

unless the authorities determine – in the context of a sunset review – that the expiry of the duty ‘would be likely to lead to continuation or recurrence of dumping and injury’. As with many other WTO agreements, the *Anti-Dumping Agreement* contains a provision relating to special and differential treatment for developing-country Members. Article 15 of the *Anti-Dumping Agreement* requires developed-country Members to explore ‘possibilities of constructive remedies’ provided for by the *Anti-Dumping Agreement* before applying anti-dumping duties, where such duties would affect the essential interests of developing-country Members.

Finally, the *Anti-Dumping Agreement* provides for two special rules with regard to the standard of review that applies to disputes concerning anti-dumping measures taken by national investigating authorities. The first rule relates to the objective, proper and unbiased assessment of the facts, and the second rule provides for the possibility that a provision of the Agreement may admit of more than one permissible interpretation.

Exercise 11: Dirty Play, but by Whom?

Newland has three important manufacturers of furniture: AEKI, Schoeder and StyleMark. Together, they represent 70 per cent of the domestic furniture industry. Many small manufacturers make up the rest of the industry. Over the last few years, all manufacturers of furniture in Newland have been exporting an ever increasing part of their production to Richland, as the trendy but cheap furniture from Newland is quite popular with consumers in Richland.

The furniture industry in Richland is not happy with this development. The market share of the domestic furniture manufacturers has steadily decreased over recent years and many of the smaller manufacturers are going out of business. The six major furniture manufacturers, which together represent about 56 per cent of total furniture production in Richland, want to take action against the imports of furniture from Newland. They request the Government of Richland to impose anti-dumping on the furniture imported from Newland or to take any other action that would reduce the flow of furniture from Newland. They are convinced that the furniture from Newland is sold on the market of Richland at prices far below the cost of production. They claim that this is the case in particular for bedroom furniture produced by AEKI and StyleMark. However, upon reflection, Ikelea, one of the six Richland furniture manufacturers, loses interest in the initiation of an anti-dumping investigation. Ikelea has a joint venture with Newland manufacturer StyleMark that operates in a third country.

Alarmed by reports in the *Financial Times* on the calls of the Richland furniture industry for action against imports of furniture from Newland, the Government of Newland turns to the Advisory Centre on WTO Law (ACWL) for legal advice on whether, and under what conditions, Richland may, consistent with WTO law, impose anti-dumping duties or take any other action. Newland also wants to know what procedures WTO law prescribes for the imposition of anti-dumping duties. Should Richland be allowed to impose such duties, Newland wants to know: (1) whether duties may be imposed on all furniture imported from Newland; (2) the maximum level of duties that may be applied; and (3) the maximum length of time duties may be imposed.

The Executive Director of the ACWL has instructed you, a junior lawyer at the Centre, to prepare a presentation for a group of Newland trade officials and representatives of the Newland furniture industry addressing the concerns and queries put forward by the Government of Newland.