

NOTIFICATION OF LAWS, REGULATIONS AND  
ADMINISTRATIVE PROCEDURES RELATING  
TO SAFEGUARD MEASURES

ROMANIA

The following communication, dated 15 March 1995, has been received from the Permanent Mission of Romania.

The Permanent Mission of Romania to the United Nations Office at Geneva and the other specialized agencies in Switzerland presents its compliments to the WTO Secretariat and has the honour to inform the Committee on Safeguards, in accordance with document G/SG/N/1 of 20 February 1995, that the Romanian laws, regulations and administrative procedures relating to safeguard measures are as follows:

- Decree No. 228/7 May 1992 on the protection of domestic producers against unfair competition resulting from the import of certain goods at dumped or subsidized prices, as well as against exports at prices lower than those in the domestic market;
- Order No. 127/20 August 1992 of the Ministry of Trade and Tourism on the rules of procedure of the Commission on anti-dumping and countervailing duties and safeguard measures;
- Joint Order No. 128/24 August 1992 of the Ministry of Trade and Tourism and the Ministry of the Economy and Finance on the rules of application and procedures for the establishment of anti-dumping duties, countervailing duties and safeguard measures.

The full text of these laws and regulations was circulated in GATT document ADP/1/Add.9/Rev.1 of 14 April 1993.

In accordance with the provisions of Article 12.6 of the Agreement on Safeguards, the Romanian authorities will notify the Committee of any modification made to the laws, regulations and administrative procedures relating to safeguard measures.

## **DECISION**

### **ON THE PROTECTION OF DOMESTIC PRODUCERS AND OF DOMESTIC MARKET AGAINST UNFAIR COMPETITION RESULTING FROM THE IMPORT OF CERTAIN GOODS AT DUMPED OR SUBSIDIZED PRICES, AS WELL AS AGAINST THE EXPORT AT PRICES LOWER THAN THOSE IN THE DOMESTIC MARKET**

The Government of Romania d e c i d e s :

Art. 1 - The import of products at a price less than their normal value may be the subject of anti-dumping duties.

By "price less than the normal value" it is understood a price less than the comparable price, in the normal trade operations, for a like product in the exporter's domestic market, and in the absence of such price:

- a price less than the highest comparable price of a like product when exported to any third country, in the normal trade operations, or
- a price less than the cost of production of the respective product in the country of origin plus a reasonable amount for selling costs and profits.

Art. 2 - In order to compensate or prevent employing dumped prices of the imported goods, anti-dumping duties are levied.

The value of the anti-dumping duty will not exceed the dumping margin determined for the respective product.

By "dumping margin" it is understood the difference between the export price and the elements mentioned in Art. 1.

Art. 3 - The import of subsidized products for production or for export in the country of origin or in the exporting country, including the subsidies granted for transportation of the respective products may be the subject of countervailing duties.

By "countervailing duty" is understood the special duty levied with the aim of compensating any subsidy granted, directly or indirectly, in the country of origin or in the exporting country for the manufacturing, or export of a product.

The value of the countervailing duty will not exceed the amount estimated to represent the subsidy granted, directly or indirectly, in the country of origin or in the exporting country for the manufacturing, export or transportation of the product.

Art. 4 - When the import of certain products is made in such quantity or under such conditions as to cause or threaten to cause a major injury to the domestic producers of similar or directly competitive products, safeguard measures may be introduced.

Safeguard measures can take the form of surcharges or of import quantitative restrictions (quotas).

Import surcharges for safeguard reasons are introduced by Government Decision, at the joint proposal of the Ministry of Trade and Tourism together and the Ministry of Economy and Finance.

Import quantitative restrictions for safeguard reasons are established by Order of the Minister of Trade and Tourism.

Art. 5 - The anti-dumping duties, countervailing duties and surcharges introduced for safeguard reasons are paid by the importing economic operators and are deposited with the state budget.

Art. 6 - With a view to carrying out investigations in the matter of instituting anti-dumping duties, countervailing duties and safeguard measures, as well as export prices analyses, the Directorate for the Surveillance of Import and Export Competition is established with the Ministry of Trade and Tourism, within the limits of approved number of posts. In the Directorate for the Surveillance of Import and Export Competition, a Commission for anti-dumping duties, countervailing duties and safeguard measures as well as a Price Office are set up.

Art. 7 - The anti-dumping and the countervailing duties are determined for each case separately by final and executory decision of the Commission for anti-dumping duties, countervailing duties and safeguard measures.

Art. 8 - The implementation rules and the procedures for the determination of anti-dumping and countervailing duties and of safeguard measures are established by Joint Order of the Minister of Trade and Tourism and the Minister of Economy and Finance.

Art. 9 - The economic operators will provide in the contracts concluded with foreign partners for export prices reflecting the level of the ruling prices in the normal commercial transactions in the domestic and international market.

Art. 10 - With a view to supporting the export activity of economic operators, the Price Office will put in place an information system regarding the levels of the prices in the international market, by products and groups of products, which it will publish periodically.

At the request of the economic operators, the Price Office will grant, free of charge, consultancy, including in writing, concerning normal prices for standard quality, in specific markets.

Art. 11 - With a view to observing the provisions of the present Decision, the Price Office will periodically analyze the level of export prices utilized by the economic operators.

The export price analysis can be carried out at the request of the economic operators or at the initiative of the Price Office, on the basis of the customs declarations or other documents, or at customs clearance operations, as the case may be.

When, after verifying the customs declarations or other documents, major violations of the legal norms are found, the representative of the Price Office shall inform the Financial Guard which shall enforce the legal measures.

In case the analysis at the border finds major violations of the legal norms, the representatives of the Price Office may order the arrest of the goods at the customs at the economic operators' expenses.

On subsequent verifications the written certificates issued according to the provisions of Article 10, paragraph 2 shall also be taken into account.

Art. 12 - Non-observance of the provisions of Article 9 by the economic operators are considered as contravention if it was not made under such conditions as to fall under criminal law, in which case it shall be punished by a fine ranging from leu 5,000 to leu 10,000.

The fines can also be applied to legal persons.

The contraventions provided for in the present Decision are to be ascertained and the fines applied by the Financial Guard and the financial central bodies.

The provisions of the present Decision are supplemented by the provisions of Law No. 22/1990 on law breaking ascertaining and punishment.

Art. 13 - The working rules of the Commission for the anti- dumping duties, countervailing duties and safeguard measures, as well as those of the Price Office shall be established by Orders of the Minister of Trade and Tourism.

PRIME-MINISTER,

Theodor Stolojan

Bucharest, 7 May 1992

No. 228

**MINISTRY OF TRADE AND TOURISM**

**ORDER NO. 127**

**ON WORKING RULES OF THE  
COMMISSION FOR ANTI-DUMPING, COUNTERVAILING DUTIES  
AND SAFEGUARD MEASURES**

On the basis of Government Decision No. 805/1990 on the organization and tasks of the Ministry of Trade and Tourism,

Taking into consideration the provisions of Government Decision No. 228/1992 on the protection of domestic producers and of domestic market against unfair competition resulting from the import of certain goods at dumped or subsidized prices, as well as against the export at prices lower than those in the domestic market,

The Minister of Trade and Tourism issues the following

**O R D E R :**

Single article: The attached "Working rules of the Commission for anti-dumping duties, countervailing duties and safeguard measures" are approved on the date of the present Order.

