GENERAL AGREEMENT ON
TARIFFS AND TRADE

QUESTIONS CONCERNING THE IMPLEMENTING LEGISLATION OF AUSTRALIA

Following the invitation of the Chairmen of the Anti-Dumping Committee and Subsidies Committee, made at the last meetings, the Swiss Delegation would like to submit a number of questions to the Australian Government.

I. General questions

- What is the legal status of the Anti-Dumping and Subsidies Codes in Australia?

- Are the provisions of the Codes directly enforceable?

- What is the relationship and hierarchical order between the national implementing legislation as notified to GATT, other provisions of general application which are applicable to anti-dumping and countervailing actions and the Codes?

- Which are - in addition to the legal instruments notified to GATT (ADP/1/Add.18; SCM/1/Add.18) - the relevant legislations and regulations for implementing the Anti-Dumping and the Subsidies Codes?

- Do internal guidelines exist regarding administrative procedures for the application of the Anti-Dumping and the Subsidies Code? In the affirmative, what is their content?

II. Specific questions

1. In which provisions of the Australian legislation is it stipulated

- that the written request for initiating an Anti-Dumping or

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countervailing investigation shall include sufficient evidence of (a) dumping or a subsidy and, if possible, its amount; (b) injury within the meaning of Article VI of the General Agreement as interpreted by the Anti-Dumping Code or the Subsidies Code and (c) a causal link between the dumped or subsidised imports and the alleged injury?

- that a written request for initiation of an investigation shall normally be made by or on behalf of the industry affected, as set out in Article 5, para. 1 of the Anti-Dumping Code and Article 2, para. 2 of the Subsidies Code?

- that the investigating authorities shall provide opportunities for the interested signatories and parties to see all relevant information, that is not confidential and that is used by the investigating authorities in an anti-dumping or countervailing investigation in accordance with Art. 6 para. 2 of the Anti-Dumping Code and Art. 2 para. 5 of the Subsidies Code?

- that for a determination of injury it must be demonstrated that the dumped or subsidised imports are, through the effects of dumping or of subsidy, causing injury within the meaning of the Codes; that there may be other factors which at the same time are injuring the industry, and the injuries caused by other factors must not be attributed to the dumped or subsidised imports (Art. 3 para. 4 of the Anti-Dumping Code and Art. 4 para. 4 of the Subsidies Code)?

- that provisional measures may be taken only after a preliminary affirmative finding has been made that there is dumping or a subsidy exists and that there is sufficient evidence of injury, as provided for in (a), (b) and (c) of para. 1 of Art. 5 of the Anti-Dumping Code or in Art. 2 para. 1 (a), (b) and (c) of the Subsidies Code?
2. Which provision of the Australian legislation does contain the definition of the term "Industry" as set out in Art. 4 of the Anti-Dumping Code and in Art. 6 para. 5 of the Subsidies Code?

3. What is the composition of the Industries Assistance Commission referred to in Art. 15 of the Customs Tariff (Anti-Dumping) Act 1975?