

7. Immediately after the imposition of provisional measures the Member State imposing the measures shall provide the other Member State with the information relevant to the grounds on which the measures were imposed.

8. If a Member State (hereinafter in this paragraph called "the first Member State") is of the opinion that goods imported into the territory of the other Member State from outside the Area are being dumped and that this dumping is causing material injury or threatening to cause material injury to an industry located in the first Member State, the other Member State shall, at the written request of the first Member State examine the possibility of taking action, consistent with its international obligations, to prevent material injury.

Article 16

Countervailing action

1. Neither Member State shall levy countervailing duties on goods imported from the territory of the other Member State, except:

- (a) in accordance with its international obligations under the General Agreement on Tariffs and Trade and the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade, done at Geneva on 12 April 1979 (hereinafter in this Article called the "Subsidies Code");
- (b) in accordance with this Article; and
- (c) when no mutually acceptable alternative course of action has been determined by the Member States.

2. In any action pursuant to this Article, the Member States shall have regard to the objectives of this Agreement and to Article 9 of this Agreement.

3. A Member State shall not take countervailing action unless, as provided in the Subsidies Code, it has found in respect of goods imported from the territory of the other Member State that there exists a subsidy on those goods and that such subsidized goods are causing material injury or threatening to cause material injury to a domestic industry or are materially retarding the establishment of such an industry in the territory of the first Member State. Hereinafter in this Article except in paragraph 8 the term "injury" shall mean:

- (a) material injury to a domestic industry;
- (b) the threat of material injury to a domestic industry; or
- (c) material retardation of the establishment of an industry.

4. Immediately following the acceptance of a request for the initiation of any countervailing action and throughout any investigations or further action which it may take in respect of such a request, a Member State shall:

- (a) provide advice to the other Member State of the acceptance of a request and give due and proper notice of the taking of any subsequent step or steps in the action, including the making of a decision that there is sufficient evidence to warrant initiating a formal investigation;

- (b) offer full access to all non-confidential evidence relating to the goods which are the subject of the request, the existence and amount of any subsidy in respect of those goods, the nature and degree of the alleged injury, and the causal link between the subsidised goods and the alleged injury; and
- (c) afford to the other Member State full opportunity for consultations in respect of any matter arising from any investigations or further action which may ensue including the assessment of the level of any countervailing duty which may be levied.

5. Notwithstanding paragraph 4 of this Article, a Member State may impose provisional measures, including the taking of securities in accordance with the Subsidies Code, provided all the following conditions are met:

- (a) a finding has been made by that Member State that a subsidy exists, that there is sufficient evidence of injury to a domestic industry, and that a causal link exists between the subsidised goods and the injury;
- (b) the imposition of provisional measures is judged necessary in order to prevent further injury during the period of the investigation;
- (c) the imposition of provisional measures is limited to as short a period as possible, not exceeding four months;
- (d) the provisional measures do not exceed the provisionally calculated amount of subsidisation; and
- (e) prior written notice of an imposition of provisional measures has been provided to the other Member State at least 24 hours before such measures are imposed.

6. In respect of any countervailing action taken pursuant to previous paragraphs of this Article, each Member State shall co-operate:

- (a) to take all practicable steps to expedite procedures in order to reach a mutually satisfactory solution;
- (b) to give access to relevant non-confidential information to the fullest extent possible; and
- (c) subject to the Subsidies Code, to facilitate investigations within its territory.

7. In order to facilitate the implementation of this Article the Member States shall, at any time upon the written request of either, consult for the purpose of determining general procedures which they shall apply in countervailing actions.

8. If a Member State (hereinafter in this paragraph called "the first Member State") is of the opinion that goods imported into the territory of the other Member State from outside the Area are being subsidised by a third country and that this subsidisation is causing or is threatening to cause material injury to an industry located in the territory of the first Member State the other Member State shall, at the written request of the first Member State, examine the possibility of taking action, consistent with its international obligations, to prevent material injury.

9. Should one or other of the agreements referred to in paragraph 1 of this Article cease to apply to either Member State, the Member States shall promptly enter into consultations at the written request of either in order to establish alternative arrangements to this Article.