

b) Definition of industry in agricultural products: Under current rules, the definition of industry can result in situations where the market structure of particular industries, and the particular nature of trade in the agricultural sector, could preclude the application of anti-dumping duties even when the dumped imports are shown to directly causing injury. A special provision could be made for clarifying the term "domestic industry" in instances where, by virtue of the particular market structure of an industry based on agricultural inputs, injury caused or threatened by imports of partly or minimally processed agricultural products can be transmitted to producers who have a coincidence of interests in respect of imports of those products and are situated along the same chain of production.

c) Minimum period of time before imposing provisional measures: Article 6 of the Code provides that interested parties should be given the opportunity to present evidence and offer rebuttal arguments. The investigating authorities should ensure that such responses and information are fully taken into account, such that a preliminary determination of dumping should not normally be made sooner than 60 days following the initiation, unless the product involved has been previously investigated or there exists a situation of massive importation.

With respect to massive importation and repeated dumping of a product, it is desirable given the concerns which have been expressed, that the Group assess whether the existing provisions of the Code to impose provisional duties afford adequate and effective remedies to deal with injury related to massive imports of dumped goods over a short period of time and to deal with the disruption caused by repeated dumping. In examining any improvements to the existing provisions to deal with these circumstances, the Group will wish to ensure that adequate standards of evidence and transparency are maintained.

d) Amount for administrative and selling expenses and profits when establishing normal value for constructed value cases: Article 2.4 of the Code requires that when the normal value is determined on the basis of the cost of production in the country of origin, it should include "a reasonable amount for administrative, selling and any other costs and for profits." This provision should be clarified to stipulate that actual data be used for administrative and selling costs and the amount of profit, whenever available and verified by the investigating authorities. Where the amount of profit cannot be directly determined, investigating authorities provide for an amount of profit not exceeding the profit normally realized on sales of representative products produced and sold in the domestic market, preferably by the company under investigation or alternatively profits earned by other vendors on sales of representative products.