GENERAL AGREEMENT ON

TARIFFS AND TRADE

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Committee on Anti-Dumping Practices

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MINUTES OF THE MEETING HELD ON 5 JUNE 1987

Chairman: Mr. P.S. Randhawa (India)

1. The Committee met on 5 June 1987.

2. The Chairman drew the Committee's attention to a request by the People's Republic of China to be represented in the Committee. This request had been made in a communication from the People's Republic to the Director-General of GATT in October 1986. The relevant part of this communication read as follows:

> "China has formally requested for resuming its membership in GATT and is ready to engage in negotiations on this subject. Thereafter China was also invited to participate in the new round of Multilateral Trade Negotiations. As the Codes on Non-Tariff Measures reached during the Tokyo Round will be inevitably touched upon during the negotiations there is a need for China to keep herself better informed of the on-going discussions on these Codes, so as to facilitate her to formulate her position on them in the course of negotiations. Therefore, China wishes to be represented in the meetings of the Committee on Technical Barriers to Trade, the Committee on Import Licensing, the Committee on Subsidies and Countervailing Measures, the Committee on Anti-Dumping Practices, the Committee on Customs Valuation and the Committee on Government Procurement. The Director-General is kindly requested to refer the matter to the Chairmen of the above-mentioned Committees respectively for their consideration and their positive responses in this respect will be highly appreciated."

In view of the fact that the People's Republic of China had formally informed the CONTRACTING PARTIES of its intention to negotiate the terms of its status as a contracting party and that it was a participant in the Uruguay Round, the Chairman proposed that the Committee agree to grant observer status to the People's Republic of China on the same conditions as those applied to other observers (see document ADP/M/2, page 12).

3. The Committee welcomed the People's Republic of China as an observer.

4. The Committee elected Mr. P.S. Randhawa (India) as Chairman, and Mr. A. Sivertsen (Norway) as Vice-Chairman.

5. The Committee adopted the following agenda:

A. Adherence to or acceptance of the Agreement by other countries

B. Examination of national legislation and implementing regulations (ADP/1 and addenda)

(i) Japan (ADP/1/Add.8/Suppl.1)

(ii) Brazil (ADP/1/Add.26)

(iii) EEC (ADP/1/Add.1/Suppl.4)

(iv) Korea (ADP/1/Add.13/Rev.1 and ADP/W/135 and 137)

(v) Pakistan (ADP/1/Add.24)

(vi) India (ADP/1/Add.25 and Corr.1)

(vii) Sweden (ADP/1/Add.2/Suppl.1)

(viii) Legislation of other parties

C. Semi-annual reports of anti-dumping actions taken within the period 1 July-31 December 1986 (ADP/32 and addenda)

D. Reports on all preliminary or final anti-dumping actions (ADP/W/134, 136, 141, 142 and 143)

E. Report of the Ad-Hoc Group on the Implementation of the Anti-Dumping Code

(i) Draft recommendation on input dumping (ADP/W/83/Rev.2)

(ii) Report by the Chairman of the work of the Group

F. Other business

(i) United States - Anti-dumping duty investigation of fresh cut flowers from various countries

(ii) United States - Review and revocation of outstanding anti-dumping measures

(iii) Seminar on anti-dumping procedures held in Belgrade

(iv) Uruguay Round Negotiating Group on MTN Agreements and Arrangement - Proposal submitted by Korea

A. Adherence to or acceptance of the Agreement by other countries

6. The Chairman said that since the last meeting of the Committee no other countries had accepted or adhered to the Agreement. The Committee took note of a communication from Mexico in which it announced its intention to accept the Agreement (document ADP/33).[1]

7. The Chairman recalled that at its meeting in October 1986 the Committee had taken note of a communication in which New Zealand announced that it would accept the Agreement in the near future (ADP/28). The observer for New Zealand confirmed his Government's wish to accept the Agreement and said that the process of adapting the anti-dumping legislation in conformity with the Agreement had been largely completed.

