

WORLD TRADE ORGANIZATION

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Committee on Antidumping Practices

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Committee on Subsidies and Countervailing Measures

QUESTIONS CONCERNING THE NOTIFICATIONS PROVIDED BY THE GOVERNMENT OF THE UNITED STATES OF LAWS AND REGULATIONS UNDER ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS

The following communication, dated 4 July 1995, has been received from the Permanent Mission of Australia.

Please find enclosed the written questions submitted by Australia in view of the legislation review to be carried out in the next meetings of the Anti-Dumping and Subsidies and Countervailing Measures Committees.

1. In assessing material injury under paragraph 771(7)(B), how will the United States ensure that it is demonstrated that material injury is being caused by the dumped imports and not other factors, including un-dumped imports?
2. What justification is there under the Anti-Dumping Agreement for the treatment of so-called "Captive Production" under paragraph 771(7)(C)(iv), i.e. essentially disregarding such product for the determining market share and the factors affecting the financial performance of the domestic industry?
3. Paragraphs 773(a)6 and 777A(d) allow for a different approach to the calculation of anti-dumping duties for administrative reviews when compared to the initial investigation in respect of the treatment of sustained movements in exchange rates and of the comparison between export price and normal value. How is this consistent with Articles 2.4.1 and 2.4.2, respectively, of the Anti-Dumping Agreement?
4. Under paragraph 773(a)(7)(A), it would appear that an adjustment for the level of trade can only be made where the two levels of trade in question actually exist in the country in which the normal value is determined. How is this consistent with the requirement of Article 2.4 of the Anti-Dumping Agreement to make a fair comparison at the same level of trade?
5. Under paragraph 773(a)(7)(B), it would appear that an offset may not always be allowed for home market indirect selling expenses though there is provision for a constructed export price offset in the form of an adjustment for the level of trade, though it would be limited by the level of the US indirect selling expenses deducted to calculate the constructed export price. Will the United States administer this provision in a manner consistent with the obligation to provide a fair comparison and so allow an export price offset all cases?