Article VI
Anti-dumping and Countervailing Duties

1. The contracting parties recognize that dumping, by which products of one country are introduced into the commerce of another country at less than the normal value of the products, is to be condemned if it causes or threatens material injury to an established industry in the territory of a contracting party or materially retards the establishment of a domestic industry. For the purposes of this Article, a product is to be considered as being introduced into the commerce of an importing country at less than its normal value, if the price of the product exported from one country to another
   (a) is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country, or,
   (b) in the absence of such domestic price, is less than either
      (i) the highest comparable price for the like product for export to any third country in the ordinary course of trade, or
      (ii) the cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit.
Due allowance shall be made in each case for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.*

2. In order to offset or prevent dumping, a contracting party may levy on any dumped product an anti-dumping duty not greater in amount than the margin of dumping in respect of such product. For the purposes of this Article, the margin of dumping is the price difference determined in accordance with the provisions of paragraph 1.*

3. No countervailing duty shall be levied on any product of the territory of any contracting party imported into the territory of another contracting party in excess of an amount equal to the estimated bounty or subsidy determined to have been granted, directly or indirectly, on the manufacture, production or export of such product in the country of origin or exportation, including any special subsidy to the transportation of a particular product. The term “countervailing duty” shall be understood to mean a special duty levied for the purpose of offsetting any bounty or subsidy bestowed, directly or indirectly, upon the manufacture, production or export of any merchandise.*

4. No product of the territory of any contracting party imported into the territory of any other contracting party shall be subject to anti-dumping or countervailing duty by reason of the exemption of such product from duties or taxes borne by the like product when destined for consumption in the country of origin or exportation, or by reason of the refund of such duties or taxes.

5. No product of the territory of any contracting party imported into the territory of any other contracting party shall be subject to both anti-dumping and countervailing duties to compensate for the same situation of dumping or export subsidization.

6. (a) No contracting party shall levy any anti-dumping or countervailing duty on the importation of any product of the territory of another contracting party unless it determines that the effect of the dumping or subsidization, as the case may be, is such as to cause or threaten material injury to an established domestic industry, or is such as to retard materially the establishment of a domestic industry.
(b) The CONTRACTING PARTIES may waive the requirement of subparagraph (a) of this paragraph so as to permit a contracting party to levy an anti-dumping or countervailing duty on the importation of any product for the purpose of offsetting dumping or subsidization which causes or threatens material injury to an industry in the territory of another contracting party exporting the product concerned to the territory of the importing contracting party. The CONTRACTING PARTIES shall waive the requirements of subparagraph (a) of this paragraph, so as to permit the levying of a countervailing duty, in cases in which they find that a subsidy is causing or threatening material injury to an industry in the territory of another contracting party exporting the product concerned to the territory of the importing contracting party.*
(c) In exceptional circumstances, however, where delay might cause damage which would be difficult to repair, a contracting party may levy a countervailing duty for the purpose referred to in subparagraph (b) of this paragraph without the prior approval of the CONTRACTING PARTIES; Provided that such action shall
be reported immediately to the CONTRACTING PARTIES and that the counter-
vailing duty shall be withdrawn promptly if the CONTRACTING PARTIES disap-
prove.

7. A system for the stabilization of the domestic price or of the return to domestic
producers of a primary commodity, independently of the movements of export prices,
which results at times in the sale of the commodity for export at a price lower than
the comparable price charged for the like commodity to buyers in the domestic mar-
ket, shall be presumed not to result in material injury within the meaning of paragraph
6 if it is determined by consultation among the contracting parties substantially inter-
ested in the commodity concerned that:

(a) the system has also resulted in the sale of the commodity for export at a price
higher than the comparable price charged for the like commodity to buyers in the
domestic market, and

(b) the system is so operated, either because of the effective regulation of production,
or otherwise, as not to stimulate exports unduly or otherwise seriously prejudice
the interests of other contracting parties.

ANNEX I
NOTES AND SUPPLEMENTARY PROVISIONS

Ad Article VI

Paragraph 1

1. Hidden dumping by associated houses (that is, the sale by an importer at a price below
that corresponding to the price invoiced by an exporter with whom the importer is
associated, and also below the price in the exporting country) constitutes a form of
price dumping with respect to which the margin of dumping may be calculated on the
basis of the price at which the goods are resold by the importer.

2. It is recognized that, in the case of imports from a country which has a complete or
substantially complete monopoly of its trade and where all domestic prices are fixed
by the State, special dif
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culties may exist in determining price comparability for the
purposes of paragraph 1, and in such cases importing contracting parties may
find it necessary to take into account the possibility that a strict comparison with domestic
prices in such a country may not always be appropriate.

Paragraphs 2 and 3

1. As in many other cases in customs administration, a contracting party may require
reasonable security (bond or cash deposit) for the payment of anti-dumping or coun-
tervailing duty pending final determination of the facts in any case of suspected dump-
ing or subsidization.

2. Multiple currency practices can in certain circumstances constitute a subsidy to exports
which may be met by countervailing duties under paragraph 3 or can constitute a form
of dumping by means of a partial depreciation of a country’s currency which may be
met by action under paragraph 2. By “multiple currency practices” is meant practices
by governments or sanctioned by governments.

Paragraph 6 (b)

Waivers under the provisions of this subparagraph shall be granted only on application
by the contracting party proposing to levy an anti-dumping or countervailing duty, as the
case may be.

Bibliography

J. Jackson, World Trade and the Law of the GATT, 1969; G. Marceau, Anti-Dumping and
Anti-Trust Issues in Free-Trade Areas, 1994; WTO, Analytical Index: Guide to GATT Law