B. Examination of national legislation and implementing regulations (ADP/1 and addenda)

(i) Japan (Guidelines for the conduct of anti-dumping and countervailing duty investigations, document ADP/1/Add.8/Suppl.1)

8. The Chairman said the anti-dumping legislation of Japan (Article 9 of the Customs Tariff Law and the related Cabinet Order) had been circulated in July 1980 and had been considered by the Committee at its meeting held in October 1980 (see ADP/M/3, paragraph 65). Questions on the Japanese legislation had also been raised at subsequent meetings. In December 1986 the Japanese Government had adopted Guidelines for the conduct of anti-dumping and countervailing duty investigations which had been circulated in ADP/1/Add.8/Suppl.1

9. The representative of Japan said the Guidelines supplemented the provisions of Article 6 of the Japanese Customs Tariff Law and the related Cabinet Order. The Guidelines were intended to provide more transparency and clarity in the application of anti-dumping duties. In establishing these Guidelines the Japanese Government had taken into consideration the provisions of the Agreement but also the anti-dumping laws and regulations of other parties and he therefore believed that the Guidelines were fully consistent with Japan's international obligations.

10. The representative of Romania considered that paragraph 10 of the Guidelines, which provided that Article 15 of the Agreement on Subsidies and Countervailing Measures would apply in the case of imports from state-controlled-economy countries, was not consistent with the General Agreement and the Agreement on Implementation of Article VI of the General Agreement. In his view it was not appropriate to use in anti-dumping procedures a provision of an agreement of which the exporting country concerned was not a party. Secondly, while the second Supplementary Provision to paragraph 1 of Article VI in Annex I to the General Agreement

[1] See also document ADP/33/Add.1

recognized that in the case of imports from a country which had a complete or substantially complete monopoly of its trade and where all domestic prices were fixed by the state, the normal method to determine the existence of dumping might not always be appropriate, this Supplementary Provision did not provide any justification for an a priori substitution of an alternative for the general method to determine the existence of dumping.

11. The representative of Canada said his delegation had submitted written questions on the Guidelines (see ADP/W/147). On paragraph 8(2) of the Guidelines, according to which the comparison between the export price and the normal value should be made, in principle, at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time, he wondered what was meant by the terms "in principle" and "normally".

12. The representative of Japan said that paragraph 10 of the Guidelines was consistent with Article 15 of the Agreement on Subsidies and Countervailing Measures. In response to the question put by the representative of Canada he said paragraph 8(2) was intended to implement the relevant provisions of Article 2 of the Agreement.

13. The representative of Czechoslovakia said he fully agreed with the comments made by the representative of Romania on paragraph 10 of the Guidelines.

14. The representative of the EEC said his delegation had no difficulties with paragraph 10 of the Guidelines which reflected an approach which had also been adopted by other countries. Regarding paragraph 1(2) of the Guidelines, which listed a number of categories of persons who were considered to have an interest in an industry in Japan, he wondered why the word "usually" had been used in the first sentence of this paragraph; this word suggested that in the view of the Japanese Government persons other than those mentioned in this paragraph could also qualify as interested persons.

15. With respect to paragraph 8(2) of the Guidelines and the statement made on this paragraph by the representative of Japan, the representative of Canada pointed out that the term "in principle" did not appear in the relevant provision in the Agreement (Article 2:6).

16. The representative of Australia said his delegation needed more time to study the Guidelines and wished to have an opportunity to revert to these Guidelines at the next meeting of the Committee.

17. The representative of the EEC shared the concern expressed by the delegation of Canada regarding the term "in principle" in paragraph 8(2). His delegation had submitted additional questions in writing on the Guidelines (document ADP/W/148).