**M I N I S T E R ,**

Constantin Fota

Bucharest, 20 August 1992

WORKING RULES  
OF THE COMMISSION FOR ANTI-DUMPING DUTIES,  
COUNTERVAILING DUTIES AND SAFEGUARD MEASURES

The Commission for anti-dumping duties, countervailing duties and safeguard measures, hereunder named the Commission, is organized in the framework the Directorate on Surveillance of the Import and Export Competition, in accordance with Article 6 of Government Decision No. 228/7.05.1992.

The Commission works in accordance with "The rules of application and procedures for the establishment of anti-dumping duties, countervailing duties and safeguard measures" approved by the Joint Order of the Minister of Trade and Tourism and the Minister of Economy and Finance No. 128/24.08.1992, as well as with the working rules adopted by the present Order.

**Chapter I - Preliminary Investigation**

The preliminary investigation is carried out in the Directorate on Surveillance of Import and Export Competition, by a panel formed of the director of the Directorate and two experts

The decision is passed by simple majority of votes.

**Chapter II - Final Investigation**

The final investigation is carried out by a commission made up of five members as follows:

- a representative of the Ministry of Trade and Tourism - Directorate on Surveillance of Import and Export Competition, as president;
- a representative of the Ministry of Trade and Tourism - Directorate of International Agreements and Commercial Organizations;
- a representative of the Ministry of Trade and Tourism - Legal Department;
- a representative of the Ministry of Economy and Finance, appointed by the Minister of Economy and Finance;
- a representative of the Ministry of Justice, appointed by the Minister of Justice.

The President and the members from the Ministry of Trade and Tourism - Department of Foreign Trade are appointed by the State Secretary, Head of the Department.

The Commission convened by the President.

The Commission works in the presence of all its members.

The decisions are passed by a simple majority of votes.

**Chapter III - Review of the Decision**

The review of the decision is made by a Commission formed according to chapter II, above.

#### **Chapter IV - The Activity of the Panel and of the Commission**

The activities of the Panel and of the Commission take place at the head office of the Ministry of Trade and Tourism - Department of Foreign Trade, the interested parties being invited to participate.

The working language of the Panel and of the Commission is Romanian and if the involved parties expressly request it, English or French.

The documents to be presented by the parties to the Panel and to the Commission may be drawn in Romanian, English or French.

The decisions of the Panel and of the Commission are drafted in Romanian and translations of these, in English or French, certified by the Panel/Commission may be transmitted to the interested parties, at their request.

#### **Chapter V - Safeguard Measures**

The requests to establish safeguard measures are to be solved within three months as of the date of registration with the Ministry of Trade and Tourism's register, by a Commission formed in accordance with Chapter II, above.

Representatives of the Ministry of Industry or of the Ministry of Agriculture and Food, or of other interested institutions, of the producers, importers a.s.o., as the case may be, are invited to participate in the examination, without voting powers.

The Commission submits the conclusions of the analysis to the Minister of Trade and Tourism for approval.

In case after considering the facts the Commission determines that a serious injury or threat was caused to the national producers of like products or directly competitive products, the Commission proposes to the Minister of Trade and Tourism a level of surcharge or quota for the concerned products, so that this measure to affect as less as possible the commercial flows. The proposal is to be presented by tariff lines.

Quotas are established by order of the Minister of Trade and Tourism.

Surcharges are established according to the regulations in force by Government Decision at the proposal of the Ministry of Trade and Tourism and the Ministry of Economy and Finance.

The decision shall be published.

In case from the analysis undertaken it results that there are no well-founded reasons for establishing safeguard measures, the Commission's conclusions are communicated to the applicant.

**MINISTRY OF TRADE  
AND TOURISM**

**MINISTRY OF ECONOMY  
AND FINANCE**

**JOINT ORDER NO. 128**

**ON RULES OF APPLICATION AND PROCEDURES  
FOR THE ESTABLISHMENT OF ANTI-DUMPING DUTIES,  
COUNTERVAILING DUTIES AND SAFEGUARD MEASURES**

Based on Government Decision No. 805/1990 on the organization and tasks of the Ministry of Trade and Tourism and on Government Decision No. 328/1991 on the organization and tasks of the Ministry of Economy and Finance,

Taking into consideration the provisions of Government Decision No. 228/1992 on the protection of domestic producers and of domestic market against unfair competition resulting from the import of certain goods at dumped or subsidized prices, as well as against the export at prices lower than those in the domestic market,

The Minister of Trade and Tourism and the Minister of Economy and Finance issue the following

**JOINT ORDER**

Single article: The attached "Rules of application and procedures for the establishment of anti-dumping duties, countervailing duties and safeguard measures" are approved.

MINISTER,

MINISTER,

Constantin Fota

George Marius Danielescu

Bucharest, 24 August 1992



**Rules of application and procedures for the**  
**establishment of anti-dumping duties, countervailing**  
**duties and safeguard measures**

Art.1 - Applicability.

This regulation lays down provisions to be applied for protection against dumped or subsidized imports from an exporting country or from a country of origin, as well as in the case of imports which by quantity or by conditions attached cause or threaten to cause a serious injury to the national producers of like or directly competitive products.

Art.2 - Dumping

A. Principles

1. An anti-dumping duty may be applied to any dumped product when it causes injury to the Romanian producers, and between dumping and injury there is a link of causality.
2. A product is considered to have been dumped if its export price to Romania is less than the normal value of the like or directly competitive product.

B. Normal value

3. The normal value shall be considered:
  - (a) the comparable price actually paid in the ordinary course of trade for the like product intended for consumption in the exporting country or country of origin. This price shall be net of all discounts and rebates directly linked to the sales under consideration provided that the exporter claims and supplies sufficient evidence that any such reduction has actually been granted. Deferred discounts may be recognized if they are directly linked to the sales under consideration and if evidence is produced to show that these discounts were based on constant practice in prior periods related to the deferred discounts.
  - (b) when there are no sales of the like or directly competitive products on the domestic market of the exporting or origin country, or when such sales do not permit a proper comparison, the following should be analyzed:
    - (i) the comparable price of the like product when exported to a third country; this price may be the highest export price but it should be a representative one; or
    - (ii) the constructed value, determined by adding cost of production and a reasonable margin of profit. The cost of production shall be computed on the basis of all costs, both fixed and variable, in the country of origin, of materials and manufacture, plus a reasonable amount for selling, administrative and other general expenses. The amount for selling, general and administrative expenses and profit shall be calculated by reference to the expenses incurred and the profit realized by the producer or exporter on the sales of like products on its own domestic market. If such data is unavailable they shall be calculated by reference to the

expenses incurred and profit realized by other producers or exporters in the country of origin or export on sales of the like products. If neither of these two methods can be applied the expenses incurred and the profit realized shall be calculated by reference to the sales made by the exporter or other producers in the same business sector in the country of origin or of export or on any other reasonable basis.

