QUESTIONS SUBMITTED BY AUSTRALIA ON
THE LEGISLATION OF POLAND
(ADP/1/Add.20/Rev.1)

Chapter 7 of the Customs Law of 29 December 1989 - Article 93.3

This Article provides that where there is a justified reason to believe that a good is being sold below its cost of production such sales may be considered as not being in the ordinary course of trade.

Could Poland indicate:

- How it expects the term "justified" to be interpreted? (For example, does it mean there need be no more than some plausible evidence to justify the relevant "reason to believe"?)

- What kinds of sale at a loss it expects would be considered as within "the ordinary course of trade"? (For example, would it include end of line, end of fashion, or end of season sales at a loss; or sales at a loss for the best price available?)

Article 104:1

The second sentence of Article 104:1 seems to contradict the spirit of Article 7:1 of the Anti-Dumping Code in that it sets a minimum criterion for price undertakings (i.e. elimination of injury) but sets no limit for undertakings (i.e. not more than the dumping margin). Accordingly, it is arguable that the Article allows price increases under an undertaking which might be higher than the margin of dumping.

Would Poland consider that the provision could be improved simply by providing that price increases under such undertakings shall be no higher than necessary to eliminate the margin of dumping?