18. The representative of the United States said that paragraph 1(2) of the Guidelines appeared to permit "any person who has an interest in an industry in Japan" to apply for anti-dumping duties, even though Article 5:1 of the Agreement required that a petition be brought "by or on behalf of" a domestic industry. She wondered what the phrase "a person who has an interest in an industry" meant and how the Japanese Government intended to adhere to the requirement of the Agreement in this area (see also document ADP/W/150). She further indicated that her delegation wished to have an opportunity to study the Guidelines in greater detail and to make additional observations at the next meeting.

19. The Chairman said the Committee would revert to the Japanese Guidelines at its next regular meeting. He invited interested parties to submit questions in writing by 3 July 1987 and requested the Japanese delegation to reply in writing by 10 October 1987.

(ii) Brazil (Decree No. 93.941 of 16 January 1987, document ADP/1/Add.26)

20. The Committee had before it Decree No. 93.941 of 16 January 1987, promulgating the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. The representative of Brazil explained that as a result of this Decree the Agreement was now applicable in Brazil as domestic law. Article 3 of this Decree authorized the Brazilian Customs Policy Commission to issue complementary rules for the application of the Agreement. Such complementary rules had been approved by the Customs Policy Commission on 14 May 1987; on 2 June 1987 these rules had been published in the Diário Oficial. The complementary rules would be notified to the Committee as soon as possible.

21. The Committee took note of the statement by the representative of Brazil and agreed to revert to the anti-dumping legislation of Brazil when it had received the text of the complementary rules.

(iii) EEC (Council Regulation No. 2336/86 of 24 July 1986 concerning the existing anti-dumping duties applicable to imports from third countries into Spain and Portugal, and Commission notice concerning the reimbursement of anti-dumping duties, document ADP/1/Add.1/Suppl.4)

22. The representative of the EEC said Regulation 2336/86 dealt with a technical problem encountered by the EEC authorities after the accession of Spain and Portugal to the European Communities. He recalled that under the anti-dumping law of the EEC anti-dumping duties were fixed at a level necessary to eliminate the injury to a domestic industry caused by dumped imports. This level was often lower than the margin of dumping. In calculating the amount of duty necessary to eliminate the injury, account had to be taken of the tariff duties on the imports in question provided for by the Common Customs Tariff. Since Spain and Portugal would progressively align their customs tariff rates with the Common Customs Tariff and since the existing tariff rates in Spain and Portugal were often

higher than those provided for in the Common Customs Tariff, a mechanism had to be designed to take into account this difference and to adjust the amount of the anti-dumping duties after the extension of these duties to imports into Spain and Portugal. To this end Regulation 2336/86 established the principle that where the Spanish and Portuguese tariff rates were higher than those of the Common Customs Tariff this difference would be deducted from the anti-dumping duty.

23. No comments were made or questions raised regarding Council Regulation 2336/86; with respect to the Commission notice on the procedure for the reimbursement of anti-dumping duties, the representative of Japan and the United States indicated they needed more time to study this notice and wished to have the opportunity to revert to it at the next meeting.

24. The representative of Czechoslovakia said that while he had no specific comments to make on the Council Regulation and the Commission Notice circulated in document ADP/1/Add.1/Suppl.4, he wished to express the concern of his authorities about certain aspects of the anti-dumping practice of the EEC. His Government had been told by exporters that in some cases they had not been informed in due time of developments in anti-dumping investigations. This practice was not in conformity with the Agreement. Furthermore, he referred to a proposal submitted by the Commission to the Council regarding an amendment of Council Regulation 2176/84 to extend the scope of application of anti-dumping duties to imports of spare parts. He understood that this proposal had not yet been approved and that it therefore was not subject to a requirement of notification to the Committee. Nevertheless, he considered that, if approved, this proposal would constitute a clear violation of the Agreement because it was inconsistent with the definition of "like product" in the Agreement. Changes such as those contained in the Commission's proposal should be discussed and agreed at the multilateral level, either in the Committee or in the Uruguay Round Negotiating Group on GATT Articles.