- (c) where the exporter in the country of origin neither produces nor sells the like products on its domestic market, the normal value shall be established on the basis of prices or costs of other sellers or producers in the country of origin in the same manner as mentioned in subparagraphs (a) and (b) above. The prices or costs of the exporter's supplier may be used for this purpose.

4. Whenever there are reasonable grounds for believing or suspecting that the price at which a product is actually sold in the country of origin is less than the cost of production as defined in paragraph 3 (b) (ii), sales at such prices may be considered as not having been made in the ordinary course of trade if they:

- (a) have been made in substantial quantities during the investigation period as defined in Article 6 (1) (c) hereunder; and
- (b) are not at prices which permit recovery, in the normal course of trade and within the period referred to in subparagraph (a), of all costs reasonably allocated.

In such circumstances, the normal value may be determined on the basis of other sales on the domestic market made at a price which is not less than the cost of production or on the basis of export sales to third countries or on the basis of the constructed value or by adjusting the practised price with the elements referred to above in order to eliminate losses and provide for a reasonable profit. Such normal value calculation shall be based on available information.

5. In the case of imports from non-market economy countries normal value shall be determined on the basis of the following criteria:

- (a) the price at which the like product of a market economy country is actually sold for consumption on its domestic market; or
- (b) the constructed value of the like product in a market economy country;
- (c) if neither price nor constructed value as established under (a) or (b) above provides an adequate basis, the price actually paid for the like product, shall be adjusted, so as to include a reasonable profit margin.

6. Where a product is not imported directly from the country of origin but through an intermediate country, the normal value shall be the comparable price actually paid for the like product on the domestic market of either the country of export or the country of origin. The latter basis might be appropriate, where the product is merely transhipped through the country of export, or such products are not produced in the country of export or no comparable prices for these products exist in the country of export.

7. For the purpose of determining normal value, transactions between parties which appear to be associated or to have a compensatory arrangement with each other may be considered as not being in the ordinary course of trade unless the competent authorities are satisfied that the prices and costs involved are comparable to those involved in transactions between parties which have no such links.

C. Export price

8. (a) The export price shall be the price actually paid for a product sold for export net of all taxes, discounts and rebates actually granted and directly related to the sales under consideration. Deferred discount may also be taken into consideration if it is actually granted and directly related to the sale under consideration;
- (b) Where there is no export price or where it appears that there is an association or a compensatory arrangement between the exporter and the importer or a third party, or where for other reasons the price actually paid for the product sold for export can not be taken into consideration as a reference price, the export price may be constructed on the basis of the price at which the imported product is first resold to an independent buyer, or if the product is not resold to an independent buyer, or not resold in the condition imported, on any other reasonable basis. In such cases, price adjustments shall be made taking into account all costs incurred between importation and resale and for a reasonable profit margin. These costs shall include those normally borne by an importer but paid by any party operating either in or outside Romania and which appears to be associated or to have a compensatory arrangement with the importer or exporter.

Such adjustments shall normally include the following:

- (i) usual transport, insurance, handling, unloading and auxiliary costs;
- (ii) customs duties, anti-dumping duties and other taxes payable in the importing country;
- (iii) a reasonable margin for general expenses and profit and/or all commissions usually paid or agreed.

D. Comparison of the concerned product with like products

9. (a) The normal value, as established under paragraphs 3 to 7 above, and the export price, as established under paragraph 8 above, shall be compared with as nearly as possible data. For the purpose of ensuring a fair comparison in each case, the differences affecting price comparability have to be taken into account in accordance with its merits, i.e. relative differences which refer to:
- (i) physical characteristics of compared products;
  - (ii) import charges and duties as well as other indirect duties;
  - (iii) selling expenses resulting from sales made:
    - at different levels of trade, or
    - in different quantities, or
    - under different conditions and terms of sale.
- (b) Where an interested party claims an adjustment of the price under consideration it must prove that its claim is justified.

10. Any adjustment related to elements affecting price comparability, as those listed in paragraph 9 (a) above shall, where justified, be made pursuant to the rules specified below:

(a) Physical characteristics:

The normal value as established under paragraphs 3 to 7 above shall be adjusted by an amount corresponding to a reasonable estimate of the value of the differences in the physical characteristics of the product concerned.

(b) Import charges and duties and other indirect duties:

Normal value shall be reduced by an amount corresponding to any import charges and duties or other indirect duties, when the concerned product destined for consumption in the country of origin or export is exonerated of import charges and duties or other indirect duties which are applied on a like product and on materials and raw materials incorporated in this product, or when these charges and duties are refunded at the export of the said product.

(c) Selling expenses:

(i) Transport, insurance, handling, loading and auxiliary costs:

Normal value shall be reduced by the costs directly related with the product incurred for conveying the product concerned from the premises of the producer to the first independent buyer. The export price shall be reduced by the costs directly related to the product, incurred by the exporter for conveying the product concerned from the premises of the producer in the exporting country to its destination in Romania. In both cases these costs comprise transport, insurance, handling, loading and auxiliary costs.

(ii) Packing:

Normal value and export price shall be reduced by the costs of the packing of the respective product directly related to the product concerned.

(iii) Credit:

Normal value and export price shall be reduced by the costs of credit granted for the sales under consideration. The amount of the reduction shall be calculated in the currency expressed on the invoice and at the level of the normal commercial credit rate applicable in the country of origin or export.

(iv) Warranties, guarantees, technical assistance and other after-sales services:

Normal value and export price shall be reduced by an amount corresponding to the direct costs of providing warranties, guarantees, technical assistance and other after-sales services.

(v) Other selling expenses:

Normal value and export price shall be reduced by an amount corresponding to the commissions paid in respect of the sales under consideration. The salaries paid to salesmen, i.e. personnel wholly engaged in direct selling activities, shall also be deducted.

(d) Amount of the adjustment

The amount of any adjustment shall be calculated on the basis of relevant data for the investigation period or the data for last available financial year.

(e) Insignificant adjustments:

Claims for adjustments which are insignificant in relation to the price or value of the affected transactions, such as adjustments having an ad valorem effect of less than 0.5 per cent of that price or value, shall be disregarded.

E. Allocation of costs

11. In general, all cost calculations shall be based on available accounting data, normally allocated, and where necessary, in proportion to the turnover for each product and market under consideration.

F. Like product

12. For the purpose of these Rules, "like product" means a product which is identical, i.e. alike in all respects, to the product under consideration, or, in the absence of such a product, another product which has characteristics closely resembling to those of the product under consideration.

