RESPONSES BY TURKEY TO QUESTIONS SUBMITTED BY
THE UNITED STATES CONCERNING THE TURKISH LEGISLATION
ON THE PREVENTION OF UNFAIR COMPETITION IN IMPORTATION

Question 1:

In its response to the European Communities' question 1.2 concerning the meaning of the term "impairment of the market" as found in Articles 1, 2 and 3 of Law No. 3577 (SCM/W/215), Turkey indicates that "the phrase ... is used in order to take into consideration the effects of dumped or subsidized goods upon the market of similar goods in Turkey" (SCM/W/221). How does this relate specifically to the question of whether subsidized imports cause, or threaten to cause, material injury to a domestic industry producing a like product? How would impact upon a market relate to impact upon an industry in the Turkish authorities' analysis? Is a finding of "impairment" the same as, or necessary to, a finding of injury?

Response:

The phrase of "Impairment of the market" exists in several articles of our legislation. We accept that this phrase causes some confusion as pointed out by the United States Delegation. However, in the implementation of this legislation, we only take measures when a dumped and/or subsidized product cause or threaten to cause material injury to domestic industry or material retard the establishment of an industry.

Question 2:

Article 11 of Law No. 3577 states that "the suspension of the investigation shall not prevent provisional measures previously adopted be made into definitive measures". Please clarify the meaning of this provision. Does this presume that an undertaking has been violated? If not, on what basis may definitive measures be imposed while an investigation is suspended and/or an undertaking is in effect?
Response:

The second paragraph of Article 11 of Law No. 3577 states that "the suspension of the investigation shall not prevent provisional measures previously adopted be made into definitive measures". This paragraph is not directly related to the violation of an undertaking. The violation, in other words the failure to fulfill an undertaking is covered under Article 13 of the Regulation of the Prevention of Unfair Competition in Importation.

The second paragraph of Article 11 in question is related to the cases where a provisional measure is adopted before the acceptance of an undertaking. Under the provisions of this Article, according to the obtained data, determined injury and offered undertaking, provisional measures may be applied as definitive measures.