25. The representative of Japan shared the concern voiced by the representative of Czechoslovakia regarding the proposed amendment of Regulation 2176/84. This proposal went beyond what was necessary to deal with the problem of the circumvention of anti-dumping duties on a product through the importation of components of that product. Furthermore, under this proposal anti-dumping duties would be applied in a discriminatory manner to foreign affiliated local assembly plants. In addition to the inconsistency of the proposal with the Agreement he also pointed to the negative effect the proposal would have on foreign investment. He hoped the EEC authorities would reconsider this proposal.

26. The representative of the EEC disagreed with the allegation of the representative of Czechoslovakia that in EEC anti-dumping investigations exporters were not sufficiently informed. The EEC complied with all relevant provisions of the Agreement and had always insisted on full transparency in all anti-dumping investigations. When an anti-dumping investigation was opened, a formal notice was published in the Official Journal, the complaint was sent to the exporters concerned, the embassies

of the countries of the exporters in question were informed and a period of thirty or thirty-seven days was given to the exporters to defend their interests. In the course of the investigation lengthy and detailed discussions took place with the exporters and, prior to the imposition of definitive measures, a disclosure conference took place at which the exporter was informed of the results of the investigation. The exporters then had a last opportunity to make further comments provided they observed the deadline fixed by the Commission for the submission of comments.

27. In response to the comments made by the representatives of Czechoslovakia and Japan on the proposed amendment to Regulation 2176/84, the representative of the EEC said the circumvention of anti-dumping duties on a finished product through the importation and assembly of components of that product was a serious problem for the EEC. Other parties had experienced the same problem and had taken measures to solve it. He pointed out that the proposal submitted to the Council by the Commission defined in a precise manner the situation of circumvention which would lead to the application of anti-dumping duties to products assembled from imported components. According to this proposal a circumvention would be considered to have occurred where (a) assembly operations were carried out by a party which was related to any of the manufacturers whose exporters of the like product were subject to an anti-dumping duty; (b) the assembly operation was started or substantially increased after the opening of the anti-dumping investigation, and (c) the value of the parts used in the assembly operation and organization in the country of exportation of the product subject to the anti-dumping duty exceeded the value of all other parts used in that operation by a specific percentage. As soon as the Council would have taken a decision on this proposal the EEC would inform the Committee thereof.

28. The representative of Japan said the Committee should revert to this matter when it had the definitive version of the proposed amendment before it. He reiterated his concern regarding the present version of the proposal which in his view went beyond what was necessary to deal with the problem of circumvention of anti-dumping duties through the importation and assembly of components.

29. With respect to the question of the information provided to exporters in EEC anti-dumping investigations, the representative of Czechoslovakia said he had not wanted to suggest that lack of sufficient information was a general characteristic of the EEC anti-dumping practice; he had only wanted to draw the attention to the fact that in some cases involving exporters from Czechoslovakia insufficient information had been provided. Regarding the proposal to amend Regulation 2176/84 he reiterated his view that, if adopted, this proposal would be a violation of the Agreement.

30. The representative of Hong Kong said it was important that any solution to the problem of the circumvention of anti-dumping duties through the importation and assembly of components should take into account two important requirements of the Agreement. Firstly, the requirement should be observed that a comparison be made between like products. Secondly,

account had to be taken of the requirement that the existence of injury be determined before anti-dumping measures could be imposed on imports of a product.

31. The representative of Singapore said she shared the concern expressed by other delegations with regard to the proposed amendment of Regulation 2176/84.

32. The Committee took note of the concerns expressed by some delegations regarding the proposed amendment to Regulation 2176/84 and agreed to revert to this matter when the amendment had been adopted by the EEC Council.

33. The Chairman concluded by saying that the Committee would revert to the Commission Notice concerning procedures for the reimbursement of anti-dumping duties at its next meeting.

(iv) Korea (Article 4 of the Customs Act and Article 4 of the Presidential Decree of the Customs Act, document ADP/1/Add.13/Rev.1)

34. The Chairman recalled that the Committee had begun its examination of the anti-dumping legislation of Korea at its meeting held in October 1986. At that meeting questions had been asked by the representative of the United States (ADP/M/18, paragraph 8) and subsequently written questions had been submitted by the EEC (ADP/W/135) and Australia (ADP/W/137). Replies by Korea to those questions had been circulated in documents ADP/W/145 and ADP/W/146, respectively.