G. Techniques and means of comparison:

13. Where prices vary:

- normal value shall normally be established on a weighted average basis;
- export prices shall normally be compared with the normal value on a transaction-by-transaction basis except where the use of weighted averages would materially affect the results of the investigation;
- comparison techniques, e.g. the use of the most frequently occurring or representative prices may be applied to establish normal value and export prices in cases in which a significant volume of transactions is involved.

H. Dumping margin

14. (a) "Dumping margin" means the amount by which the normal value exceeds the export price.

(b) Where dumping margins vary, weighted averages may be established.

Art.3 - Subsidies

1. A countervailing duty may be imposed for the purpose of offsetting any subsidy granted, directly or indirectly, in the country of origin or export, upon the manufacture, production, export or transport of products destined to be imported in Romania and which cause an injury.

2. Subsidies granted on exports include, but are not limited to, the practices listed in the "Illustrative List of Export Subsidies" (Annex 1).

3. The exemption of a product from direct or indirect charges and duties, as defined in the Illustrative List of Export Subsidies, attached to these Rules, and which are effectively borne by the like products and by materials physically incorporated therein, when the respective product is destined for consumption in the country of origin or export, or the refund of such charges and duties, shall not be considered as a subsidy for the purpose of these Rules.

4. (a) The amount of the subsidy shall be determined per unit of the subsidized product exported to Romania.
- (b) In establishing the amount of any subsidy the value of the following elements shall be deducted from the total subsidy granted to the respective product:
- (i) all fees related to incumbent formalities for applications for granting subsidies or for benefiting of a subsidy;
  - (ii) all export taxes, duties or other charges levied on the export as well as other charges on the export of the concerned product to Romania specifically intended to offset the subsidy;

Where an interested party claims such a deduction, it must prove that such a claim is justified.

- (c) Where the subsidy is not granted by reference to the quantities manufactured, produced, exported or transported, the amount shall be determined by allocating the value of the subsidy over the level of production or exports of the products concerned during a suitable period. Normally this period shall be equal to the financial exercise of the beneficiary of subsidy.

Where the subsidy is granted for the present or future acquisition of fixed assets, the value of the subsidy shall be calculated by spreading the subsidy across a period which reflects the normal depreciation of such assets in the industry concerned. Where the assets are not subject to depreciation, the subsidy shall be valued as an interest-free loan.

- (d) In the case of imports from a non-market economy country, the amount of the subsidy shall be determined by comparing the export price as calculated in accordance with Article 2, paragraph (8) with the normal value as determined in accordance with Article 2, paragraph (5). Article 2 paragraph (10) shall also apply to such a comparison.
- (e) Where the amount of subsidy varies, weighted averages may be established.

#### Art.4 - Injury

1. An injury is considered only if the dumped or subsidized imports are, through the effects of dumping or subsidization, causing an injury to Romanian producers or materially retarding the establishment of a national industry of like products. Injuries caused by other factors, such as volume, conditions or prices of import which are not dumped or subsidized, or contraction in demand, which, individually or in combination, also adversely affect the national like or direct competitive production must not be attributed to the dumped or subsidized imports.

2. An examination of injury shall involve the following factors:

- (a) the volume of dumped or subsidized imports, in particular in order to establish whether they have significantly increased, either in absolute terms or relative to production or consumption in Romania.
- (b) the prices of dumped or subsidized imports, in particular to establish whether there has been a significant price undercutting as compared with the price of a like product in Romania.
- (c) the impact on the Romanian producers of like products as indicated by present or potential trends in certain economic factors such as:
  - production,
  - utilization of capacities,
  - stocks,
  - sales,
  - market share,
  - prices (i.e., depression of prices or prevention of price increase which otherwise would have occurred),
  - profits,
  - efficiency of investment,
  - cash flow,
  - employment.

3. A determination of threat of injury may only be made where the particular situation is likely to develop into actual injury. In this regard account may be taken of factors such as:

- (a) rate of increase of the dumped or subsidized exports to Romania;
- (b) export capacity in the country of origin or export, already in existence or which will be operational in the foreseeable future, and the likelihood that the resulting exports will be directed to Romania;
- (c) the nature of all subsidies and the trade effects likely to arise therefrom.

4. The effect of the dumped or subsidized imports shall be assessed in relation to Romanian production of like products when available data permit its separate identification. When the Romanian production of the like products has no separate identity, the effect of the dumped or subsidized imports shall be assessed in relation to the production of the narrowest group or range of production linked to the like products, for which the necessary information can be found.

5. The term "Romanian producers/production" shall be interpreted as referring to Romanian producers, as a whole, of the like products or to those of them whose collective output constitutes a major proportion of the total Romanian production of those products, except that:

- when producers are related to the exporters or importers or are themselves importers of the allegedly dumped or subsidized product the term "Romanian producers/production" may be interpreted as referring to the rest of the producers;
- in exceptional circumstances the Romanian market may, for the production in question, be divided into two or more market shares and the producers within each market share may be regarded as representing a production if:

- (a) the producers within such market share sell all or almost all their production in that market share, and
- (b) the demand in the market is not to any substantial degree supplied by the respective producers of Romania.

In such circumstances injury may be found to exist even where a major proportion of the total Romanian production of like products is not destined to the domestic market, on condition that the concentration of dumped or subsidized imports into an isolated market share and provided further that the dumped or subsidized imports are causing an injury to the producers of all or almost all of the production sold within this market share.

#### Art.5 - Complaint

1. Any natural or legal person, or any association having or not having legal personality, acting on behalf of the Romanian producers, as they are defined under Article 4, paragraph (5), which considers itself injured or threatened by dumped or subsidized import may lodge a written complaint.
2. The complaint shall contain sufficient evidence of the existence of dumping or subsidization, the injury resulting therefrom, as well as the existence of a link of causality between dumping or subsidization and injury.
3. The complaint is to be submitted to the Commission for anti-dumping duties, countervailing duties and safeguard measures (named hereinafter "Commission").
4. The complaint may be withdrawn, in which case the proceedings are terminated, provided that termination of the proceedings is in the interest of Romania.
5. In an anti-dumping or subsidization complaint, the Commission, before opening an investigation, will hold a consultation with the competent authorities of the exporting country.
6. Where it becomes apparent after consultation that the complaint does not provide sufficient evidence to justify opening of an investigation, then the complaint shall be considered irrelevant.

If, after consultation, it becomes apparent that the complaint is justified then the investigation is opened.

7. Where, in the absence of any complaint, the Commission is in possession of sufficient evidence both of dumping or subsidization and of an injury resulting therefrom for a Romanian producer, as well as of the existence of a link of causality between them, the Commission may act ex officio.

#### Art.6 - Opening and carrying on of the investigation

1. Where the Commission considers that there is sufficient evidence to justify the opening of an investigation, the Commission shall immediately:
  - (a) announce the opening of an official procedure of investigation in "Jurnalul Afacerilor" (the Journal of Business), indicating the product and countries concerned, giving a summary of the information received, and specifying that all relevant information is to be communicated to the Commission;



establishes a period within which interested parties may make known their views in writing and may also apply to be heard orally in accordance with the procedure provided in paragraph (5) hereunder; to this aim the Commission sends the relevant questionnaire (as attached in Annexes 2, 3 and 4) to each interested party.

