The following communication, dated 4 July 1985, has been received from the Permanent Mission of Austria.

The Agreement on Implementation of Article VI as well as the Agreement on Interpretation and Application of Articles VI, XVI and XXIII have since their acceptance by Austria the status of a law and are implemented as such. They do not require a modification of the Austrian national legislation. The Anti-Dumping Act 1971, however, has been revised in order to correspond closely to the wording of the above-mentioned agreements.

It should be emphasized that the implementation of the said agreements is not linked with the passing into law of the revision of the Anti-Dumping Act 1971. The agreements have furthermore been applied on a de facto basis between 1 January 1980 and the date of their entry into force for Austria.
AUSTRIA

FEDERAL LAW ON MEASURES CONCERNING IMPORTED PRODUCTS WHICH ARE SUBJECT TO DUMPING OR FOR WHICH IN A FOREIGN CUSTOMS TERRITORY PREMIUMS OR SUBSIDIES HAVE BEEN GRANTED

(ANTI-DUMPING LAW 1985)

SECTION I

General Provisions

1. (1) The provisions of this law are applicable when importing products which are subject to dumping or for which in a foreign customs territory premiums or subsidies have been granted.

   (2) Subject to the existing international obligations the provisions of this law do not preclude other measures to be taken on the basis of other federal legal provisions.

2. When importing products which are subject to dumping, an anti-dumping duty shall be levied if the importation of these products causes or threatens to cause material injury to an established industry or materially retards the establishment of an industry the forthcoming establishment of which is envisaged.

3. When importing products for which a premium or a subsidy has been granted in the country of origin or in the exporting country, a countervailing duty shall be levied, provided that the importation of these products causes or threatens to cause material injury to an established industry or materially retards the establishment of an industry.

4. The term "injury" used in this law without further specifications comprises all the cases as defined in paragraphs 2 and 3.

5. The dues mentioned under paragraphs 2 and 3 are exclusively federal dues.
SECTION II

Dumping and Anti-Dumping Duties

6. A product is to be considered as being dumped, if its export price is less than its normal value.

7. (1) The normal value is:

(a) the comparable price in the ordinary course of trade for the like product destined for use or consumption in the exporting country, or

(b) if a comparable price cannot be determined in accordance with the provision of paragraph (a) or the special conditions prevailing on the market do not permit an adequate comparison,

(aa) the highest comparable price for the like products upon exportation to a third country if this price is representative, or

(bb) the sum of production costs in the country of origin for the like product plus a reasonable amount for administrative costs, selling costs and other costs and for profits. The addition for profits shall not exceed profits normally realized on sales of products of the same general category in the domestic market of the country of origin.

(2) Where contractual obligations undertaken by Austria so provide, the normal value is considered to be

a) the selling price for the like product of a third country with a market economy for consumption on the domestic market or for export, or

b) the sum of production costs in a third country with a market economy for the like product plus a reasonable amount for administrative costs, selling costs and other costs and for
profits, whereby the addition for profits shall not exceed profits normally realized on sales of products of the same general category in the domestic market of the country of origin, or

(c) in cases where the normal value established in accordance with the provisions of paragraph (a) or (b) cannot be taken as basis, the comparable price of a merchandise destined for use or consumption in Austria, to be adjusted if and when required by a reasonable profit margin.

(3) If the exporting country is not the country of origin, regardless of paragraph (1) above the price in the country of origin can be taken instead of the price in the exporting country in order to determine the normal value if this corresponds better to the economic situation, particularly if products imported into the exporting country are re-exported without alteration or if such products are not produced in the exporting country or if a comparable price cannot be determined in the exporting country.

(Federal Gazette No 590/1980, art. 1, item i)

8. In cases where there is no export price or where it cannot be taken as a basis because of an association or a compensatory arrangement between the exporter on the one hand and the importer or a third party on the other hand, in order to determine whether a product is subject to dumping, an export price shall be calculated on the basis of the price at which the imported product is first resold to an independent buyer. If the product is not resold to an independent buyer or not resold in the condition as imported, the price which an independent buyer would be charged shall be taken.

