

**GENERAL AGREEMENT  
ON TARIFFS AND TRADE**

**RESTRICTED**  
**ADP/129**  
7 July 1994  
Special Distribution

(94-1419)

**Committee on Anti-Dumping Practices**

Original: English

**UNITED STATES - IMPOSITION OF PROVISIONAL ANTI-DUMPING  
DUTIES ON PHOTOGRAPHIC PAPER FROM THE NETHERLANDS**

**Request for Consultations under Article 15 of the Agreement**

**Communication from the European Community**

The following communication, dated 29 June 1994, has been received from the Permanent Delegation of the European Community.

In accordance with Article 15 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (the Anti-Dumping Code), the European Community requests consultations with the United States concerning the

preliminary affirmative dumping determination against *inter alia* the Netherlands concerning the imports of Colour Negative Photographic Paper and Chemical Components thereof (published 29.3.1994).

On 29 March the US Department of Commerce (DoC) imposed provisional anti-dumping duties on imports of photographic paper from the Netherlands (321.23 per cent). The exports from the Netherlands are produced in a plant owned by Fuji, the biggest Japanese producer of the product.

While the dumping-margin for Fuji Japan is based on a price to price comparison, the margin for the Netherlands is partly also based on data pertaining to the Japanese market. This is the consequence of the application of the so called Multinational Corporation Clause (section 773(d) of the Tariff Act of 1930), which was apparently created to be used against production of multinational companies in third countries, which is not supplying the market of these countries, but only export markets in order to circumvent existing or potential anti-dumping duties. The European Community is of the opinion that a recourse to section 773(d) was not warranted in the present case as, *inter alia*, the majority of the production of Fuji's plant in the Netherlands is sold on the Dutch and European markets.

In any event, the use of the MNC clause appears to be inconsistent with, *inter alia*, Article 2.4 of the Anti-Dumping Code, because in cases of no or insufficient sales on the domestic market of an exporting country the only possibility to establish the normal value are sales to third countries or constructed value. The Code does not provide for any other method to calculate the normal value.

The European Community reserves its rights to raise any other issue concerning this case during the coming consultations.

The Community considers this to a matter of great urgency and would therefore request consultations to take place during the second week of July (11-15.7.1994).