35. The representative of the United States said that at the meeting held in October 1986 her delegation had asked some questions on the Korean anti-dumping legislation; her delegation would submit those questions in writing (see document ADP/W/149).

36. The representative of Korea said his delegation would like to reply to the questions put by the United States in ADP/W/149 at a later stage. By way of preliminary comment on these questions he said that Article 4-4(2) of the Presidential Decree of the Customs Act contained the definition of the term "any person having an interest in the domestic industry" as used in Article 10(2) of the Customs Act. His Government intended to review the provisions in the Korean anti-dumping legislation regarding the definition of the categories of persons entitled to file an anti-dumping duty petition and was prepared to discuss this matter bilaterally with any party wishing to do so.

37. The representative of Australia thanked the delegation of Korea for the replies it had provided to the questions put by Australia. His delegation needed some more time to study these replies and he therefore requested that the Korean anti-dumping legislation be kept on the agenda of the Committee.

38. The Chairman concluded by saying that the Committee would revert to the anti-dumping legislation of Korea at its next meeting.

(v) Pakistan (Ordinance No. III of 1983, document ADP/1/Add.24)

39. The Chairman recalled that the Committee had begun its examination of the anti-dumping legislation of Pakistan at its meeting in April 1986. The Committee had continued this examination at its meeting held in October 1986 on the basis of questions which had been raised at the meeting in April and written questions received from the United States (ADP/W/117), Australia (ADP/W/120) and the EEC (ADP/W/124). At the meeting held in October 1986 the representative of Pakistan had replied to some of the questions raised (ADP/M/18, paragraphs 13-22) and he had indicated he would revert to the remaining questions at a later stage.

40. The representative of Pakistan said his delegation was not in a position to provide additional replies at this meeting and he therefore requested that the Committee revert to the anti-dumping legislation of Pakistan at its next meeting. He also informed the Committee that his Government had not yet adopted rules to implement the Ordinance and that so far no anti-dumping measures had been applied by his country.

41. The Chairman said the Committee would revert to the anti-dumping legislation of Pakistan at its next meeting.

(vi) India (The Customs Tariff (Second Amendment) Act of 1982 and the related Customs Tariff Rules of 1985, document ADP/1/Add.25 and Corr.1)

42. The Chairman recalled that at its meeting in April 1986 the Committee had begun to examine the anti-dumping law and regulations of India. The Committee had continued its examination of the Indian legislation at its meeting held in October 1986 on the basis of questions raised at the meeting in April and written questions submitted by the United States (ADP/W/18), Australia (ADP/W/120) and the EEC (ADP/W/121). The replies by the Indian delegation had been reproduced in ADP/M/18, paragraphs 26-32. Some delegations had expressed their concern about particular aspects of the Indian anti-dumping legislation, e.g. the definition of domestic industry and the criteria and procedures government the application of provisional measures (ADP/M/18, paragraphs 33 and 35).

43. With respect to a question raised at previous meetings on the procedures for the application of provisional anti-dumping measures, the representative of India said his Government did not intend to apply provisional measures without giving the exporters concerned an opportunity to comment and that it intended to comply with the relevant provisions of the Agreement in this respect.

44. The representative of the EEC requested further clarification of one of the replies provided by the representative of India at the meeting held in October 1986 to questions submitted by the EEC (ADP/M/18, paragraph 29).

In one of these replies the representative of India had referred to Section 13 of the Customs Tariff Rules which provided for the application of provisional measures after a preliminary determination of dumping and, where applicable, injury. He asked what was meant in this context by the term "where applicable".

