

**Korea – Anti-dumping Duties on
Imports of Certain Paper from Indonesia**
(WT/DS312)

March 1, 2005

Answer of the United States to the Question from Korea

Question 11:

To the United States: When an investigating authority defines the domestic industry to exclude domestic producers that imported significant quantities of the product under consideration, is it sufficient for the authorities to conduct the injury analysis based on the impact of the dumped imports on the domestic industry defined in that manner? Or, must the investigating authorities further consider the reasons why the domestic producers that were excluded from the domestic industry decided to import the product under consideration?

A domestic producer's reasons for importing subject merchandise may be one of any number of factors that an investigating authority may consider in determining *whether* to exclude that producer from the definition of domestic industry.¹ If an investigating authority does determine that it is appropriate to exclude from the domestic industry definition a producer that imports subject merchandise, data specific to that producer presumably would not be considered in assessing, in the injury analysis, the impact of dumped imports on the domestic industry or the volume and price data for the industry. Nothing in the AD Agreement requires the authority to give consideration in the injury analysis to the excluded producer's reasons for importing the subject merchandise.

¹Article 4.1(i) of the AD Agreement, which sets out the definition of "domestic industry," provides that "when producers are related to the exporters or importers or are themselves importers of the allegedly dumped product, the term domestic industry may be interpreted as referring to the rest of the producers." Thus, under Article 4.1(i), investigating authorities have discretion to determine whether to exclude from their consideration of the "domestic industry" those producers that import the allegedly dumped ("subject") product. Article 4.1(i) is silent as to the criteria investigating authorities may examine in making this determination.