

GENERAL AGREEMENT ON

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TARIFFS AND TRADE

Committee on Anti-Dumping Practices

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REQUEST BY FINLAND FOR THE ESTABLISHMENT OF A PANEL UNDER ARTICLE 15:5 OF THE AGREEMENT

The following communication has been received by the Chairman of the Committee from the Permanent Mission of Finland with the request that it be circulated to the members of the Committee.

The Finnish company Stromberg Ltd., presently part of the Asea Brown Boveri group has since 1979 exported thirteen power transformers to Australia. In respect of all those exports the Australian Customs Service (ACS) has examined whether the exports have taken place at dumped prices. Until 1986, in respect of the ten first deliveries the ACS applied the "constructed value method" set out in Article 2:4 of the Anti-Dumping Code.

As from 1986 the ACS has made a comparison with power transformers sold on the Finnish market according to Article 2:1 of the Anti-Dumping Code. ACS has made the price comparison by using the "Westinghouse Price Rules". This practice has been applied to the three last deliveries to the Hydro Electric Commission of Tasmania (HECT) and to the State Energy Commission of Western Australia (SECWA). All the relevant transformers were either delivered or firmly ordered in 1985 before the ACS amended its practice of assessing dumping.

The amount of duties assessed on the three deliveries is \$A 1,205,635.

Finland has requested bilateral consultations with Australia under Article 15:2 of the Anti-Dumping Code and such consultations were initiated on 16 January 1989. Further consultations were held during the first half of the year, the last one on 18 July.

The Committee on Anti-Dumping Practices undertook conciliation under Article 15:3 on 28 April 1989.

In the consultations Finland has requested Australia to revoke the decision to impose anti-dumping duties. Finland maintains that the power transformers delivered to Finland and used by ACS for comparison and those exported to Australia are not like products, as defined in Article 2:2 of the Anti-Dumping Code. Each power transformer is custom built to the specifications of the buyer. Although the functioning of all transformers is based on the same electrotechnical principle and they therefore have the

same basic construction, the individual features vary so much that they are neither identical, nor do they have characteristics closely resembling other custom built transformers.

Australia has maintained that it was justified in determining dumping on the basis of Article 2:1. Oral consultations have not led to any solution of the matter.

In the consultations on 18 July 1989 and in subsequent written correspondence it was agreed to make a technical comparison between on the one hand the three power transformers delivered to HECT and SECWA and on the other hand the transformers sold in Finland which the ACS has used for comparison. The purpose would be to analyse the "like product" question. Finland sent a written analysis to ACS on 17 January 1990. Receipt of the letter was confirmed by ACS on 15 March. After reminders by Finland in the course of 1990 about a reply in substance the ACS informed the Finnish side on 3 July 1990 that the examination of the written analysis would be completed in approximately four weeks. Since then no further reaction has been forthcoming from ACS.

Finland considers that benefits accruing to Finland under the Anti-Dumping Code have been nullified or impaired because Australia has assessed anti-dumping duties to an amount of ca. \$A 1,200,000 on power transformers exported from Finland on a basis, which is not in conformity with Article 2 of the Anti-Dumping Code. Oral consultations under Article 15:2 have not resulted in a mutually satisfactory solution and Australia has not delivered a reply to the written technical analysis within a reasonable time.

On the basis of what is said above the Finnish Delegation requests you, Mr, Chairman, to convene an extraordinary meeting of the Committee on Anti-Dumping Practices in order to establish a panel, as provided for in Article 15:5 of the Code.