The minimum time limit for answers and oral hearing shall not be shorter than three months from the notice publication's date.

- (b) officially advise the exporters and importers concerned, the complainants, as well as the representatives of exporting countries.
  - (c) commence the investigation, which covers the dumping or subsidization, the injury resulting therefrom, as well as the link of causality between them. The investigation is carried out in accordance with paragraphs 2 to 7 hereunder; the investigation of dumping or subsidization shall normally cover a period of not less than six months prior to the opening of the proceeding.
- 2.
  - (a) The Commission shall seek all information it deems to be necessary and, where it considers it appropriate, examine and verify the records of importers, exporters, traders, agents, producers, trade associations and organizations, in the country of export or of origin and in Romania.
  - (b) Where necessary, the Commission may carry out investigations in third countries, provided that the firms concerned and the government of the third country in question, previously officially notified, give their consent.
- 3.
  - (a) The complainant, the concerned importer and exporter, as well as the representatives of the exporting country, may consult all information made available to the Commission by the concerned parties, subject to fully compliance with the provisions of Article 7. To this end, interested persons may address a written request to the Commission indicating the information required.
  - (b) Exporters and importers of the product subject to investigation and, in the case of subsidization, the representatives of the exporting countries, may request to be informed of the essential facts and considerations on the basis of which the Commission intends to establish final anti-dumping or countervailing duties or the collection of certain amounts as guarantee in the case of establishing provisional anti-dumping or countervailing duties.
  - (c)
    - (i) Requests for information made by the interested parties, according to subparagraph (b), shall be addressed to the Commission in writing, specifying expressly the information required. In the case of establishing a provisional anti-dumping or countervailing duty, the requests of information are to be received by the Commission 45 days before the publication of the imposition of that duty.
    - (ii) The information may be given either orally or in writing as considered appropriate by the Commission. This information shall not prejudice the decision which shall be taken by the Commission. Confidential information shall be treated in accordance with Article 7 hereunder.
    - (iii) Requested information shall normally be provided at least 30 days prior to the establishment by the Commission of final anti-dumping or countervailing duties, pursuant to Article 11 hereunder. Possible comments of the interested parties on

the information received shall be taken into consideration only if they are received in due time, such as this due time was established for each separate case, and based on the urgency of the transaction, but in no case this due time will be shorter than 10 days.

4. The Commission may hear the interested parties. The hearing will take place if the interested parties have so requested within the time limit established through the notice published in Jurnalul Afacerilor, have proved that they are parties involved in the result of the investigation proceeding, and that they have well founded reasons to be heard orally.

5. The Commission may, on request, give to the parties directly concerned an opportunity to meet, so that opposing views and possible rejections of claim be presented. The Commission shall take account of the need to preserve confidentiality and of the real possibilities of the parties to be present to such a meeting. There shall be no obligation on any party to attend a meeting and failure to do so shall in no way constitute a prejudice to that party's case.

6. (a) This article shall not preclude the Commission from reaching preliminary decisions or from applying provisional measures expeditiously.

(b) In cases in which any interested party or third country refuses access to, or otherwise does not provide, necessary information within a reasonable period, or significantly impedes the investigation, preliminary or final findings, affirmative or negative, may be made on the basis of the facts available. Where the Commission finds that any interested party or third country has supplied it with false information, it may disregard any such information and reject any claim to which this refers.

7. Anti-dumping or countervailing proceedings shall not constitute a bar to customs clearance of the product concerned.

8. An investigation shall be concluded either by its termination or by definitive decision to establish anti-dumping or countervailing duties. Conclusion should normally take place within one year of the initiation of the proceeding.

9. The decisions of the Commission to terminate an investigation, to implement provisional measures or to establish anti-dumping or countervailing duties are published in Jurnalul Afacerilor.

#### Art.7 - Confidentiality of information

1. Information detained by the Commission and which have been made known to the parties in the investigation, shall be used only for the purpose for which it was presented.

2. (a) The Commission and the interested parties shall not reveal any information received and for which confidential treatment has been requested by its supplier, without specific permission from the supplier.

(b) Any request for confidential treatment shall indicate why the information is confidential and shall be accompanied by a non-confidential summary of the information, or a statement of the reasons why the information is not susceptible of such summary.

3. Information will ordinarily be considered to be confidential if its disclosure is likely to have a significantly adverse effect upon the supplier or the source of such information.

4. However, if it appears that a request for confidentiality is not justified and if the supplier is either unwilling to make the information public or to authorize its disclosure in a general or summary form, the information in question may be disregarded by the Commission.

The information may also be disregarded by the Commission, where such request is justified and where the supplier is unwilling to submit a non-confidential summary.

5. This article shall not preclude the disclosure of general information by the Commission and in particular of the reasons on which decisions taken are based, or disclosure of the evidence based on which the Commission made its decision. Such disclosure must take into account the legitimate interest of the parties concerned that their business secrets should not be disclosed.

#### Art. 8 - Undertakings

1. Where, during the course of an investigation, undertakings are offered by the representatives of the exporter/Government of the exporting or origin country, which the Commission considers acceptable, the investigation may be terminated without the imposition of provisional or definitive anti-dumping or countervailing duties.

In case of conclusion of an undertaking, the amounts deposited as guaranties for provisional anti-dumping or countervailing duties shall be refunded.

2. The undertaking refers to the obligation of the exporter/Government of the exporting or origin country of:

- (a) elimination or limitation of subsidy or taking other measures to eliminate the injurious effects; or
- (b) revision of prices to such an extent that either the dumping margin or the amount of the subsidy, or the injurious effects thereof, or the export at dumped prices be eliminated.

3. The Commission may periodically require any party from whom an undertaking has been accepted to provide information relevant on the fulfilment of such undertakings, and to permit their verification. Non-compliance with such requirements shall be considered as a violation of the undertaking.

4. Where an undertaking has been withdrawn or where there are justified reasons to believe that it has been violated, the Commission may, after having offered the concerned parties an opportunity to present information and evidence, decide the establishment of provisional anti-dumping or countervailing duties on the basis of the facts which were taken into consideration before the acceptance of the undertaking.

In such a case the investigation is reopened and is developed in accordance with Article 6 hereabove.

#### Art. 9 - Provisional anti-dumping and countervailing duties

1. Where preliminary investigation shows that dumping or a subsidy exists and that there is sufficient evidence of injury caused thereby and a link of causality between them, and the interests of Romania call for intervention to prevent injury being caused during the proceeding, the Commission may impose a provisional anti-dumping or countervailing duty. In such cases, release of the products concerned for free circulation in Romania shall be conditional upon the provision by the importer of a guarantee equal to the provisional duty.

2. Provisional anti-dumping or countervailing duties shall have a maximum period of validity of four months. However, under special circumstances, this period may be extended for a further period of two months. The extension may be made only if the decision to continue the application of provisional duties is taken in the third month of the validity period.

