

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

ADP/W/300

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Committee on Anti-Dumping Practices

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QUESTIONS SUBMITTED BY THE UNITED STATES ON THE LEGISLATION OF POLAND

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1. Article 93.3 states "[i]f there exists a justified reason to believe that the price at which the product is offered for sale in its country of origin is lower than its production cost, such sale may be considered as not being in the ordinary course of trade" (emphasis added). Does this mean that, in establishing normal value, the Polish authorities would test each sale in the domestic market of the manufacturer/exporter to determine whether it was in the ordinary course of trade, and would exclude each individual sale which was found to be below cost from the calculation of normal value?
2. In what manner would the export price be "constructed" pursuant to Article 94.3? Would this be accomplished by deducting the value of additional manufacturing from the price charged to an unrelated purchaser, or would this be done on some other basis?
3. Article 96.1 states that "[w]ith the object of assessing the injury ... the term "domestic industry" means the domestic producers as a whole of the like product or only those of them whose collective output accounts for at least one-half of the total domestic production of the like product ..." (emphasis added). Does this mean that an affirmative injury finding could be made exclusively on the basis of injury having been found with respect to one-half or less of the entire domestic industry?
4. Is it correct to conclude that Article 105 is the relevant provision for reviewing the need for the continuation of a duty, as required by Article 9:2 of the Anti-Dumping Code? What kind of evidence and changed circumstances would be sufficient to warrant a "waiver or alteration" of a ruling imposing a duty or confirming a price undertaking?