9. (1) When comparing normal value and export price, the prices shall be taken for sales made at as nearly as possible the same time at the same level of trade - normally ex factory. Due allowance shall be made for the differences in conditions and terms of sales, for differences in taxation, and for other circumstances affecting
price comparability, in particular differences in quality. In the cases referred to in clause 8 allowance for costs, including import duties and taxes, incurred between importation and resale and for profits accruing, should be made.

(2) Allowance for quantity rebates shall be taken into account only if the exporter proves that he granted generally such quantity rebates of the same amount to all buyers of appropriate quantities in the domestic market or if he proves that by selling large quantities he was able to realize appropriate savings which justify these quantity rebates.

(3) If after taking into account the differences in conditions and terms of sale different selling prices are determined, the selling price which prevails with regard to the quantities sold of products considered for the comparison of prices shall be taken.

10. A product shall not be considered as being dumped if only customs duties or taxes levied on the like product destined for use in the country of origin or the exporting country are not collected or reimbursed.

11. Margin of dumping shall be interpreted to mean the difference in prices established according to the provisions of clauses 6 to 9.

12. (1) Injury or threatening injury in terms of this federal law can be determined only when proof is produced that the import of product subject to dumping, is the principle cause of this injury. Moreover besides the effects of dumped imports on the industry concerned factors adversely effecting this industry shall be taken into account. Upon examination of the question of an injury in terms of this federal law, in addition to the effects of dumped imports on the industry concerned all other factors adversely effecting this industry shall be taken into account. A determination of injury in terms of this federal law can be made only if such injury is or would be material also in the absence of other factors. (Federal Gazette No. 590/1980, art. 1, item 2)
(2) A determination of injury or of threatening injury shall not be based on allegations, conjecture or the remote possibility of a changing situation. The injury must have occurred or the change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent.

(3) A determination of material retardation of an industry the forthcoming establishment of which is envisaged can be made only if the plans for its establishment are so advanced that its establishment has either already started or will be started immediately.

13. (1) A valuation of injury as material in the sense of this federal law shall be based on general judgement of all factors having a bearing on this industry or on their trend development. As such factors are to be considered e.g.: production, turnover, market share, profits, prices, export performance, employment figures, wages, investment and capital procurement possibilities, growth, storage, extent of capacity exploitation of the industry and its productivity, volume of dumped imports, volume and prices of other imports, competition between domestic producers, decline in demand due to a supply of substitute products or to changes in consumer tastes or other factors having a bearing on domestic prices. As for the volume of dumped imports, it shall be investigated whether a material increase of such imports occurred either in absolute terms or in relation to the production or consumption in Austria. With regard to the effects of dumped imports on prices it shall be investigated whether material price-cutting occurred as a result of dumped imports as compared to prices for the like products in Austria or whether such imports exert considerable pressure on prices in any other form or essentially contribute to avoiding price increases that would otherwise have occurred. (Federal Gazette No. 590/1980 art. 1, item 3)

(2) The effect of the dumped imports shall be assessed in relation to the domestic production of the like products when a separate
identification of production is possible in terms of criteria such as the production process, the producers realizations and profits. When separate identification of the industry producing the like product is not possible in terms of such criteria or in the case that appropriate material is not available, the effect of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product for which the necessary information can be provided.

14. (1) "Industry" shall be interpreted as referring to the domestic producers as a whole of the like products or to those of them, whose collective output of the products constitutes a major proportion of the total domestic production.

(2) When, however, producers are commercially related to exporters or importers or are themselves importers of the product, the term "industry" shall be interpreted as referring to the rest of the producers only.

(Federal Gazette No. 590/1980, art. 1, item 4)

15. The expression "the like product" shall be interpreted as referring to a product, which resembles in every respect the product it is compared with or - in the absence of such a product - has at least characteristics closely resembling those of the compared product.