Art. 10 - Final decision

1. Where the investigation shows that there is dumping or subsidy, an injury caused thereby and a link of causality between them, a definitive anti-dumping or countervailing duty shall be imposed by the Commission.

2. (a) Where a provisional duty has been applied during the investigation, the Commission may decide if the provisional duty is to be definitively collected.

(b) The definitive collection of the provisional duty shall not be decided upon unless the investigation shows that there has been dumping or subsidy, an injury caused thereby and a link of causality between them.

Art. 11 - General provisions on anti-dumping and countervailing duties

1. No imported product shall be subject to both anti-dumping and countervailing duties at the same time.

2. Each decision shall expressly indicate the amount and type (anti-dumping or countervailing) of duty imposed, the product by tariff position, the country of origin or export, and, as the case may be, the name of the supplier.

3. The amount of the anti-dumping or countervailing duty shall not exceed the dumping margin or the amount of the subsidy granted, and they will be established at an adequate amount so as to eliminate the injury.

4. The rules of origin stipulated by the domestic regulation in force are applied to establish the country of origin.

5. Anti-dumping or countervailing duties shall be collected in addition to the customs duties and other charges normally imposed on imports, according to the domestic regulations in force.

Anti-dumping or countervailing duties shall be paid by the importers and they are collected to the public budget.

The anti-dumping and countervailing duties are established as percentages of the customs value.

6. (a) In principle, anti-dumping and countervailing duties may neither be imposed with retroactive effect nor increased during the period of the execution of decision.

However, where the Commission determines that the injury caused during the investigation was important and there are no provisional duties applied within this period, the Commission may decide to impose retroactive final duties applicable from the date of the establishment of injury.

(b) If the final level of duty is less than the provisional one, the balance will be refunded.

Art. 12 - Review of the decision

1. Decisions imposing final anti-dumping or countervailing duties and, as the case may be, acceptance of undertakings may be subject to review. The review may take place only one year after the date of the decision or of the undertakings.
2. The review of the decision or undertaking may be opened either *ex officio* or at the request of a concerned party. Where an interested party requests the review, this party has to submit evidence proving a change in circumstances to justify the need for such a review.
3. Where the Commission establishes that the review is justified, the investigation shall be reopened in accordance with the procedure of Article 6 hereabove. The reopening of the investigation shall not prejudice the measures established by the final decision.
4. Where the previous final decision is modified or cancelled by the review the new decision shall be applied according to Articles 6 and 10 hereabove, as of its date.

Art. 13 - Validity of the decision

1. Any decision on anti-dumping or countervailing duties, or an undertaking shall not be kept in force more than the necessary period of time and to the extent necessary to compensate the dumping or subsidy which caused injury, but in any case no more than five years. The Commission shall publish in Jurnalul Afacerilor a notice on the expiration date of the measures in question and inform the concerned Romanian producers, 6 months prior to the expiry date.
2. Where the Commission reviews the decision, ex officio or on request, whenever within the five years period, the last decision taken may not exceed the period provided in paragraph 1, above.

Art. 14 - Safeguard measures

1. The safeguard measures, i.e. the limitation of imports of a product or of a limited range of products, are established only after the Commission has determined that the importation of these products on the domestic market, in such increased quantities, absolutely or relatively compared with the domestic production and under such conditions, causes or threatens to cause serious injury to domestic producers of like or directly competitive products.
2. Determination of injury or threat of a serious injury to domestic producers may be made by the Commission either ex officio, or at the request of national producers of like or directly competitive products or of their associations.

The request for establishing safeguard measures is addressed to the Commission.

3. The Commission presents its conclusions of the analysis to the Minister of Trade and Tourism who will act for the establishment of safeguard measures in accordance with Article 4 of the Government Decision No. 228/1992.
4. A "like product" in the meaning of this chapter, is considered the product as defined in Article 2, paragraph 12 hereabove, and a "directly competitive product" is considered the product which has the same use as the one in question.
5. In establishing the injury or threat of injury the volume of imports during a prior period of 2-3 years, compared to the last 4-6 months (which are not included in the 2-3 years period mentioned

above), the situation of the domestic producers of like products (reduction of capacity, production, unemployment etc.) and the causes which have determined this situation, the period needed to recover the injury, and the type of measure which is to be established so that to less affect the commercial flows, are to be taken into consideration.

Art. 15 - Final provisions

Whenever in these Rules special provisions are not expressly mentioned, the provisions of the General Agreement on Tariffs and Trade (GATT) and, as the case may be, the provisions of the Agreement on Implementation of Article VI of the GATT (Anti- Dumping Code), to which Romania is a party, are applicable.

ANNEX 1

**ILLUSTRATIVE LIST OF EXPORT SUBSIDIES**

- (a) The provision by government of direct subsidies to a firm or an industry contingent upon export performance.
- (b) Currency retention schemes or any similar practices which involve a bonus on exports.
- (c) Internal transport and freight charges on export shipments, provided or mandated by governments, on terms more favourable than for domestic shipments.
- (d) The delivery by governments or their agencies of imported or domestic products or services for use in the production of exported goods, on terms or conditions more favourable than for delivery of like or directly competitive products or services for use in the production of goods for domestic consumption, if (in the case of products) such terms or conditions are more favourable than those commercially available on world markets to their exporters.
- (e) The full or partial exemption, remission, or deferral specifically related to exports, of direct taxes or social welfare charges paid or payable by industrial or commercial enterprises. Notwithstanding the foregoing, the deferral of taxes and charges referred to above need not amount to an export subsidy where, for example, appropriate interest charges are collected.
- (f) The allowance of special deductions directly related to exports or export performance, over and above those granted in respect to production for domestic consumption, in the calculation of the base on which direct taxes are charged.
- (g) The exemption or remission in respect of the production and distribution of exported products, of indirect taxes in excess of those levied in respect of the production and distribution of like products when sold for domestic consumption.
- (h) The exemption, remission or deferral of prior stage cumulative indirect taxes on goods or services used in the production of exported products in excess of the exemption, remission or deferral or like prior stage cumulative indirect taxes on goods or services used in the production of like products when sold for domestic consumption; provided, however, that prior stage cumulative indirect taxes may be exempted, remitted or deferred on exported products even when not exempted, remitted or deferred on like products when sold for domestic consumption, if the prior stage cumulative indirect taxes are levied on goods that are physically incorporated (making normal allowance for waste) in the exported product.
- (i) The remission or drawback of import charges in excess of those levied on imported goods that are physically incorporated (making normal allowance for waste) in the exported product; provided, however, that in particular cases a firm may use a quantity of home market goods equal to, and having the same quality and characteristics as, the imported good as a substitute for them in order to benefit from this provision if the import and the corresponding export operations both occur within a reasonable time period, normally not to exceed two years.

