

**INDIA - ANTI-DUMPING MEASURES ON CERTAIN PRODUCTS
FROM THE
SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU**

Request for Consultations by the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu

The following communication, dated 28 October 2004, from the delegation of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu to the delegation of India and to the Chairperson of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with India pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes, Article XXIII:1 of the General Agreement on Tariffs and Trade 1994 (the "GATT 1994") and Article 17.3 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the "Anti-Dumping Agreement") regarding the provisional and definitive anti-dumping measures imposed by India on certain products as listed in the Annex.

The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu considers that, in the cases mentioned in the Annex, the investigations were conducted and the determinations were made in violation of India's obligations under the GATT 1994 and the Anti-Dumping Agreement. Our concerns include, but are not limited to, the following aspects:

- the Indian authorities seemed to reject quasi-systematically the information provided by our exporters, without providing reasons why they did not accept the submitted evidence or information and without providing the exporters with the opportunity to provide further information;
- the Indian authorities did not seem to satisfy themselves during the course of the investigation as to the accuracy and reliability of information supplied by interested parties, in particular by the domestic industry;
- the Indian authorities initiated anti-dumping investigations and imposed anti-dumping duties while no imports of the product concerned appeared to have been made from us into India during the Period of Investigation;
- where the determination of the normal value and export price was based on the "best available information", the Indian authorities did not seem to have established clearly the source and reliability of such information;
- the Indian authorities did not correctly determine the normal value and export price;

- the determination of injury appears not to be based on positive evidence and not to involve an objective examination;
- the Indian authorities did not examine all injury factors mentioned by Article 3.4 of the Anti-Dumping Agreement;
- the Indian authorities seemed to make its determination of the threat of material injury not on facts but merely on allegation, conjecture or remote possibility;
- the Indian authorities have not demonstrated that the dumped imports were causing the alleged injury, and failed to examine any other known factors and to ensure that alleged injury caused by those other factors was not attributed to dumping;
- the Indian authorities did not provide interested parties with the full opportunity for the defence of their interests;
- provisional measures were imposed for more than the period of time allowed under Article 7.4;
- the Indian authorities did not inform the interested parties the essential facts under consideration which form the basis for the decision whether to apply definitive measures;
- the petitions for the initiation of investigations appear not to be sufficiently substantiated on the existence of dumping, injury and the establishment of the normal value and the export price;
- the notice of initiation of investigations did not contain all the grounds that support dumping and injury;
- the notice of definitive findings did not contain all relevant information of facts and law and reasons which led to the imposition of the anti-dumping measures.

For the above reasons, the anti-dumping measures at issue appear to be inconsistent with India's obligations under the GATT 1994 and the Anti-Dumping Agreement, thereby nullifying or impairing the benefits accrued to us under those Agreements.

More specifically, we consider that the anti-dumping measures at issue are violating, *inter alia*, the following provisions of the GATT 1994 and the Anti-Dumping Agreement:

- Articles VI:1 and VI:2 of GATT 1994;
- Articles 1, 2, 3.1, 3.2, 3.4, 3.3, 3.5, 3.7, 3.8, 4, 5, 6 (including Annex II), 7.4, 12.1 and 12.2 of the Anti-Dumping Agreement.

We reserve the right to raise additional claims and legal matters regarding the measures listed in the Annex and determinations during the course of the consultations.

We look forward to receiving your reply to the present request and to fixing a mutually convenient date and venue for consultations in this regard.

**Annex: Indian anti-dumping measures imposed on certain products
originating in Chinese Taipei**

	Product	Case number	Date of imposition of definitive measures
1	Acrylic fibres	No. 27/1/99-DGAD	18/07/2000
2	Analgin	No. 66/1/2000-DGAD	08/10/2001
3	Potassium permanganate	No. 46/1/2000-DGAD	01/11/2001
4	Paracetamol	No. 60/1/2000-DGAD	27/03/2002
5	Sodium nitrite	No. 54/1/2001-DGAD	29/11/2002
6	Caustic soda	No. 14/39/2002-DGAD	14/11/2003
7	Green veneer tape	No. 14/50/2002-DGAD	9/02/2004