Initiation, implementation and conclusion of investigations

16. Whether or not dumping or injury exists shall be investigated according to the provisions below.

17. (1) The Federal Minister for Commerce, Trade and Industry shall upon request proceed with investigations in the interest of an industry which considers itself injured or threatened by dumping or the establishment of which is materially retarded. When investigations cannot be initiated due to the fact that proof of the alleged dumping and injury cannot be established the applicant shall be informed without unnecessary delay.
(2) Applications according to paragraph (1) can be made at the Federal Ministry for Commerce, Trade and Industry at the Federal Economic Chamber, at the Austrian Federal Chamber of Labour or at the Standing Conference of Presidents of the Austrian Chambers of Agriculture. They shall be done in writing and shall contain the following:

(a) precise description of the product which is the subject of alleged dumping

(b) name of exporting country

(c) name of country of origin, of the producer and of the exporter the product provided this information is available and can be expected to be produced by the applicant, and

(d) material proving the alleged dumping and injury resulting thereof.

(3) When the Federal Minister for Commerce, Trade and Industry has at its disposal material which proves the dumping and injury, investigations can be initiated officially in particularly urgent cases.

(4) The investigations shall be conducted and concluded with due respect for utmost expediency, quickness, simplicity and saving of costs.

18. Upon initiation of investigations representatives of the exporting country or exporting countries, exporters and importers officially known to be concerned, representatives of the industry concerned and, when investigations were introduced upon application, the applicant shall be notified in an appropriate way. The initiation of investigations shall be published in the "Official Gazette of the Wiener Zeitung".

19. (1) During investigation proceedings the persons referred to in clause 18 shall be given opportunity to present within an appropriate period of time all evidence that they consider useful in respect to the investigations. They shall have opportunity to
see all information that is relevant for the representation of their interests that is not confidential and that is used in the investigation by the Federal Ministry for Commerce, Trade and Industry, and to state their views with regard to it within an appropriate period of time.

(2) All information the disclosure of which would be of significant competitive advantage to a competitor or would cause material injury to the person supplying the information or to the person from whom he acquired the information, and information provided by the parties to the investigation on a confidential basis, unless the person who supplied the information specifically permits its disclosure, is considered to be confidential. Such information shall be disclosed only upon explicit consent of the person supplying the information. Such person may be asked to make available a non-confidential summary of the information. If he states that the information does not permit the preparation of such a summary, he shall have to state the reasons therefor.

(Federal Gazette No. 590/1980, art. I, item 6)

(3) On request the persons directly interested shall have the opportunity to meet with persons representing adversary interests so that opposite views may be presented and rebutted if need be. Provision of such opportunities must take into account the need to preserve confidentiality. The failure of individual persons to participate in a meeting shall not be prejudicial to their case when judging the outcome of the investigation.

(1) The evidence produced by persons referred to in clause 18 shall be judged by the Federal Minister for Commerce, Trade and Industry in free evaluation of the evidence. In as far as other satisfactory evidence is not available, investigations may be carried out ex officio or, if necessary, by experts, and, as and when required, with the co-operation of the Federal Minister of Finance, in order to verify the accuracy and completeness of the evidence. With respect to the co-operation of the Minister of Finance, the provisions of article 143 and the following articles of the Federal Law on Taxation, Federal Gazette No. 194/1961, apply accordingly.
(2) The outcome of the investigations according to paragraph (1) may only be used for implementing this federal law.

21. Investigations shall be terminated and the persons referred to in clause 18 shall be notified in an appropriate way if the investigations prove that there is not sufficient evidence of either dumping or of injury. Termination is to be announced in the "Official Gazette of the Wiener Zeitung" together with material assessments and conclusions and a summary of the reasons therefor.
(Federal Gazette No. 590/1980, art. 1, item 7)

22. (1) If the investigations prove that dumping or injury exists after hearing the advisory board (clause 31) a decree shall be issued that on importation of the product concerned an anti-dumping duty shall be levied if this does not have adverse effects on important interests of the economy as a whole.

(2) The decree according to paragraph (1) shall determine the normal value of the product concerned (clause 7) and provide the imposition of an anti-dumping duty amounting to the difference (margin of dumping, clause 11), by which the export price (clauses 8 and 9) falls short of the normal value. Departing from this procedure it can be ruled that an anti-dumping duty amounting only to part of the margin of dumping shall be levied if this offers sufficient remedy with respect to the injury.

