



**United Nations
Conference
on Trade and
Development**

Distr.
LIMITED

TD/B/COM.1/L.17
27 March 2001

Original: ENGLISH

TRADE AND DEVELOPMENT BOARD
Commission on Trade in Goods and Services,
and Commodities
Fifth session
Geneva, 19-23 February and 23 March 2001
Agenda item 6

**ANALYSIS OF MARKET ACCESS ISSUES FACING DEVELOPING COUNTRIES:
IMPACT OF ANTI-DUMPING AND COUNTERVAILING ACTIONS**

Agreed recommendations

1. The Commission notes that anti-dumping and countervailing duty actions are legitimate measures permitted under the WTO. The Commission also notes that they are now being used with increasing frequency and by a larger number of countries. In the experts' discussions, a series of issues were identified and concerns were expressed as documented in the report (TD/B/COM.1/34) and subsequent notes (TD/B/COM.1/39, and Add.1 and Add.2).
2. These issues and concerns cover substantive or procedural rules governing anti-dumping and countervailing duty proceedings, which include five per cent viability test, exclusion of sales below cost, floor on normal value, fair and symmetrical comparisons, credit cost, duty drawback, exchange rate fluctuations, exchange gains or offsets, zeroing or exceptions, basis of negligibility, negligible import volumes, cumulation, lesser duty rule, back-to-back complaints, standing, price undertakings, specifying rule changes applicable to developing country exports, countervailing duties, WTO dispute settlement, constructed normal value, level of trade, non-market-economy treatment, *de minimis* dumping, the particular economic realities of certain cyclical industries, captive production/definition of industry, questionnaires, language and independent bodies. In view of their sensitivity and complexity, divergence of views existed. Many of these issues are being addressed in the WTO.
3. It was recognized that anti-dumping actions could have a serious impact on developing countries' exports and economies and that their SMEs face particular problems as defendants in anti-dumping investigations. Certain developing countries found the anti-dumping and countervailing rules complex to administer and the proceedings costly. Many developing countries, particularly African countries and small economies were particularly vulnerable to injury from dumped and subsidized imports and lack the necessary administrative resources to take action against such imports in compliance with their multilateral obligations. In this context, continued technical

assistance by the international community, including UNCTAD to these developing countries and small developing economies is required.

Recommendations to Governments

4. Governments should assist developing country governments through the exchange of the national experiences, in cooperation with international organizations, in their pursuit of better understanding of dumping issues. In particular with a view to the problems of SMEs, so as to build the capacity to defend their interests in anti-dumping actions and to minimize the risk of such actions being taken.

Recommendations to the international community

5. The international community should provide technical assistance to developing countries with a view to strengthening their administrations in relation to the WTO consistent application of anti-dumping actions against injurious imports. In this context, the particular difficulties faced by many African countries of perceived increases in dumped imports should be examined closely.

6. The international community should also assist the small developing economies to overcome their constraints, such as lack of financial, technical and human resources, in applying WTO consistent anti-dumping actions against injurious imports, including through institutional capacity-building, assistance in the elaboration of legislation and the setting up of investigation authorities.

Recommendations to UNCTAD

7. UNCTAD, within its mandate, as defined in paragraphs 132 and 106 of the Plan of Action should design and implement upon request and within available resources, a technical assistance programme with a view to supporting developing countries to develop improved understanding of anti-dumping and countervailing duty rules and procedures and capacity to administer anti-dumping and countervailing remedies.