45. The representative of the United States said it had been the understanding of her delegation that the Indian delegation would seek more information on a number of issues raised at previous meetings. Her delegation was still not completely satisfied and in view of the fact that further written information from the Indian delegation did not seem to be forthcoming she requested some more time to study the replies given by the Indian representative at the meeting held in October 1986.

46. The Committee agreed to revert to the legislation of India at the next meeting and the Chairman invited the delegation of India to submit written replies prior to that meeting.

(vii) Sweden (Ordinance on Dumping and Subsidy investigations of 5 September 1985, document ADP/1/Add.2/Suppl.1)

47. The Chairman said the Committee had started its examination of the Swedish Ordinance on Dumping and Subsidy Investigations at its meeting in April 1986. Subsequently written questions on this Ordinance had been received from the United States (ADP/W/119) and the EEC (ADP/W/122). At the meeting of the Committee in October 1986 the delegation of Sweden had replied in writing to those questions (ADP/W/131). Since the EEC had indicated at that meeting that it would like some more time to reflect on the answers provided by Sweden the Committee had agreed to revert to the Ordinance at its next regular meeting. Furthermore, in the course of the Committee's discussion at the October meeting of the anti-dumping investigation conducted by Sweden on wood particle board from Poland and Czechoslovakia the representative of Poland had expressed the wish that the Ordinance be kept on the agenda of the Committee (ADP/M/18, paragraph 61).

48. The representative of Poland recalled that at the October meeting she had raised a number of questions on the Swedish anti-dumping procedures in connection with the anti-dumping investigation conducted by Sweden with respect to imports of wood particle board from Poland (ADP/M/18, paragraph 61). She pointed out that when the investigation had been opened (15 August 1985) no information on the Swedish anti-dumping procedures had been available as the Ordinance had been issued only on 5 September 1985. Consequently, the Polish exporter involved had been unable to obtain information about the legal procedures and criteria which would be applied by the Swedish authorities. Nevertheless she expressed the appreciation of her authorities for the detailed information which had been provided in the meantime by Sweden in document ADP/W/131 and in bilateral discussions. However, her authorities were still concerned about certain aspects of the Swedish anti-dumping legislation. In this regard she mentioned in particular the question of the types of anti-dumping duties which could be applied under the Swedish legislation

(variable duties, ad valorem duties and specific duties). She referred to the reply by Sweden in document ADP/W/131 to a question put by the United States on this issue and requested the Swedish delegation to explain how and when variable duties would be applied as anti-dumping duties and whether the Swedish authorities had adopted specific regulations for the application of the three basic types of duties.

49. The representative of Sweden said that, as explained in the written reply by Sweden to a question put by the United States (ADP/W/131, page 2) the Swedish anti-dumping legislation provided for three possible types of anti-dumping duties: variable duties, ad valorem duties and specific duties. The choice of one of these methods would depend upon the particular circumstances of each case. Regarding the system of variable duties he noted that one disadvantage of this system was that it was difficult to administer.

50. The representative of Poland said that the answer given by the Swedish representative had not added anything new to the information provided on this issue in document ADP/W/131.

51. The representative of the United States also wondered how variable duties could operate as anti-dumping duties and asked the Swedish delegation to give a specific example of such a case.

52. The representative of Sweden said that so far his Government had never applied variable duties as anti-dumping duties. He would seek more information from his authorities with respect to the technical details of the possible use of variable duties as anti-dumping duties.

53. The representative of the EEC said that, where appropriate, anti-dumping duties applied by the EEC took the form of variable duties. The amount of the variable duty was determined as the difference between a threshold price, which was a price equal to or less than the normal value expressed on a c.i.f. Community frontier basis, and the import price of the product in question.