(3) A decree according to paragraph (1) shall unless otherwise provided in paragraph (5) contain the following additional information:

(a) the usual commercial description of the dumped product and the corresponding tariff number of the customs tariff (Customs Tariff Law 1958, Federal Gazette No. 74);

(b) the exporting country or the country of origin;

(c) the producer or supplier.
(4) A decree according to paragraph (1) shall be published in the "Official Gazette of the Wiener Zeitung". This publication shall be supplemented by a corresponding publication of all determinations and conclusions in respect of all technical and legal aspects considered material as well as of the reasons and the reference material applied. The respective publication shall be sent to the persons listed in clause 18.

(Federal Gazette No. 590/1980, art. I, item 8)

(5) A designation of the individual producers or suppliers is not necessary when more producers or suppliers of a country or of different countries are concerned.

(6) When more producers or suppliers of one or several countries are concerned, instead of determining the individual normal values a uniform basic price according to paragraph (7) may be determined by decree, provided this offers sufficient remedy for the injury.

(7) Basic price shall be interpreted to mean the lowest price calculated according to clause 7.

23. (1) Upon receipt of a voluntary undertaking by the exporters concerned after the start of investigations either to revise their prices so that the margin of dumping is eliminated or to cease to export the product under consideration to Austria, and, if supervision of such an obligation is considered practicable in particular in view of the number of exporters or potential exporters, the investigations shall not be continued. Investigations shall not be discontinued if compliance with such obligation, especially with regard to the number of exporters or potential exporters, cannot be satisfactorily controlled or a decree in accordance with clause 36 has been issued.

(2) Regardless of the commitment according to paragraph (1) the investigations shall be continued if the exporters concerned so desire. If during these investigations a determination of no injury of an industry is made, the undertaking given by the exporters concerned shall lapse unless the determination of no injury is to be attributed materially to the existence of the price obligation.
(3) Any discontinuation of investigations in accordance with paragraph 1 and any expiry of an obligation in accordance with paragraphs 1 and 2 shall be published in the "Official Gazette of the Wiener Zeitung" together with the essential conclusions and a summary of the reasons therefor.

(Federal Gazette No. 394/1984, Art. I, item 1)

24. Decrees according to clause 22, paragraph (1) enter into force the day following their publication and become ineffective at the latest one year after their publication. They shall be annulled immediately if the circumstances upon which they were based have ceased to exist, or they shall be changed immediately if the circumstances upon which they were based have substantially changed.

25. The authorities of the countries of export or origin shall be notified of the issuance or annulment of a decree under clause 22(1) as well as of the discontinuation of negotiations or expiry of an obligation under clause 23. Such notification shall in the event of a decree under clause 22(1) furnish information on the determinations and conclusions in respect of all technical and legal aspects considered material as well as on the reasons and the reference material applied, and shall in all other instances state the material determinations and conclusions and a summary of the reasons therefor.

(Federal Gazette No. 590/1980, Art. I, item 10)

SECTION III

Premiums, Subsidies and Countervailing Duties

26. (1) When a determination is made that a premium or subsidy for a product is granted directly or indirectly in the country of origin or in the exporting country for the extraction, production or export of this product and when the import of this product causes or threatens to cause material injury to an established industry or materially retards the establishment of an industry a countervailing duty shall be levied by decree upon import of the product concerned if this does not have adverse effects on important interests of the economy as a whole.
(2) By decree according to paragraph (1) the amount of premium or subsidy shall be determined and a countervailing duty shall be levied amounting to the premium or subsidy determined and if need be to the sum of all premiums or subsidies determined including each special subsidy granted for the dispatch of this product. In as far as an injury will be remedied thereby, it shall be possible to decree in derogation of the above that a countervailing duty be levied to the amount of part of the determined premium or subsidy and/or their respective sum only.

(Federal Gazette No. 590/1980, Art. I, item 11)

27. Anti-dumping duties and countervailing duties shall not be collected simultaneously with regard to one product to remedy a condition which either results from dumping or from granting a premium or subsidy.

28. (1) Where the authorities of an export country upon initiation of negotiations agree to abolish or limit the premium or subsidy or to adopt other measures in respect of the consequences involved, and where negative consequences on imports are thereby avoided, investigations shall not be continued.

