

**ANTI-DUMPING TECHNICAL GROUP
DETAILED AGENDA FOR OUR MEETING OF 28-29 APRIL 2016**

DETAILED AGENDA¹

Dear colleagues,

In my fax of 17 February, I proposed that the Technical Group take up, at its April meeting, two related issues, which represent alternative (or perhaps I should better say complementary) techniques for ensuring a fair comparison between the export price and the normal value: *product matching and adjustments*. I further indicated that I would be following up with a more detailed agenda providing greater specificity regarding the issues to be discussed. I would now like to elaborate somewhat on issues that delegations may want to discuss at that meeting.

Product (and other) Matching. Regarding matching, I propose that we first consider issues relating to the *gathering* of the relevant information. Do you ask complainants to include in their applications information about product categorization and matching? Do you conduct your own research on these issues? Do you seek inputs from exporters through a specific preliminary questionnaire? Do you provide an early opportunity for comment to interested parties? Regarding the *substantive criteria* relevant to matching, what core criteria do you rely upon (physical characteristics, market characteristics, cost differences, end-uses?). Which ones do you place most weight upon? Regarding *assessment*, do you provide exporters with information about the criteria used? When? What if the information provided is not consistent with your criteria? Do you use software tools to match products? Finally, do you engage in matching of transactions on bases other than characteristics of the product itself? For example, do you match based upon levels of trade? Quantities? Sub-periods of the POI?

Adjustments. Generally, why do you make adjustments? Are they warranted wherever there are differences in costs? Do you make adjustments to the export prices, normal values or both? How do you deal with overlaps between different types of adjustments? Regarding differences in *conditions and terms of sale*, do you provide a list of such possible adjustments to exporters? What types of requests for adjustments do you typically receive? Does the questionnaire indicate the information needed to support requests for adjustments, and how should an exporter can demonstrate an effect on price comparability? How do you treat non-transaction-specific expenses, such as advertising expenses? Regarding differences in *physical characteristics*, how do you evaluate whether a physical difference warrants an adjustment to maintain price comparability? Who bears the burden of demonstrating that the difference affects price comparability? Do you take into account cost differences? What if there are price differences but no cost differences between models? Why do you make *level of trade* adjustments? Are you simply concerned with differences in types of customers, or about different functions performed, and costs incurred, by exporters at different levels of trade? Do you have pre-determined customer categories? Regarding differences in *quantities*, under what circumstances would such differences be considered to affect price comparability? Do you have standard tests or thresholds? To what extent do adjustments for differences of level of trade and quantities overlap? Regarding differences in *taxation*, what kind of information do you require? Do you always make duty drawback adjustments, or only in cases where the imported goods subject to duty are used for production in both the home and export markets? What other types of adjustments do you make?

Finally, it might be interesting to explore to what extent you apply the kinds of fair comparison methodologies you use in dumping margin calculations in the *injury context*, for example when examining price undercutting.

This is by no means a comprehensive list of issues, but I hope it provides you with some orientation. This is a highly technical area, and I would encourage you all to identify other areas that I have surely missed regarding these matters. I look forward to seeing you in April.

¹ This detailed agenda was originally circulated via fax by Hannes Welge, Chairman of the Technical Group, on 11 March 2016.

Thursday, 28 April 2016

**FAIR COMPARISON:
PRODUCT MATCH AND ADJUSTMENTS**

OUTLINE OF ISSUES

Technical Group, April 2016

The Anti-Dumping Agreement requires that a fair comparison be made between the export price and normal value. Thus, the authorities must examine the export transactions of the subject merchandise, and ensure that the home market transactions to which they are compared are comparable. Authorities typically achieve this objective through some combination of two approaches: matching and adjustments. Thus, authorities may group similar transactions in the export market and in the domestic market of the exporter for comparison purposes. This is matching. To the extent that matching is not sufficient to ensure comparability, authorities also make adjustments to take into account differences between transactions being compared.

1. Gathering information for matching and adjustments

- Do you ask complainants to provide information, either in the application or after the initiation, which will be used for product categorization, matching and adjustments? Do you verify such information?
 - How do you address issues related to the complainants' possible unfamiliarity with the manner in which exporters categorize their products?
- Do you conduct research about the product, including differences between products and possible categorizations of different product types, prior to initiation of the investigation? If so, what kind of sources do you use?
- Do you send preliminary questionnaires to the exporters to identify product differences and define possible product categorizations prior to sending main questionnaires? If so,
 - What kind of information do you request?
 - Do you have a set of standard questions, or
 - Do you prepare these questionnaires on a case-by-case basis?
- Do you have a comment period before issuance of the main questionnaire when interested parties can express views about product categorization, matching and differences in product characteristics?
- Are exporters aware of the product categorizations at the time they respond to the questionnaires? More specifically,
 - Do you provide pre-established definitions or guidelines in the exporter questionnaires with respect to categorization of different product types, or
 - Do you ask exporters to make their own categorization?
- What kind of information do you request from exporters to be used for product matching and adjustments? Do you have a pre-established set of questions to match product types, or do you generate criteria to this end for each specific case? When this is the case, do the exporters have an opportunity to participate in this process or to make comments?

