

ANNEX I

(Paragraph 5 of Article 100)

DEFINITION OF DOMESTIC INDUSTRY

1. *For the purposes of this Protocol, the term "domestic industry" shall, except as provided in paragraph 4, be interpreted as referring to the domestic producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products, except that when producers are related to the exporters or importers or are themselves importers of the allegedly subsidised or dumped product or a like product from other countries, the term "domestic industry" may be interpreted as referring to the rest of the producers.*

2. *In exceptional circumstances, the territory of a Member State may, for the production in question, be divided into two or more competitive markets and the producers within each market may be regarded as a separate industry if (a) the producers within such market sell all or almost all of their production of the product in question in that market, and (b) the demand in that market is not to any substantial degree supplied by producers of the product in question located elsewhere in the territory. In such circumstances, injury may be found to exist even where a major portion of the total domestic industry is not injured, provided there is a concentration of subsidised or dumped imports into such an isolated market and provided further that the subsidised imports are causing injury to the producers of all or almost all of the production within such market.*

3. *When the domestic industry has been interpreted as referring to the producers in a certain area, i.e., a market as defined in paragraph 2, countervailing duties shall be levied only on the products in question consigned for final consumption to that area. When the constitutional law of the importing Member State does not permit the levying of countervailing or anti-dumping duties on such a basis, the importing Member State may levy the relevant duties without limitation only if (a) the exporters shall have been given an opportunity to cease exporting at subsidised or dumped prices to the area concerned or otherwise give assurances pursuant to Article 116 or 133 and adequate assurances in this regard have not been promptly given, and (b) such duties cannot be levied only on products of specific producers which supply the area in question.*

4. *Whenever an investigation is being undertaken by the Community on behalf of the domestic industry which has alleged injury from extra-regional imports, the domestic industry in the CSME shall be taken to be the industry referred to in paragraphs 1 and 2 consistent with the provisions of paragraph 8(a) of Article XXIV of GATT 1994.*