(2) If the exporters concerned undertake upon the consent of the export country on voluntary basis to change their prices so as to avoid the adverse effect of exports, or to refrain from exporting merchandise under investigation into Austria and if the adverse effect of the dumping is thereby abolished, investigations shall be discontinued.

(3) An obligation according to paragraph (2) shall not be accepted if compliance with the latter especially with regard to the number of exports or potential exporters, cannot be satisfactorily or a decree under clause 37 has been passed.

(4) For the rest section II of this section shall be applied accordingly.

(Federal Gazette No. 394/1984, Art. I, item 2)
SECTION IV
Protection of Third Countries

29. (1) Proceedings according to Sections II and III while taking into account international obligations can be introduced upon request of the authorities of a third country on its behalf if reciprocity is assured.

(2) The provisions of Sections II and III of this federal law shall apply to proceedings according to paragraph (1) considering that upon examination the effects as a whole of alleged dumping or alleged granting of premiums or subsidies on the industry concerned in the third country shall be taken into account. The evaluation of injury shall not be made only with respect to the effects on the exports of the third country's industry whether with regard to Austria or generally.

SECTION V
Investigations Abroad and by Foreign Officials in Austria

30. (1) To the extent that constitutional provisions in State treaties permit, the necessary investigations (clause 20 paragraph (1)) to determine whether or not dumping and injury exists can also be carried out in a foreign State provided the government of this State and the firms concerned agree.

(2) To the extent that constitutional provisions in State treaties permit, the necessary investigations in this course of foreign proceedings to determine whether or not dumping and injury exists can be carried out also by officials of foreign States in Austria with the consent of the Federal Minister for Commerce, Trade and Industry and the domestic firms concerned. Such foreign officials are however not allowed to resort to coercive measures while investigating in Austria.
(3) The consent of the Federal Minister for Commerce, Trade and Industry required according to paragraph (2) shall be refused if reciprocity is not assured.

(4) Necessary investigations in the course of foreign proceedings in Austria in order to determine whether or not dumping or injury exists can also be carried out without prejudice to paragraph (2) by domestic officials upon request of a foreign State if reciprocity is assured.

(5) When investigations cannot be carried out in a foreign State because the government of this State or the firm concerned do not agree, conclusions shall be drawn on the basis of available evidence.

(6) Investigations to be carried out by Austrian officials abroad shall be subject to the principles in force for domestic proceedings unless this is in opposition to foreign provisions.

SECTION VI

Advisory Board

31. (1) For the examination of measures taken under this federal law an advisory board shall be established at the Federal Ministry for Commerce, Trade and Industry.

(2) The advisory board shall be convened without delay by the Federal Minister for Commerce, Trade and Industry if this federal law provides for its consent. Respective invitations shall be dispatched together with information on the main facts.

(Federal Gazette No. 666/1978, Art. I, item 1)

(3) The advisory board shall decide with simple majority about its rules of procedure which shall be approved by the Federal Minister for Commerce, Trade and Industry. The rules of procedure shall organize the activities of the advisory board with utmost expediency taking account of paragraphs (1) and (2). The rules of procedure shall be approved when this requirement is met.
32. (1) The advisory board shall be constituted as follows:

(a) two representatives of the Federal Ministry for Commerce, Trade and Industry and one representative of the Federal Ministry of Interior, the Federal Ministry for Social Administration, the Federal Ministry for Finance and the Federal Ministry for Agriculture and Forestry respectively;

(b) one representative of the Federal Economic Chamber, the Federal Chamber of Labour, the Standing Conference of the Presidents of the Austrian Chambers of Agriculture and the Austrian Federation of Trade Unions respectively.

(2) Apart from persons referred to in paragraph (1) other persons can participate in the meetings of the advisory board as experts with the consent of the chairman (clause 33, paragraph (1)).

(3) All persons invited to or participating in the meetings of the advisory board are committed to keep confidential all restricted information coming to their knowledge whether it concerns their office, business or a firm. In cases of violations of this commitment of confidentiality clauses 251 and 252 of the Financial Penal Law, Austrian Federal Legal Gazette No. 129/1958, apply.

