

**Korea – Anti-dumping Duties on Imports of Certain Paper from
Indonesia**

DS312

Answer to a question from KOREA

by the European Communities

14 February 2005

1. In the third party session of 2 February 2005, Korea put the following question to the European Communities:

“At what point in an investigation, if any, is an investigating authority permitted to “close” the factual record and limit further participation by the parties to comment on data that has already been submitted?”

2. The European Communities would like to respond as follows.
3. As stated in our written submission, a fair balance must be struck between the interests of an investigating authority to conduct its investigations expeditiously, and the interests of all interested parties (including the domestic industry and the exporter) to be heard. Accordingly, the investigating authority must assess, on a case to case basis, which effect “closing” the factual record and limiting further participation by the parties to comment on the data already submitted would have on the investigation. As such closing effectively puts an end to the right to be heard, it would mainly be justified in situations where the investigation has reached a stage where the investigating authority could no longer satisfy itself of the accuracy (see Art. 6.6) of the newly submitted facts or comments, e.g. by verification visits, or where this would lead to undue prolongation of the investigation (see also Art. 6.14).
4. The need to submit information to the investigative authorities is triggered in a number of ways. First and foremost, the replies to the questionnaire must be mentioned because they play a crucial role in the investigation. This are usually required at a fairly early stage of the investigation, as the subsequent investigation (in particular the verification visits) builds on these replies. Hence, the cut-off date for the questionnaire reply, i.e. a large body of genuinely new information, has to be also at an early stage of the investigation. However, as the investigation progresses parties might find it necessary to react e.g. to submissions made by other parties or to statements by the investigating authority. It will often be possible to take this type of information into consideration even at a fairly late stage, provided it can be cross-checked by reference to other information on the file (e.g. info which has been collected during the on-spot investigation).
5. It follows from the foregoing, that there cannot be one size fits all approach to the question of when the factual record can be “closed”. Rather, the way the specific investigation has unfolded needs to be taken into account carefully in this context