

i) Use of best information available: When any interested party does not provide the necessary information, or significantly impedes the investigation, investigating authorities have the right to base findings on the facts available. However, in this regard, investigating authorities should follow the directives given in the Anti-dumping Practices Committee Recommendation of 1984 concerning the use of best information available.

j) Determination of threat of material injury: Article 3.6 of the Code requires that a determination of threat of material injury should be based on facts and not merely on allegation, conjecture, or remote possibility. Steps should be taken to include in Article 3.6 of the Code the elements contained in the Anti-dumping Committee Recommendation of 1985 concerning the determination of threat of material injury.

k) On-The-Spot Investigation: The verification of information at the premise of the exporter is often required to complete an investigation. Procedures governing on-the-spot investigations elaborated in the Anti-dumping Practices Committee Recommendation of 1983 should be enshrined in the provisions of the Code.

II. IMPROVING STANDARDS FOR APPLICATION OF ANTI-DUMPING MEASURES

Article VI and the Anti-dumping Code, while recognizing the legitimacy of anti-dumping measures when necessary to remedy injurious dumping, also commits Parties to ensure that such remedial actions do not unduly disrupt trade. The experience gained over the past decade suggests certain areas where the operation of the Code could be improved to better reflect the balanced objectives set out in Article VI and in the Code Preamble.

a) Sales below cost: Under current rules, sales below cost can be either excluded from the calculation of the normal value or the presence of such sales can trigger the use of an alternative method (e.g. third market sales, constructed value). More specific guidance is required to assist in determining when and under which circumstances sales below cost should be disregarded and excluded in the calculation of the normal value.

As a general rule, sales below cost should only be excluded from the calculation of the normal value when made in substantial quantities and over a significant period of time. In addition, the investigating authorities, in determining that sales below cost are to be disregarded, should take due account of the particular nature of the industry, the time period of the investigation as compared to the industry's normal business cycle, the normal amortization period for capital and development costs, and the degree of expectation of full recovery of costs plus profit within a reasonable period of time. In instances where sales below cost are disregarded, the