33. (1) The Federal Minister for Commerce, Trade and Industry, who can be represented by an official of his Ministry, shall act as chairman of the advisory board. The activities of the advisory board shall be conducted within the Federal Ministry for Commerce, Trade and Industry.

(2) In order to enable the advisory board to carry out its business at least two-thirds of its members shall be present. If the required number of members is not present at the time of the scheduled beginning of the session the advisory board shall convene again one hour later than the time scheduled in the invitations and act according to its agenda irrespective of the number of representatives present.

(3) When the members present of the advisory board do not achieve unanimous opinion the statement of each member present of the advisory board shall be recorded in the minutes.
SECTION VII

Collection of Duties

34. (1) The responsibility for the collection of anti-dumping or countervailing duties lies with the customs offices.


(3) The declarant of the product shall provide in the goods declaration (clause 52, Customs Law 1955) also all information necessary for the collection of anti-dumping or countervailing duties such as the quantity, the kind and quality and the export price of the products unless this information was already contained in the goods declaration according to the provisions of customs law.

35. (1) The Federal Minister for Finance in agreement with the Federal Minister for Commerce, Trade and Industry shall in certain cases on application of the person from whom the duty is due (importer) grant full or partial exemption from anti-dumping or countervailing duties when proof can be produced by the person from whom the duty is due (importer):

(a) with regard to anti-dumping duty, that the product was not subject to dumping or that the margin of dumping was lower than the anti-dumping duty collected, or

(b) with regard to countervailing duty that no premiums or subsidies were granted for this product or that the amount of premiums or subsidies granted was lower than the countervailing duty collected.
(2) Application referred to in paragraph (1) shall be made within three months of notification of the decision concerning duties on clearance for home use, either directly or after temporary admission for the product concerned.

(3) When substituting a decision concerning duties, which subsequently shall be based on a decision under paragraph (1), by a new decision, the provisions of clause 295 of the Federal Law on Taxation apply accordingly.

SECTION VIII

Transitional Provisions

(Federal Gazette No. 666/1978, Art. I, item 3)

36. (1) Where investigations have been initiated and satisfactory proof of dumping or injury has been furnished, the normal value (clause 22, paragraph (2)) or the basic price (clause 22, paragraph (7)) shall be determined by decree on preliminary basis upon hearing of the advisory board, if this is considered necessary in order to avoid further injury.

(2) If and when it is established

(a) that dumped imports led to injury before or that the importer was aware or should have been aware of the dumping by the exporter and the injury involved, and

(b) that the injury occurred as a result of sporadic dumping (massive dumping of the respective merchandise over a comparatively short period) to such an extent that it is considered necessary with a view to avoiding repetitions to levy an anti-dumping duty retrospectively on such imports, the decree in accordance with paragraph 1 shall provide for an anti-dumping duty to be levied also on merchandise in respect of which the effective date for the application of customs duty regulations does not precede the becoming effective of the decree by more than three months.
(3) If and when it is established that obligations in accordance with clause 23, paragraph (1) were not met, investigations shall be considered as having been resumed; in this event the normal value of the basic price shall be determined by decree on preliminary basis on the grounds of the material available upon hearing of the advisory board. Such decree shall furthermore provide for an anti-dumping duty to be levied on merchandise in respect of which the effective date for the application of customs duty regulations does not precede the becoming effective of the decree by more than three months. The retroactive determination of customs duties shall not apply to imports dispatched prior to non-fulfilment of obligations however.

(Federal Gazette No. 590/1980, Art. I, item 13)

37. (1) Where investigations have been initiated and satisfactory proof has been furnished that a premium or subsidy involving an injury is granted directly or indirectly for the production, manufacture, or export of a merchandise in the country of origin or of export, the amount of the premium or subsidy referred to in clause 26, paragraph (2) shall be determined by decree on preliminary basis upon hearing of the advisory board, as and when this is considered necessary in order to avoid further injury.