- (j) The provision by governments (or special institutions controlled by governments) of export credit guarantee or insurance programmes, of insurance or guarantee programmes against increases in the cost of exported products or of exchange risk programmes, at premium rates, which are manifestly inadequate to cover the long-term operating cost and losses of the programmes.
- (k) The grant by governments (or special institution controlled by and/or acting under the authority of governments) of export credits at rates below those which they actually have to pay for the funds so employed (or would have to pay if they borrowed on international capital markets in order to obtain funds of the same maturity and denominated in the same currency as the export credit), or the payment by them of all or part of the costs incurred by exporters or financial institutions in obtaining credits, in so far as they are used to secure a material advantage in the field of export credit terms.

Provided, however, that if the country of origin is a part to an international undertaking on official export credits to which at least twelve original signatories to the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the GATT are parties as of 1 January 1979 (or a successor undertaking which has been adopted by those original signatories), or if in practice the country of origin or export applies the interest rates provision of the relevant undertaking, an export credit practice which is in conformity with those provisions shall not be considered an export subsidy.

- (l) Any other charge on the public account constituting an export subsidy in the sense of Article XVI of the GATT.

## NOTES

1. For the purpose of this Order:

The term "direct taxes" shall mean taxes on wages, profits, interest, rents, royalties, and all other forms of income, and taxes on the ownership of real property;

The term "import charges" shall mean tariffs, duties and other fiscal charges not elsewhere enumerated in this note that are levied on imports;

The term "indirect taxes" shall mean sales, excise, turnover, value added, franchise, stamp, transfer, inventory and equipment taxes, border taxes and all taxes other than direct taxes and import charges;

"Prior stage" indirect taxes are those levied on goods or services used directly or indirectly in making the product;

"Cumulative" indirect taxes are multi-staged taxes levied where there is no mechanism for subsequent crediting of the tax if the goods or services subject to tax at one stage of production are used in a succeeding stage of production;

"Remission" of taxes includes the refund or rebate of taxes.

2. Paragraph (h) does not apply to value-added tax systems and border-tax adjustment in lieu thereof; the problem of the excessive remission of value-added taxes is exclusively covered by paragraph (g).



ANNEX 2

QUESTIONNAIRE  
(intended for complainants)

The applicants shall answer the questionnaire fully and exactly. They shall provide all the other documents concerned (such as bills, bids, trade and production statistics).

Information, in particular if confidential, shall be accompanied by a confidential annex and by a non-confidential summary of the information, as well as by a statement explaining the need for confidentiality.

The following details shall be provided by all applicants in a concrete and exact manner, correlated with their knowledge of information. When they act on behalf of other firms, they shall prove that they are their representatives.

1. Complainant
  - 1.1. Name and address;
  - 1.2. Producers on whose behalf the complainant is acting (1);
  - 1.3. Proportion of the producers represented by the complainants in Romania's total production of respective products (2).
2. Goods being dumped or subsidized
  - 2.1. Precise description of the products (technical characteristics, exact use, etc.);
    - (1) Addresses shall be clear and full including, where possible, telephone, telex and fax numbers.
    - (2) Where the complainant is not representing the whole domestic production, names and addresses of the other producers shall be presented.
  - 2.2. Tariff headings or subheadings;
  - 2.3. Customs duty;
  - 2.4. Country of origin;
  - 2.5. Exporting country;
  - 2.6. Name and addresses of producers in the country of origin;
  - 2.7. Name and addresses of exporters to Romania in the country of origin.
3. Normal value and export price

3.1. The normal value of products subject to dumping or subsidy shall be determined in accordance with the provisions of Article 1 of Government Decision No. 228/1992 on the protection of domestic producers and of domestic market against unfair competition resulting from the import of certain goods at dumped or subsidized prices, as well as against the export at prices lower than those in the domestic market, and Article 2 of the Joint Order No. 128/1992 of the Minister of Trade and Tourism and the Minister of Economy and Finance on Rules of application and procedures for the establishment of anti-dumping duties, countervailing duties and safeguard measures.

3.1.1. Normal value:

3.1.2. Export price:

4. Injury

The information requested below shall refer to the alleged products subject to dumping or subsidy. Figures shall cover the last three calendar years and the present year to date.

4.1. Evolution of consumption in Romania (quantities):

19...

19...

19...

19...

4.2. Market share held by the dumped or subsidized imports (in percentage):

19...

19...

19...

19...

4.3. Producers in Romania:

4.3.1. Cost price:

4.3.2. Sale price:

4.4. Evolution of domestic production (quantities):

19...

19...

19...

19...

4.5. Evolution of production capacity

4.6. Evolution of stocks

4.7. Sales (volume and value):

4.7.1. On domestic market

4.7.2. Exports

4.8. Market share held by domestic producers (in percentage)

19...

19...

19...

19...

4.9. Price evolution (in particular depression of prices or prevention of price increases which would have otherwise occurred)

4.10. Profits/losses (net before profit tax)

4.11. Level of employment

4.12. Export capacity in the country of origin or in the exporting country, existing or which will be operational in the foreseeable future, as well as the likelihood that exports be directed to Romania.

ANNEX 3

QUESTIONNAIRE  
(intended for the importer)

The purpose of this questionnaire is to allow the Commission for anti-dumping duties, countervailing duties and safeguard measures to analyze the situation created on the Romanian market by the import of..... It is in your own interest to reply as accurately and completely as possible and to attach supporting documents.

Where the information is not communicated until..... the Commission can take preliminary or final decisions on the basis of the factual data available.

A. GENERAL

1. Legal form and main structure of the firm

Specify the type of your firm, name and address, the registration number in the Commercial Register as well as the importer's statistical code.

Indicate the names and addresses of all your branches in Romania and abroad, specifying those which manufacture the product in question.

2. The organization of the firm

Specify the leadership of the firm indicating all its responsibilities. Specify the departments involved in the import of product in question.

3. The product in question

Description in accordance with the customs tariff.  
Commercial denomination.  
Description of the product characteristics.

4. Imports of the product in question

For the indicated period specify:

- The necessary imports for own production;
- The quantity supplied by the domestic producers;
- Imports for own production, the production of other firms or for sales as such on Romanian market;
- Import contracts (quantity, price, partner);
- Offers taken into account for choosing the supplier;
- Data on the basis of which the supplier was chosen;
- Where the import is made under a barter or clearing operation, describe in detail the transaction;
- Please provide a list of all import transactions during the period indicated, in a table format, containing the following:

1. Number of invoice
2. Date of invoice
3. Name of partner and country
4. Description of the product
5. Quantity
6. Unit price
7. Currency
8. Value of invoice
9. Terms of delivery
10. Terms of payment

Expenses

11. Outland transport expenses;
  12. Inland transport expenses;
  13. Insurance;
  14. Packaging;
  15. Other expenses related to transport (handling, customs clearance);
  16. Commissions;
  17. Reductions, discounts, rebates.
- Any other information considered to be necessary to the Commission for the case under review.

