QUESTIONS SUBMITTED BY THE EUROPEAN COMMUNITIES
CONCERNING THE LEGISLATION OF POLAND
(ADP/1/Add.20/Rev.1)

1. Article 91.1 in conjunction with Article 103.2:
   (i) It is provided that anti-dumping duties may be imposed, the amount of
       which must not exceed the dumping margin. Is it the intention of
       the Polish investigating authorities to determine an injury threshold
       when calculating the amount of an anti-dumping duty, and eventually
       to impose a duty, the amount of which will be lower than the dumping
       margin, but sufficient to eliminate injury? (lesser duty rule)
   (ii) Will the investigating authority, after having established dumping
       and injury resulting therefrom, determine whether or not it is in the
       interest of the importing country that anti-dumping measures be
       taken? (public interest test)
   (iii) Will a residual anti-dumping duty be imposed for unknown, non-
       co-operating and/or future exporting companies?

2. Article 92
   (i) Which are the characteristics that the investigating authority will
       take into consideration when, in the absence of an identical product,
       an examination of the "like product" needs to be made?
   (ii) Will, in such an examination, account be taken of the utilization of
       the product?

3. Article 93.2
   (i) Which is the benchmark, if any, that the investigating authority will
       apply when determining whether or not sufficient sales on the
       domestic market of the exporting country were made?
   (ii) What is the meaning of the words "with allowance for the cost of
       materials, manufacture, marketing and overhead" (see sub-paragraph 2
       of Article 93.2) in the definition of the constructed value?
   (iii) What is meant by "the product of the same kind" in sub-paragraph 2 of
       Article 93.2?
4. **Article 93.3**

   (i) Which method will be used for determining whether sales were made at a loss on the domestic market of the exporting country?

   (ii) Will such an examination take place on a transaction-by-transaction basis? Will a weighted average be calculated of all transactions within the investigation period? etc.

5. **Article 94.5**

   What will be the export price if the price for the product sold with the object of exporting it to Poland has not yet been paid? Will the price payable be used?

6. **Article 95.1**

   How does the investigating authority take account of the level of trade when comparing normal value and export price?

7. **Article 95.2**

   How will the "most representative price" be determined, when it is considered that such price is the appropriate basis for establishing a dumping margin?

8. **Article 96.2**

   How will an anti-dumping duty be levied, in cases of regional injury, on the product in question consigned for final consumption in a particular area?

9. **Article 97.1**

   When examining whether or not dumping has caused material injury, material retardation of injury or threat of injury, how will account be taken of the transition of the country from a non-market to a market economy?

10. **Article 98.1**

    Who will be entitled to lodge a complaint on behalf of the affected domestic industry? Is it provided that labour unions will be entitled to do so?

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1See also question No. 1 raised by the United States in document ADP/W/300 of 11 October 1991.
11. **Article 98.2**

Does a request for the initiation of an anti-dumping investigation need to contain evidence of the existence of importation at a dumping price in all cases? Would a request also be admissible if only offers by exporters had been made?

12. **Article 99.1**

Which time period is granted to interested parties to make comments in writing and make verbal requests for presentation of the documentary evidence after an investigation has been initiated?

13. **Article 99.3**

(i) What is the precise rôle of the Anti-Monopoly Office?

(ii) How will the Anti-Monopoly Office conduct its investigation for making a preliminary injury determination?

(iii) Is it intended to make on-the-spot investigations at the premises of the domestic producers after parties have been granted the opportunity of replying to questionnaires and of being heard, and before making a preliminary determination?

14. **Article 100.1, sub-paragraph 1**

What is a "negligible" dumping margin?

15. **Article 100.2**

(i) How will the investigating authority conduct its investigation into the allegations of dumping before reaching preliminary rulings?

(ii) What procedural guarantees are offered to interested parties in order to assure them that due account will be taken of any information they may wish to put forward?

16. **Article 100.6**

(i) Are exporters and importers affected by provisional rulings given the opportunity to make their views known?

(ii) Which procedural guarantees are provided for to ensure that rights of defence will be fully respected?

(iii) Will interested parties be informed of definitive findings before a final decision is made?
17. **Article 104.1**

(i) Will an exporter be given the opportunity to offer a price undertaking after a preliminary ruling has been issued?

(ii) Does the acceptance of an undertaking require a prior determination of dumping and injury?

18. What is the duration of the validity of anti-dumping measures (duties and undertakings)? (sunset clause)