(2) If under exceptional circumstances it was established with reference to a subsidized merchandise that an injury occurred which it will be difficult to remedy because of massive imports having been effected within a relatively short period, for which export subsidies were granted or paid, and if a retroactive collection of countervailing duties on such exports is considered necessary in order to avoid any repetition of such injury, it shall be established by decree in accordance with clause 1 that a countervailing duty be levied also on merchandise in respect of which the effective date for the application of customs duty regulations does not precede the becoming effective of the decree by more than three months.
(3) If and when it is established that obligations in accordance with clause 28, paragraphs (1) or (2) were not met, investigations shall be considered as having been resumed; in this event the amount of the premium or subsidy shall be determined by decree on preliminary basis on the grounds of the material available upon hearing of the advisory board. Such decree shall furthermore provide for a countervailing duty to be levied also on merchandise in respect of which the effective date for the application of customs duty regulations does not precede the becoming effective of the decree by more than three months. The retroactive determination of customs duties shall not apply to imports dispatched prior to non-fulfilment of obligations, however.

(Federal Gazette No. 590/1980, Art. I, item 14)

38. (1) Decrees under clauses 36 or 37 shall be published in the "Official Gazette of the Wiener Zeitung". They shall become effective on the day following publication and shall lapse upon the becoming effective of a decree covering the same merchandise under clause 22, paragraph (1) or clause 26, paragraph (1), but not later than four months after publication. They shall be cancelled immediately should the respective circumstances cease to exist.

(2) The determinations and conclusions in respect of all technical and legal questions considered material by the investigating authorities and the reasons and grounds therefor shall be published together with the decree.

(3) In accordance with decrees under clauses 36 or 37 the anti-dumping duty or countervailing duty shall be determined on preliminary basis by the Customs Office.

(4) If and when the decree according to clauses 36 or 37 as stated under (1) above is cancelled or lapses without a decree according to clause 22, paragraph (1) or clause 26, paragraph (1) simultaneously becoming effective, the administrative decision provided for in (3) shall be cancelled.
(5) The preliminary determination

(a) shall be annulled if upon application of the decree according to clause 22, paragraph (1) or clause 26, paragraph (1) an anti-dumping duty or countervailing duty equal to, or exceeding, the duty determined on preliminary basis were to be determined;

(b) shall be replaced by a final determination in accordance with the decree according to clause 22, paragraph (1) or clause 26, paragraph (1) if an anti-dumping duty or countervailing duty below the duty determined on preliminary basis were to be determined.

(Federal Gazette No. 590/1980, Art. I, item 15)

39. The authorities of the countries of export and/or origin concerned shall be informed on the issuance or cancellation of a decree under clauses 36 or 37. Such information shall specify the determinations and conclusions in respect of all technical and legal questions considered material by the investigating authorities and the reasons and grounds therefor. In the event of cancellation of a decree the announcement of the material determinations and conclusions and a summary of the reasons therefor shall suffice.

(Federal Gazette No. 590/1980, Art. I, item 16)

40. Clause 5, 22, paragraph (2) last sentence, paragraphs (3), (5), (6) and (7), and clauses 27, 34, and 35 shall apply to this section accordingly.

SECTION IX
Final Provisions

(Federal Gazette No. 666/1978, Art. I, item 4)

41. Clause 4 of the 1958 Customs Tariff Law, Federal Gazette No 74 shall not apply during the period of validity of this federal law.
42. (1) The Federal Minister for Commerce, Trade and Industry, in agreement with the Federal Minister for Finance, shall implement this federal law with regard to clauses 22, paragraph (1) and 26, paragraph (1), 36 and 37, unless otherwise stated in this federal law; if the implementation of clauses 22, paragraph (1), 26, paragraph (1), 36, and 37 concern products for which according to the 1984 Foreign Trade Law, Federal Gazette 184, import or export licences issued by the Federal Minister for Agriculture and Forestry are required, his consent is required as well.

(2) The Federal Minister for Finance shall implement clauses 2, 3, 5, 34, 35, paragraphs (2) and (3), 38, paragraphs (3) to (5), and 41.

(3) The Federal Minister of Justice shall implement clause 32, paragraph (3).

(Federal Gazette No. 590/1980, Art. I, item 17)

E. & O.E.