ANNEX 4

QUESTIONNAIRE  
(intended for producers and exporters)

The purpose of this questionnaire is to allow the Commission to obtain the information it deems necessary for the anti-dumping investigation. It is in your own interest to answer as accurately and completely as possible and to attach supporting documents including price lists and invoices. If the information is not communicated to the Commission, the latter can make preliminary or final decisions on the basis of the factual data available.

General instructions for filling in the questionnaire

1. Unless otherwise specified replies should relate to a period of twelve months prior to the first day of the month in which notice of the investigation was given in the "Jurnalul Afacerilor";
2. As the case may be, information and supporting evidence can be provided on a confidential basis, the reasons of confidentiality being explained in the covering letter;
3. All producers and exporters receiving this questionnaire shall fill it in. However, if you are not a producer of the product in question then, in addition to filling in the questionnaire yourself, you shall request your supplier to fill it in also.

Concerning the anti-dumping procedure

A. GENERAL

1. Legal form of your firm
2. Owner or main shareholders
3. Range of products
4. Total profit in the last annual balance sheet
5. Total persons currently employed
6. Profit/loss situation as mentioned in the balance sheet (Please attach the financial situation for the last three years and indicate separately the profit/loss situation for the product concerned).

B. QUANTITIES SOLD

Total sales for the product subject of the procedure or of a like product during the last four years and the current year to date:

1. Quantities

19 19 19 19 19  
---- ---- ---- ---- ----

- (a) on your domestic market ;
- (b) for export to Romania ;
- (c) for export to other countries(country/value).

C. EXPORT PRICE OF THE PRODUCT SUBJECT OF THE PROCEDURE

1. Unit price paid or payable by the importer:

- (a) amount;
- (b) currency specified in the sale contract;
- (c) terms of delivery (e.g. ex works, FOB, CIF etc.);
- (d) terms of payment;
- (e) reductions, discounts or rebates granted on above price (specify precise conditions for granting):
  - for quantity;
  - others (specify);

2. Nature and amount of any costs or charges beyond the ex-factory price, included in prices indicated above:

- (a) transport;
  - within exporting country
  - outside exporting country
- (b) insurance;
- (c) other specific costs (e.g. packaging, carriage, loading, unloading, storage, customs clearance, etc.), amounts listed separately.

3. Nature and amount of any payment made to third parties as a result of your sales (e.g. royalties or commissions). Indicate whether included in price.

4. Do you have any association or compensatory arrangement with any purchaser in Romania, either directly or through a third party? If so, give details.

D. NORMAL VALUE BASED ON DOMESTIC SALES

1. Unit price paid or payable by unrelated purchasers on the domestic market for the product which is subject of the procedure, or of a like product:

- (a) amount;
- (b) terms of delivery (ex-works delivery, including/excluding sales tax or similar taxes, etc.);
- (c) terms of payment;
- (d) reductions, discounts or rebates from above prices (specify precise conditions for granting):
  - for quantity;
  - others (specify).

2. List of customers who are related to your firm or with whom you have compensatory agreements, together with details of prices charged to them and quantities involved.

3. Nature and amount of any charges beyond the ex-factory level included in the prices indicated in sections 1 and 2 above:

- (a) transport;
- (b) insurance;
- (c) other (specify: packaging, carriage, loading, unloading, storage, customs clearance etc.), amounts listed separately.

4. Nature and amount of any payment made to third parties as a result of your sales (e.g. royalties, commissions). Indicate whether included in price.

5. Percentage of total domestic sales made to various customers (i.e. shareholder, wholesaler, internal consumption, associated or related companies, etc.).

E. NORMAL VALUE BASED ON EXPORTS TO OTHER COUNTRIES OR ON COSTS OF PRODUCTION

(This section has to be filled in only where:

- (i) there are no domestic sales of a like product;  
or
- (ii) domestic sales of the like product do not permit a proper comparison;  
or
- (iii) domestic sales of the like product are made at a loss;  
or



(iv) you are specifically requested to do so.

Except in the case of (i), however, section D must be filled in)

1. Export sales to other countries:

- (a) Unit price paid or payable in the various markets:
  - (i) amount;
  - (ii) currency specified in sales contract;
  - (iii) terms of delivery (FOB, CIF etc.);
  - (iv) terms of payment;
  - (v) reductions, discounts or rebates from the above price (specify precise conditions for granting):
- quantity;
- others (specify).
- (b) Nature and amount of any charges beyond the ex-factory level included in the price indicated above:
  - (i) transport:
    - within exporting country;
    - outside exporting country;
  - (ii) insurance;
  - (iii) other (specify e.g. packaging, carriage, loading, unloading, storage, customs clearance etc.) - amounts listed separately;
- (c) Nature and amount of any payments made to third parties as a result of your sales (e.g. royalties or commissions). Indicate whether included in price;
- (d) Do you have any association or compensatory arrangement with any purchaser in the country of destination, either directly or through a third party? If so, give details.

2. Costs of production for the product subject to the proceeding:

Figures shall reflect the sales made during the period specified in the general instructions. If data are based on standard, rather than actual costs, describe the method used to determine standards costs, the frequency of their revision and the various variants utilized.

## (a) Cost of materials:

(Please indicate the total costs of raw materials including domestic transport, duties, and other costs incurred in obtaining the raw materials. Identify separately the major raw material elements, their share and cost per input unit.)

## (b) Cost of direct labour:

(This shall include the cost of any labour activity which can be identified or associated with a particular product or process. The cost includes basic pay, overtime pay, incentive pay, bonuses, shift differentials, employee benefits - e.g. housing, holiday pay, retirement, social security programmes - and any other employee-related expenses. Specify average labour productivity as measured in units normally used in your industry).

## (c) Overheads

## - Manufacturing overheads;

(These include all expenses incident to and necessary for the production of the product. The following items at least should be separately identified: indirect labour - including contract labour -, supervision, depreciation, rent, power, maintenance and repairs, any other cost which represents 5 per cent or more of total manufacturing overheads. Also include and identify here accounting adjustments to inventory, e.g. year-end adjustments based on physical inventory, inventory reserves.)

## - Financing costs;

## - Packaging costs;

## - Selling, general and administrative costs;

(These include all other costs incurred. Each item accounting for over 5 per cent of the total under this heading should be separately identified)

## (d) Profit/loss (net before tax) after deducting the above costs from the sales revenue;

## (e) Level of profit considered reasonable for this product;

## (f) Is any item which enters directly into the production of the product concerned supplied by a party with which your firm is associated or has a compensatory agreement?

F. ALLOWANCES

## 1. Differences in physical characteristics of the product:

Where the product sold in your domestic market or (in the case of Section E. 1.) to other markets is not identical with the one exported to Romania, indicate the nature of any difference, its effect on the market value in your country and its effect on production costs.

2. Differences in quantities:

Where any difference between the export price and the normal value arises wholly or partly because they relate to different quantities, and you wish to claim an allowance for this, indicate:

- (a) the period during which any quantity discount has been made freely available in the normal course of trade on the market used to establish normal value and the proportion of trade in that market to which it has been applied;
- (b) the savings in costs from producing different quantities.