QUESTIONS SUBMITTED BY THE EEC CONCERNING
BRAZILIAN COUNTERVAILING LEGISLATION

(SCM/1/Add.26/Suppl.3 dated 29 October 1992)

The following communication, dated 20 October 1993, has been received from the Permanent Delegation of the European Community.

1. Could Brazil provide a list of the products covered by Law No. 8,174/91?

2. Can Brazil explain why the amount of subsidy, as defined by Article 3 of Decree 174/91 and Article 1 of Directive 974/91, with a view of the application of countervailing duties, is calculated as the difference between the f.o.b. export price to Brazil and the estimated f.o.b. price, taking as a reference the price received by the producer in the country of origin. This would seem to represent a calculation of dumping rather than a definition of a subsidy.

3. With reference to "unfair and predatory competition", Article 2 of Decree 174/91 makes no reference to the provisions of Article 6 of the Subsidies Code with regard to the investigation of the existence of such competition, while Article 3 of Directive 444/91 refers to Article 6 of the Code for the purposes of determining its existence.

Can Brazil confirm that investigations of "unfair and predatory competition" will involve an examination of all the elements of Article 6 of the Code?

4. What is the origin of the percentage figures of 2.08 and 1.04 in Article 3 of Directive 444/91? If the imports involved exceed either of these amounts does this create a presumption of "unfair or predatory competition" provided that other criteria are satisfied? How does Brazil interpret the link between the above provision and the requirement under Article 6.2 of the Code "to consider whether there has been a significant increase in subsidized imports"?