

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Special Distribution

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

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INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Supplement

Legislation of the European Communities

Reproduced herewith a texts of the amendments made to Recommendation No. 3018/79/ECSC on protection against dumped or subsidized imports. They are submitted in accordance with Article 16:6(b) of the Anti-Dumping Code and Article 19:5(b) of the Code on Subsidies and Countervailing Measures.

COMMISSION RECOMMENDATION No 3025/82/ECSC
of 12 November 1982

amending recommendation No 3018/79/ECSC on protection against dumped or subsidized imports from countries not members of the European Coal and Steel Community

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Articles 74 and 86 thereof,

Whereas by recommendation No 3018/79/ECSC of 21 December 1979⁽¹⁾, as amended by recommendation No 1995/82/ECSC⁽²⁾, the Commission has established rules and procedures to be applied in case of dumped or subsidized imports from countries not members of the European Coal and Steel Community;

Whereas the present text of the above recommendation provides that within a basic price system the basic price shall be used for determining normal value; whereas, in order to ensure more equitable treatment for all parties and to take into account the recent GATT interpretation of this subject, it is appropriate to provide that the usual methods for determining normal value be used where these would produce a significantly different result;

Whereas by virtue of Article 74 of the above Treaty the Commission is empowered, in cases of dumping or subsidization by third countries not only to make recommendations to Member States but to take any measures which are in conformity with the Treaty; whereas recent experience has shown that the practice of imposing duties by recommendation has caused delay and unnecessary administrative complications; whereas anti-dumping or countervailing duties by their very nature do not leave to Member States any choice of the appropriate methods of their execution; whereas it is appropriate, therefore, to provide that henceforth such duties may be imposed either by recommendation or by any appropriate measures,

MAKES THE FOLLOWING RECOMMENDATION:

Article 1

Commission recommendation No 3018/79/ECSC is amended as follows:

⁽¹⁾ OJ No L 339, 31. 12. 1979, p. 15.
⁽²⁾ OJ No L 215, 23. 7. 1982, p. 28.

1. Article 2(6) b is replaced by the following text:

'(b) Where several suppliers from one or more countries are involved and it is deemed appropriate to establish a basic price system the normal value may be derived from the basic price; however normal value shall be determined in accordance with the preceding provisions of this Article where it becomes apparent that such method of determination would produce a significantly different result.'

2. Article 11(1) is replaced by the following text:

'1. Where preliminary examination shows that dumping or a subsidy exists and that there is sufficient evidence of injury caused thereby and the interests of the Community call for intervention to prevent injury being caused during the proceeding, the Commission, acting at the request of a Member State or on its own initiative, shall impose a provisional anti-dumping or countervailing duty. In such cases entry of the products concerned for Community consumption shall be conditional upon the provision of security for the amount of the provisional duty, definitive collection of which shall be determined by the subsequent decision of the Commission under Article 12(2).'

3. Article 11(6) is replaced by the following text:

'6. After expiration of the period of validity of provisional duties, the security shall be released as promptly as possible to the extent that the Commission has not decided to collect it definitively.'

4. Article 12(1) is replaced by the following text:

'1. Where the facts as finally established show that there is dumping or subsidization and injury caused thereby, and the interests of the Community call for Community intervention, the Commission, after consultation, shall impose a definitive anti-dumping or countervailing duty.'

5. Article 12 2 (a) is replaced by the following text :

'(a) Where a provisional duty has been applied, the Commission shall decide irrespective of whether a definitive anti-dumping or countervailing duty is to be imposed, what proportion of the provisional duty is to be definitively collected.'

6. Article 13 (1) is replaced by the following text :

'1. Anti-dumping or countervailing duties, whether provisional or definitive, shall be imposed by a Commission recommendation or any other appropriate measure.'

7. Article 13 (2) is replaced by the following text :

'2. Such measures shall indicate in particular the amount and type of duty imposed, the product covered, the country of origin or export, the name of the supplier, if practicable, and the reasons on which the measures are based.'

8. Article 14 (1) is replaced by the following text :

'1. Measures imposing anti-dumping or countervailing duties and decisions to accept undertakings shall be subject to review where warranted. Such

review may be held either at the request of a Member State or on the initiative of the Commission. A review shall also be held where an interested party so requests and submits evidence of changed circumstances sufficient to justify the need for such review, provided that at least one year has elapsed since the conclusion of the proceeding. Such requests shall be addressed to the Commission which shall inform the Member States.'

Article 2

This recommendation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

Done at Brussels, 12 November 1982.

For the Commission
Wilhelm HAFERKAMP
Vice-President

