GENERAL AGREEMENT ON
TARIFFS AND TRADE

Committee on Anti-Dumping Practices

QUESTIONS RAISED BY THE EC WITH REGARD TO THE NEW
ANTI-DUMPING LEGISLATION OF MEXICO
(ADP/1/Add.27 of 17 June 1988)

A. FOREIGN TRADE REGULATORY ACT (the Act)

1. Articles 1 and 2

Does the term "countervailing duties" include anti-dumping duties?

2. Article 5 V and VI

These provisions would permit to impose import restrictions in the
case of unfair trade practices and injury caused to domestic
manufacturers. How do they comply with Article 1 (ii) (c) of the
Act, are they complementary to Article 1 (ii) (c) and to what extent
is the Regulation against unfair trade practices applicable in this
context?

Can import restrictions be imposed on the basis of these provisions
without carrying out an anti-dumping procedure in conformity with the
GATT Anti-Dumping Code?

3. Article 7 (i) (a)

Does the term "highest comparable export price" also refer to exports
originating in third countries (as applied in the case "steel products
from the EEC")?

4. Article 9

- Under which circumstances may the secretariat fix countervailing
duties "on its own initiative" prior to a proper investigation?

- What are the conditions for self-initiation of procedures by the
secretariat?

5. Article 10

Does the requirement that a petitioner must represent at least 25 per
cent of domestic production also apply to organizations of producers?
6. **Article 11**
   - Is the imposition of provisional duties without prior investigation within five working days after acceptance of a complaint to be considered as a rule or an exceptional practice?
   - Does this Article authorize the immediate application of provisional duties even if the goods in question have not been imported?

7. **Article 12**
   - What is the extent of the investigation to be carried out by the secretariat within 30 days after the provisional duties have been imposed in order to revise its resolution?
   - What additional information is required from complainants and importers?
   - Is a provisional injury determination to be made by the secretariat, if yes on which criteria?
   - What is the standing of foreign exporters concerned at this stage of the procedure?

8. **Article 13**
   For the final determination evidence submitted by domestic manufacturers and importers and information which the secretariat itself "may" have assembled is to be considered. Will evidence submitted by the exporters concerned also duly be taken into account?

9. **Article 14**
   Does this mean that the injury test is normally not applied without a specific bilateral agreement with the government of the exporting country concerned?

10. **Article 19**
    When do anti-dumping measures lapse?

11. **Article 24**
    Is the right of appeal restricted to importers only? What is the standing of the foreign exporters concerned?
12. **Article 25**

In the case that a foreign exporter would be entitled to file on appeal a time limit of 15 days maximum would scarcely cover the mailing delays. Do the Mexican authorities consider such a time limit appropriate?

B. **WITH REGARD TO REGULATIONS AGAINST UNFAIR INTERNATIONAL TRADE PRACTICES (THE REGULATION)**

13. **Article 1 (VIII)**

Is the 25 per cent threshold mentioned in Article 10 of the Act also applicable for the injury determination?

14. **Article 11**

What kind of investigation will be carried out to reach a provisional solution? Will provisional measures be applied before completing the investigation on dumping and injury?

What are the rights of defence of the exporters and the requirements for their co-operation? Are questionnaires sent out to exporters and on-spot investigations carried out? Will the investigating authority grant hearings and disclose the main elements of its findings before measures are taken?

15. **Article 12**

Same remarks as above under point 9 on Article 14 of the Act.

16. **Article 15**

Is the opening notice forwarded to exporters and specific information given to them with regard to their co-operation, the information required and the available recourse to defend their interest? How will the delay of not less than 15 working days for making representations be applied by the secretariat in the light of the GATT recommendation of 30 days?

17. **Article 18(b)**

Under what conditions will the secretariat apply Article 18(b)? What additional information will be required from sources other than the complainants?

18. **Article 20**

What are the possibilities of the exporters concerned to intervene during the 30 days review period? How does this delay comply with the delay fixed in Article 15 for the filing of representations by the exporters? (see also point 7 on Article 12 of the Act).
19. **Article 28**

Does the delay of six months set down in Article 13 of the Act for the final resolution apply in this context? Will the exporters concerned have the opportunity of a disclosure conference giving details of the methods and techniques applied for the calculations in accordance with Article 227.

20. **Article 32**

If after the imposition of definitive measures an importer or exporter can show that the duty collected exceeds the actual dumping margin is there any provision for the restitution of the excess amount?