REPLIES BY POLAND TO QUESTIONS SUBMITTED BY CANADA CONCERNING THE ANTI-DUMPING LEGISLATION OF POLAND

1. Article 93.3 - Sales below cost

Question (i):

What factors are taken into consideration by the Polish authorities when determining sales below cost? For example, do authorities consider sales, in the determination of normal value, if they form part of a series of sales of goods at prices that do not provide for recovery in the normal course of trade and within a reasonable period of time of the costs of production, an amount for administrative and selling costs and profit? Are isolated sales at a loss included with profitable sales in the calculation of normal value?

Answer:

Sales below cost are not considered to be in the ordinary course of trade. Consequently, any sale which corresponds to the description provided in the question above, shall not be taken into account in determining the normal value.

Question (ii):

Is Poland planning to provide specific guidance in subsequent regulations?

Answer:

This issue is among those which are expected to be elaborated in greater detail when the present regulations come under review.

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1 ADP/W/310
2 ADP/1/Add.20/Rev.1

92-0601
Article 96.1 - Domestic industry

Question:

The Polish legislation defines "domestic industry" as those producers whose collective output accounts for at least one-half of the total domestic production of the like product. Is this definition also used to determine standing at the initiation stage?

Answer:

Yes.

Article 100.1 - Dumping margin is negligible

Question:

How is "negligible" defined or how is it intended to be interpreted?

Answer:

The Polish legislation does not define this notion. The authorities conducting an investigation are allowed to interpret a "negligible margin of dumping" taking into account the specificity of each case.

Article 104 - Undertakings

Question:

How long can an undertaking remain in place? The Polish legislation does not specify any time limit.

Answer:

Indeed, no specific time limit is provided in the legislation. Therefore, the interpretation shall be based on Article 7:6 of the Code.

General questions:

Question (i):

What are the Polish administrative review and judicial review procedures?

Answer:

Such procedures involve two institutions: the Minister of Foreign Economic Relations and the Supreme Administrative Court. The prerogatives of the Minister include the right to review and alter the final determination. His decisions may be reviewed by the Supreme Administrative Court at the initiative of any party directly concerned.
Question (ii):

Are there plans to incorporate a sunset clause?

Answer:

This possibility has not been considered so far.

Question (iii):

Have the Polish authorities conducted any anti-dumping investigations to date?

Answer:

Poland has conducted only one preliminary enquiry involving certain products supplied by a number of exporters. The case was terminated after finding of no dumping and no injury (see ADP/62/Add.7).