

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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Committee on Anti-Dumping Practices

QUESTIONS SUBMITTED BY THE EUROPEAN COMMUNITIES CONCERNING THE LEGISLATION OF HUNGARY

(Government Decree No. 111/1990 (XII.23))

Section 1

- 1.1 How will "the price of the product in the ordinary course of internal trade in the exporting country" be calculated? What allowances may be claimed?
- 1.2 What is meant by "in the ordinary course of internal trade"?
- 1.3 What price will be used when there are no sales of the product "in the ordinary course of internal trade"? Comparable price of the product when exported to a third country or constructed value? Is there a hierarchy between these alternative methods?
- 1.4 If a constructed value is used, how is it calculated?
- 1.5 How is normal value established when it is found that the price at which the product is actually sold in the exporting country is less than the cost of production?
- 1.6 How is normal value determined in case of imports of products originating in non-market economy countries? On what basis is the "price of the product in the ordinary course of internal trade in the exporting country" then determined?
- 1.7 When calculating normal value, in what manner are transactions in the exporting country of the product under investigation considered between parties which appear to be associated or to have a compensatory arrangement?
- 1.8 Is "the price on the domestic market" the export price? How is this price calculated?
- 1.9 What happens if there is no price on the domestic market, the price is unreliable or there is an association between the exporter and the importer on a third party? What price will be taken for the investigation?

- 1.10 Is any allowance made when calculating "the price on the domestic market"? If so, what would this allowance include?
- 1.11 What level of trade is used for the comparison between the price on the domestic market and the price of the product in the exporting country?
- 1.12 When comparing the price on the domestic market with the price of the product in the exporting country, what adjustments may be made for differences affecting price comparability? Under what conditions?
- 1.13 For comparison, must the product under consideration on the domestic market and in the exporting country be alike in all respects or, in the absence of an identical product will a comparison of "like products" be made. If so, how is the "like product" defined?
- 1.14 Are prices compared on a transaction-by-transaction basis or on a weighted average basis?
- 1.15 Is it necessary to establish material injury? How will the determination of injury be made? What factors will be taken into consideration?
- 1.16 What proportion of the domestic industry must be injured and how will it be determined?
- 1.17 How will the determination of a "threat to cause injury" be made?
- 1.18 Will the investigating authority, after having established dumping and injury resulting therefrom, determine whether or not it is in the interest of the importing country that anti-dumping measures be taken? (public interest test)

Section 2

2.1 What is the meaning of "in consultation with the representatives of the trading and consumer organizations"? Do they have the right to be heard and to submit any evidence they deem necessary for consideration in the proceeding and if so, what is the time limit?

Section 3

- 3.1 How much is "a substantial number of domestic producers"?
- 3.2 Who will be entitled to lodge a complaint on behalf of the affected domestic industry?
- 3.3 Does a request for the initiation of an anti-dumping investigation need to contain evidence of the existence of imports or would the evidence of offers by exporters be sufficient?

Section 4

- 4.1 Who is considered as "other parties interested"?
- 4.2 Do the foreign suppliers and the interested parties have a right to be heard?
- 4.3 What procedural guarantees are offered to interested parties in order to assure them that due account will be taken of any information they may wish to put forward?
- 4.4 Do the parties to the proceeding, foreign suppliers and other interested parties, as well as trade and consumer associations have access to the non-confidential part of the anti-dumping file?

Section 5

- 5.1 Do affirmative findings of dumping, injury and the causal link lead to provisional measures first or can they immediately lead to the adoption of definitive measures?
- 5.2 If provisional measures need to be taken first, are these preceded by a full investigation of dumping, injury and the causal link and what steps does the preliminary investigation include?
- 5.3 What is the reason for the short maximum time limit of 120 days for the conclusion of anti-dumping proceedings considering that the Agreement on Implementation in Article VI of the General Agreement on Tariffs and Trade (Anti-Dumping Code) allows in Article 5:5 a maximum time limit of one year?
- 5.4 Is it intended to make on-spot investigations at the exporters' and importers' premises, when conducting the investigations?

Section 6

- 6.1 To what extent are small margins of dumping and small import quantities ignored when imposing anti-dumping duties?
- 6.2 What procedural guarantees are provided to ensure that rights of defence will be fully respected?
- 6.3 How will "newcomers" be treated after the imposition of anti-dumping duties, i.e. exporters or producers who have not exported the product during the period of investigation?
- 6.4 Do anti-circumvention provisions exist and if so, which?
- 6.5 What is the meaning of "warding off the threatened injury"? How is it calculated?

6.6 Is it the intention of the Hungarian investigating authorities to determine an injury threshold when calculating the amount of an anti-dumping duty, and eventually to impose a duty, the amount of which would be lower than the dumping margin, but sufficient to eliminate injury? (lesser duty rule)

Section 7

7.1 What data must be provided by the exporter after an undertaking has been accepted?

7.2 What does "regularity" mean?

General

8.1 Are there any provisions for judicial review? If so, which ones?