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Technical Annex

**The Antidumping Negotiations: Proposals, Positions
and Antidumping Profiles**

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This document is the technical annex to the full paper “The Antidumping Negotiations:
Proposals, Positions and Antidumping Profiles” which is available separately.

Antidumping Law and Processes

Antidumping cases are initiated by importing countries to investigate the alleged dumping of goods by foreign firms into their domestic markets. An exporting country is said to be dumping when it sells its goods abroad for a price that is either lower than the price it sells the goods for domestically or is below the cost of production. Usually, representatives of import-competing firms petition their national authorities for the initiation of an investigation. If filing requirements are met, the national authorities conduct an investigation to determine if the foreign firm has engaged in dumping. The national authorities must also determine that an industry is materially injured or threatened with material injury, or that the establishment of an industry is materially

retarded by reason of imports being sold at less than their “normal value”. If both conditions are met (dumping and injury), the national authorities can implement antidumping duties on these imports. If both conditions are not met, the investigation is terminated. A third possible outcome from an antidumping investigation is a price undertaking. Price undertakings, provided for under WTO rules, occur when the exporter reaches an agreement with the investigating authorities of the importing country to raise its export price to a level sufficiently high to eliminate injury. Duties and price undertakings have the same effect on trade, but in the case of the former the importer collects revenue from the duty while with an undertaking it goes to the exporter.

Several definitions are pivotal in the determination of dumping. First, normal value is the price charged by exporters in their home market. According to the WTO, when a firm sells a product in a foreign market at less than the price in the home market (normal value), that product is considered as being dumped (WTO, 2005). In some cases the national authorities decide that prices in the exporter’s home market are not suitable to use in the calculation of dumping due to inadequate sales or because sales occurred between affiliated companies operating at less than arm’s-length. In this case, the national authorities can use prices from a third-country market or can construct the normal value using production costs, other expenses, and a specified profit margin. National authorities can also construct the export market price under certain conditions. Rules govern the comparison between normal value and prices in the export market used to establish the margin of dumping, which is the upper bound for the duty that the importers can apply. As a result of the Uruguay Round Agreement, the WTO now imposes a five-year limit to the imposition of these duties (the “sunset clause”), unless the investigating authorities conclude, “removal of the duty would be likely to lead to continuation or recurrence of dumping and injury” (GATT Secretariat, 1994). Specified parties can request a review of duties before five years have elapsed. Numerous aspects of the investigation, imposition, implementation, and review of antidumping duties are detailed in the WTO agreement.