2. Product and other Matching

a. Substantive criteria

- What are the core criteria used for product categorization?
 - The physical characteristics of the products?
 - Degree of substitutability of the products?
 - Differences/similarities in the materials used, design, and production process?
 - Differences in cost of production?
 - Specifications used by the industry and/or the exporter/producer itself?
 - Internal product coding system used by individual exporter/producer?
 - Functions and/or application field of the products?
 - Quality?
 - Tariff classification?
 - Customer preferences and perceptions?
 - Distribution channels?
 - Branding?
 - Other factors?
- Do any of the criteria have greater weight? Or do you apply a pre-established formula to combine multiple factors which are taken into consideration in product classification?
- How do you decide what differences in physical characteristics are important enough to categorize a group of products? Will you make adjustments with respect to differences that you have not used for the purpose of matching?

b. Assessing the information

- Do you provide information to the exporters about the criteria used for product matching? Do the exporters have an opportunity to comment on that product matching? If so, at what stage does this occur?
- What do you do when the information submitted by the exporters is not consistent with the criteria suggested by the complainants or established by the investigating authority?
- Do you use a standard set of rules on product matching for each exporter involved in the investigation? Or do you use tailor-made solutions for each individual exporter?
- How do you deal with the data provided by the exporters when there are multiple factors affecting product categorization? Do you employ software support to match product types with multiple characteristics? If this is the case, is the software used flexible enough to reflect the special requirements of the investigation and the exporter involved?

c. Matching based on criteria other than product characteristics

- Do you ever engage in matching with respect to factors other than product characteristics?
 - Level of trade?
 - Quantities?
 - Sub-periods of the POI?
- If you engaged in matching for sub-periods of the POI, in what circumstances? Is it related to the existence of price fluctuations during the POI? Exchange rate variations? Other reasons?

3. Adjustments

a. Why, how and where do you make adjustments?

- Are adjustments required or appropriate wherever there are differences in costs?
- Do you make adjustments to the export prices, normal values or to both?
- How do you deal with possible overlaps between different types of adjustments?

b. How do you ensure that a fair comparison is made in respect of differences in conditions and terms of sale?

- Do you provide a list of items that might be subject to adjustment claims in the exporter questionnaires? If yes, is this an exhaustive list?
- For what type of differences in conditions and terms of sale do you receive requests for adjustments? Warranties? After-sales service? Financing? Payment terms? Commissions? Discounts? Rebates?
- Do you clarify in the questionnaires what kind of information and/or supporting document is needed to claim each specific adjustment?
- Do you provide any guidance to exporters concerning how to demonstrate the effect on price comparability of specific items for which adjustments are sought? What kind of evidence is required to demonstrate the effect on price comparability?
- Do you take into consideration "indirect selling expenses", i.e., expenses which are not transaction-specific, such as advertising expenses? If so, how? Do you apply a general allocation method for non-transaction specific selling expenses?

c. How do you ensure that a fair comparison is made in respect of differences between products?

- What kind of information is needed to identify differences in physical characteristics?
- How do you evaluate the identified differences in physical characteristics to see whether an adjustment is required to maintain price comparability?
- What kind of information is needed to show that the price of the products differs as a function of these differences in physical characteristics? How do you quantify the price effects of differences in physical characteristics?
- Who has the burden of proof? Do you evaluate identified differences in physical characteristics with respect to their effects on price comparability on your own initiative, or only where a party asserts an effect on price comparability? What kind of information should be provided by the exporters or other parties to demonstrate that these differences affect price comparability?
- Do you take into consideration the cost of production of products which have different physical characteristics? How significant must the cost difference be to demonstrate that it affects price comparability? What happens if there is no significant difference in cost of production while there is different pricing?
- Under what circumstances do you disregard differences in physical characteristics?
- How do you apply and calculate these adjustments?

d. How do you ensure that a fair comparison is made in respect of differences in levels of trade?

- Why do you make level of trade adjustments? Are they based simply upon differences in the types of customers, or are you concerned about the differing functions performed, and costs incurred, by exporters associated with sales at different levels of trade?

- What are the criteria applied to determine different customer categories, what kind of information is needed?
- Do you have pre-established rules or guidelines to categorize customers, or do you make/check this categorization on a case-by-case basis?
- Under what conditions are differences in customer categories taken into account?
- To what extent do level of trade adjustments overlap with adjustments for differences in quantities, discussed below?
- Who has the burden of proof?
- How do you quantify the differences in price applied to different customer categories?
- How do you apply these adjustments?

e. How do you ensure that a fair comparison is made in respect of quantities?

- Under what circumstances are differences in quantity considered to affect price comparability?
- Do you have a standard test or guideline to check to demonstrate a difference in prices linked to sales volume?
- Do you apply a threshold when determining whether price differences are meaningful and can be subject to adjustments?
- What kind of information is needed to make adjustments with regard sales volume? Who has the burden of proof?
- How do you apply these adjustments?

f. How do you ensure that a fair comparison is made in respect of differences in taxation?

- What kind of information do you require with respect to indirect taxes, duty drawback, or any other taxes claimed for adjustment?
- With respect to duty drawback, do you always make an adjustment? Or do you make an adjustment only where the imported goods subject to duty are used in production both for the home and export markets?

g. What other types of adjustments do you make?

- Differences in packaging costs? Freight? Insurance? Differences in pricing of inputs depending upon the market in which the finished product is sold?
- Do you make a distinction between pre- and post-FOB adjustments in your system. What is the significance, if any, of this distinction?

h. Does the methodology applied to make adjustments differ depending on the comparison methodologies used (either W-t-W or T-t-T)?

4. Comparison in injury determinations

- To what extent do you apply in the context of injury determinations (for example, when examining price undercutting) the same methodologies for ensuring comparability that you use when calculating dumping margins? To what extent do the methodologies differ? Why?
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