

# GENERAL AGREEMENT ON

RESTRICTED

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## TARIFFS AND TRADE

Committee on Anti-Dumping Practices

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UNITED STATES - FINAL DETERMINATION ON DUMPING AND  
PROVISIONAL ANTI-DUMPING MEASURES AGAINST IMPORTS OF CERTAIN  
CORROSION-RESISTANT CARBON STEEL FLAT PRODUCTS FROM AUSTRALIA

Request for Consultations with the United States  
under Article 15:2 of the Agreement

Communication from Australia

The following communication, dated 15 July 1993, has been received from the Permanent Mission of Australia.

In accordance with Article 15:2 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (Anti-Dumping Code), the Government of Australia requests consultations with the United States concerning the final determination on dumping and provisional measures against certain corrosion-resistant carbon steel flat products.

The Government of Australia is seeking clarification regarding the consistency of the United States decisions and measures with the provisions of the Anti-Dumping Code. Issues that the Government of Australia wishes to discuss with the United States in this round of consultations are outlined below. Further issues may need to be addressed, particularly in the light of any final determination on injury by the United States.

Use of "Best Information Available"

Under Article 6:8 of the Anti-Dumping Code, a signatory may make its findings on the basis of facts available "in cases in which any interested party refuses access to, or otherwise does not provide, necessary information within a reasonable period or significantly impedes the investigation."

The US Department of Commerce found in its final determination of sales at less than fair value on 22 June 1993 that the affected Australian company had been a co-operative respondent throughout the investigation but nevertheless the US Department of Commerce rejected all the information provided and based its determination of the weighted average dumping margin on the information filed in the petitions on the grounds that that was the

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"Best Information Available". The company concerned had no alternative but to acquiesce to the use of the information filed in the petitions but only after its submissions in relation to the correction of data had been refused and in the knowledge that an alternative potential application of the "Best Information Available" approach of the US Department of Commerce could have led to even more anomalous results. The company concerned had supplied very large amounts of data (some 9 million pieces of data) within very short timeframes. The Australian Government understands that the US Department of Commerce's requests, including those on any deficiencies that arose, were essentially met. Corrected information was available to the US Department of Commerce within a reasonable period and in sufficient time for it to have been taken into account in the final determination.

The Australian Government seeks clarification of the reasons for the subsequent rejection of all the information supplied by the company concerned in the light of the obligations of the United States under the Anti-Dumping Code.

#### Injury Finding and the Imposition of Provisional Measures

Under the Anti-Dumping Code, provisional measures can only be imposed following an affirmative finding that there is dumping and that there is sufficient evidence of injury as provided for in (a) to (c) of Article 5:1, i.e. including causal link, and that provisional measures are necessary to prevent injury being caused during the period of investigation.

The Government of Australia seeks clarification of the basis for the preliminary determination of material injury by the US International Trade Commission on 14 August 1992 and the subsequent imposition of provisional measures from 4 February 1993 against imports of aluminium-zinc coated carbon steel sheet and galvanized steel from Australia, especially in view of the following:

during the period covered by the injury investigation, imports of the class of products concerned (corrosion-resistant carbon steel flat products), including from Australia, were limited by voluntary restraint agreements;

the differences in product characteristics and commercial applications of Australian aluminium-zinc coated carbon steel sheet and galvanized sheet and products produced by the United States industry;

the geographical concentration of the sale of Australian aluminium-zinc coated carbon steel sheet with sales being predominantly in the west coast area and those of United States domestic producers being predominantly outside that area; and

the negligible share of the United States market for galvanized steel being supplied by imports from Australia.