

WORLD TRADE ORGANIZATION

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General Council

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PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE

Agreement on Implementation of Article VI of the GATT 1994

Proposal under Paragraph 9(a)(i) of the Geneva Ministerial Declaration

Communication from Korea

Revision

The following communication, dated 9 July 1999, has been received from the Permanent Mission of Korea.

Background

1. The WTO Anti-Dumping Agreement is generally considered to be an improvement over the Tokyo Round Code, as it brought new provisions that clarified some of the ambiguities contained in the Code and somewhat lessened the possibility of misuse of anti-dumping measures. However, the current Anti-Dumping Agreement retains a number of shortcomings that have generated problems over the past years. Ambiguities remain and can create distortions, sometimes opening the door for abuse.
2. The recent overall increase in the use of anti-dumping measures has been accompanied by a rise in disputes over the compatibility of certain national anti-dumping measures with the WTO anti-dumping regime. Both the increase in the use of anti-dumping actions and the rise in disputes are, in all likelihood, corollaries to the ambiguities contained in the Agreement. Both are also partly caused by the rising demand for protection by some specific industries from trade liberalization and market opening set in motion after the conclusion of the Uruguay Round. With low industrial tariffs now mostly prevailing – and thus much less useful to provide requested protection – governments are tempted to exploit the ambiguities and flaws in the Agreement to assuage groups pursuing a protectionist agenda. To prevent abuse and reduce the number of disputes, therefore, Korea believes that the Agreement should be reviewed and appropriately amended so as to bring necessary clarifications and reduce the size of “grey areas” that permit a wide range of conflicting interpretations.
3. To address these grey areas, the Committee on Anti-Dumping Practices has launched the Ad-Hoc Group on Implementation, which has produced and adopted several recommendations for the Committee. Some of these recommendations should be well taken into account to improve the Agreement.

4. In addition to embodying these recommendations, the Anti-Dumping Agreement, like all international trade rules, should reflect changes in the world trade environment. Important changes such as increased cross-border activities of multinational enterprises, expanding regional trade arrangements, the creation of harmonized rules of origin and the transfer of production facilities to developing countries affect the way multilateral anti-dumping rules function. Hence it is essential that a review of the Anti-Dumping Agreement also include a thorough analysis of the implications of such changes for the current WTO anti-dumping regime.

5. In this regard, the anti-circumvention is one of the important issues to all Members. This issue has been discussed for the last two years as a built-in agenda arising from the Uruguay Round. However, the discussion in an Informal Group under the Committee on Anti-Dumping Practices has not been fruitful due to the wide differences among Members' views. Given the growing importance of anti-circumvention, new impetus should be given to the related debate.

Proposal

6. Because a review of the Anti-Dumping Agreement will necessitate an appropriate multilateral setting and probably intense negotiations, Korea believes that the next round of multilateral trade negotiations would be the ideal forum to deal with such review.

7. At this stage, Korea's proposal is twofold:

- Negotiations for reviewing the Anti-Dumping Agreement should be conducted in the new round, with a view to preventing abuse of the anti-dumping measures as well as reflecting changes in the world trade environment, thereby achieving a new balance of interests among all Members.
- Among the various areas to be tackled, Korea proposes that at least in the areas of initiation of investigation and review procedures, further clarification be made and new disciplines be established to avoid unnecessary trade obstacles caused by unjustified anti-dumping actions.
