

WORLD TRADE ORGANIZATION

RESTRICTED

WT/ACC/KGZ/15

11 March 1998

(98-0992)

**Working Party on the Accession
of the Kyrgyz Republic**

Original: English

ACCESSION OF THE KYRGYZ REPUBLIC

Anti-dumping

Replies to additional questions concerning anti-dumping provided by the authorities of the Kyrgyz Republic are reproduced hereunder.

Question 1:

Article 8 does not require the complainant to provide evidence of dumping, injury and a causal link (This is required under Article 5.2 of the Agreement on Implementation of Article VI of the GATT 1994).

Answer:

Article 5.2 of the Anti-Dumping Agreement requires that an application for an anti-dumping investigation shall be supported by "evidence" and not only by "simple assertion." The article then refers to "information" required. Article 8 of the Kyrgyz draft law uses consistently the term "information." The intention is not that the requirements of the law should be less strict than those of the agreement.

Question 2:

Article 9 introduces the concept of "directly competing products" as well as like products when establishing the standing of a complaint. There is no mention of this concept in GATT rules.

Answer:

The concept of "directly competing products" has been eliminated in Article 9 of the draft law.

Question 3:

Article 10 allows the Authorised Body to self-initiate an anti-dumping investigation if there is sufficient evidence of dumping and injury. However, Article 5.6 of the GATT rules say there must also be evidence of a causal link before self-initiation.

Answer:

The requirements that there must be a causal link between dumping and injury is covered by the words "injury caused by importation of the dumped product" in Article 19 of the law.

Question 4:

Article 13 allows 60 days for a decision on whether or not to initiate an investigation following the lodging of a complaint. However, Article 8 only allows 10 days for notifying the complainant of any deficiencies in the complaint. Why is there such a wide discrepancy, and what other procedural steps occur in that period?

Answer:

The agreement does not stipulate any particular time links in the contexts referred to in the question.

Question 5:

Article 14 does not make it clear whether the government of the exporting country concerned will be officially notified of the initiation of an anti-dumping investigation (This is a requirement under Article 5.5. of the GATT Agreement). However, Article 1 defines this government as an interested party.

Answer:

The Government of the exporting country is an "interested party" as defined in Article 1 of the law and will thus be notified of the initiation of an investigation as set out in Article 13.

Question 6:

How is an "unreliable" export price (Article 19) defined?

Answer:

An "unreliable" export price is defined in Article 19 of the revised draft law as a price unreliable "because of ties or a countervailing¹ agreement between the exporter and the importer or a third party."

Question 7:

It is unclear, in Article 42, whether the 9 month period for provisional duties only applies in cases where the lesser duty rule is used (as demanded by GATT rules).

Answer:

Article 42 refers to cases where "the amount of the provisional anti-dumping duty is lower than the margin of dumping", i.e. where the "lesser duty rule" applies. (It is not clear, however, what is meant by the duty being "insufficient" to eliminate the injury.)

Question 8:

Article 45 seems to state that the lesser duty rule will always apply, although this is not entirely clear.

¹ should read compensatory

Answer:

Article 45 uses the expression "in the amount, sufficient for the elimination of the injury caused by dumping," i.e. the "lesser duty rule" applies.

Question 9:

The provisions on retroactivity in Article 48 do not require registration of imports. Although registration is not required in the GATT rules, it does ensure the fair and efficient application of retroactive duties.

Answer:

Registration of imports in connection with the imposition of retroactive anti-dumping duties is not required by the agreement. (Nevertheless, the Kyrgyz Republic will consider the introduction of such practice.)

Question 10:

The purpose of Article 53(4) is unclear, as a price undertaking should automatically remove injury. Why is there no time limit for the validity of price undertakings?

Answer:

Article 53.4 of the law has been amended to stipulate that the undertaking shall remain in force "as long as and to the extent necessary to counteract dumping" (as foreseen in Article 11.1 and 11.5 of the Agreement)

Additional Point:

The suggestion that the law should mention the "public (community) interest" has been met through the addition of paragraph 3 to Article 28 of the draft law.
