the authorities are "satisfied that there is not sufficient evidence of either subsidization or of injury to justify proceeding with the case". Consequently, in order to terminate an investigation at the preliminary stage, the Minister must make a specific finding that the Minister is "satisfied" that there is insufficient evidence to proceed. There might be circumstances where, although the Minister has made a negative "preliminary" determination, the Minister believes that issues of law or fact remain outstanding that must be further investigated before the Minister can be "satisfied" as required under the SCM Agreement. This might occur, for example, where the Minister determines that verification (which has not yet occurred at the time of the preliminary determination) is required to confirm information provided in a response.

Q3. Further to Singapore's response to question No. 1 from Canada (see G/ADP/Q1/SGP/6-G/SCM/Q1/SGP/6, dated 25 April 1997), relating to whether the term "public body" encompassed a private body, within the meaning of Article 1 of the WTO Subsidies Agreement, Canada remains unclear how Article 1.1(a)(1)(iv) of the WTO Subsidies Agreement is provided for under Section 2(2)(a)(i)-(v) of the "Countervailing and Anti-Dumping Duties Act 1996" (No. 33 of 1996); as set out in WTO document G/ADP/N/1/SGP/2-G/SCM/N/1/SGP/2 dated 27 November 1996. Under which paragraph of Section 2(2)(a) would practices contemplated by Article 1.1(a)(1)(iv) of the WTO Subsidies Agreement fall? If a private body were to receive funds from government, or were to be entrusted or directed by government to carry out one or more of the type of functions set out in Article 1.1(a)(1)(i)-(iii) of the WTO Subsidies Agreement, would Canada be correct in assuming that Section 2(2)(a)(i)-(v) of the "Countervailing and Anti-Dumping Duties Act 1996" (No. 33 of 1996) is sufficient to capture such practices?

Response

Article 1.1(1)(a)(iv) of the SCM Agreement comprises two limbs - first, payments to a "funding mechanism" and second, a "private body" entrusted or directed to carry out the function of giving the subsidies. The words "financial contribution by the government" in section 2(2)(a) includes a government payment to a funding mechanism. Similarly, appropriate cases involving private bodies would be covered by the words "public body" in section 2(2)(a).

QUESTIONS FROM TURKEY

Q1. Could the competent Singaporean authorities explain the procedures and provide the timeline of the following anti-dumping investigative processes?

- **Application**
- **Initiation**
- **Preliminary determination**
- **Hearing(s)**
- **Written submission(s) from parties**
- **Disclosure of essential facts**
- **Final determinations**
- **Public notice of determinations**

Response

- The decision on whether to initiate an investigation shall be made within 30 days from the date of receipt of an anti-dumping duty petition.
- A preliminary determination shall be made within 90 days from the date of publication of the notice of initiation of investigation.
- Upon issuance of the Draft Final Report (which will contain all essential facts under consideration that can be made available on a non-confidential basis), interested parties will be informed of their right to request a meeting. Interested parties will also be informed of their right to submit written comments on the Draft Final Report and the deadline for submitting such comments.
- A final determination shall be made within 180 days from the date of publication of the notice of preliminary determination.
- The preliminary and final determinations will be published in the Gazette immediately after the determinations are made.

Q2. Could the competent Singaporean Authorities explain, if it is possible to review anti-dumping duties for individual firms according to the provisions of Article 26 of the Countervailing and Anti-Dumping Duties Act 1996 (No. 33 of 1996) and Article 36 of the relevant Regulation?

Response

Pursuant to section 26 of the Countervailing and Anti-Dumping Duties Act 1996 and Regulation 36 of the Countervailing and Anti-Dumping Duties Regulations 1997, the Minister may review, *inter alia*, whether the dumping margin has changed substantially, and whether the imposition of anti-dumping duty is no longer necessary. In making such a determination, the Minister may consider it necessary to review the dumping margins of companies exporting the subject goods to Singapore.

Q3. Would the competent Singaporean authorities explain, if it is possible to include all the exporter firms (some of them have not applied for a review) in case of no evidence on dumping (in connection with Article 11.4 of the A-D Agreement and Article 6 of the A-D Agreement regarding evidence and procedure) for the non-applicant exporter firms?

Response

Under the WTO Anti-Dumping Agreement, an anti-dumping duty shall remain in force only as long as and to the extent necessary to counteract dumping which is causing injury, and interested parties have the right to request authorities to examine whether the continued imposition of the duty is necessary to offset dumping, whether the injury would be likely to continue or recur if the duty were removed or varied or both. Authorities may also review duties on their own initiative where warranted.

In order to determine whether the continued imposition of the duty is necessary to offset dumping, and whether the injury would be likely to continue or recur if the duty were removed or varied or both, the Minister may consider it necessary to obtain information not only from the exporter firms requesting the review, but also any other exporter firm known to have exported the subject goods during the period of review.

Question

If such a review investigation is considered as an investigation initiated with respect to the provisions of Article 11.2 of the A-D Agreement then, would the Singaporean Authorities explain the procedure of obtaining information on dumping in relation to Article 6 of the A-D Agreement regarding evidence and procedure on dumping?

Response

Information on dumping is gathered through questionnaires issued by the investigating authorities to the exporter firms under review. The procedure can be found in Regulation 9 of the Countervailing and Anti-Dumping Duties Regulations 1997.