54. The Chairman said the Committee had concluded its examination of the Swedish anti-dumping legislation.

(viii) Legislation of other parties

55. The representative of Czechoslovakia drew the attention of the Committee to certain Canadian practices which in the view of his authorities were inconsistent with the relevant provisions of the Agreement, and in particular with Article 8:1, Article 9:1 and Article 11:1. The first issue raised by the representative of Czechoslovakia concerned an anti-dumping proceeding involving imports of carbon and alloy steel plates from various countries including Czechoslovakia. In this case anti-dumping duties had been imposed in 1983. Since the initial operative date of these duties the Canadian authorities had increased the duty applicable to imports from

Czechoslovakia three times by adjusting the normal value on the basis of prices in, successively, the United Kingdom, the Federal Republic of Germany and Belgium. These increases of the anti-dumping duty had taken place even though since the introduction of the duty in 1983 only negligible quantities of carbon and alloy steel plates could be imported from Czechoslovakia into Canada. It followed from Article 1 and Article 9:1 of the Agreement that anti-dumping duties could be applied only where a causal link had been established between a margin of dumping and injury to a domestic industry. He considered that automatic increases of duties, each time based on normal values in different countries, without an investigation of the injury aspect and the causal link between the margin of dumping and the injury, and without there being an opportunity for the exporter to defend his interests, were in violation of the basic principles of the Agreement. Since the Canadian authorities applied similar practices in other cases, his Government intended to invite the Canadian authorities for bilateral consultations on this issue in the near future. A second point raised by the representative of Czechoslovakia was that in the Canadian anti-dumping practice anti-dumping duties corresponded to the full margin of dumping although Article 8:1 of the Agreement provided that it was desirable that an anti-dumping duty be less than this margin if such lesser duty would be sufficient to remove the injury to the domestic industry. Finally, he said that in cases where, after carrying out an administrative review, the Canadian authorities had found a higher margin of dumping, this led to an adjustment of the amount of the duty which was applied retroactively. He considered that this type of retroactive adjustment of anti-dumping duties was inconsistent with Article 11:1 of the Agreement and that it also had no basis in the Canadian anti-dumping legislation.

56. The representative of Canada said his authorities conducted periodic administrative reviews of existing anti-dumping measures in order to ensure that the normal value of the product remained consistent with current market conditions. Other import administrations followed similar procedures. Exports to Canada priced at the level of the normal value were not subject to anti-dumping duties and it was therefore important to keep the normal value up to date in order to determine whether any anti-dumping duty was payable at the time of importation. In cases involving imports from non-market economies, normal value was based on prevailing market conditions in a surrogate market-economy country. In the most recent review of the carbon and alloy steel plate case referred to by the representative of Czechoslovakia a new surrogate country had been chosen after consultations with Czechoslovakia and the normal value which had resulted had been lower than would have been the case had the previous surrogate country continued to be used. The fact that the normal value had periodically increased over time reflected changes in the market conditions in the surrogate country; in the past two years an important factor had also been the appreciation of European currencies against the Canadian dollar. If the exporter from Czechoslovakia felt that, as a result of the small quantities of imports from Czechoslovakia, these imports were no longer causing material injury in Canada, the exporter should request the Canadian Import Tribunal to conduct a review of the

injury finding. If, as a result of such a review, the Tribunal were satisfied that imports from Czechoslovakia were no longer causing injury, it would amend the finding to exclude imports from Czechoslovakia. He added that his Government was prepared to consult with Czechoslovakia at any time regarding this matter.

57. The Committee took note of the statements made by the representatives of Czechoslovakia and Canada.

58. The representative of Canada said that some of the proposed amendments to the anti-dumping legislation presently under consideration in the Congress of the United States might have significant implications for the implementation of the Agreement and, if enacted, could negatively impact on the Uruguay Round of Multilateral Trade Negotiations. In this respect he mentioned in particular the proposals relating to diversionary input dumping and the revitalization of the Anti-Dumping Act of 1916. With respect to the proposed provisions regarding diversionary input dumping he said that although his authorities recognized that problems existed in this area, they considered that these problems should be resolved in a multilateral framework. On the proposed changes to the Anti-Dumping Act of 1916 which would make it easier for domestic industries in the United States to obtain, through the courts, damages for the effects of injurious dumping, he said that the General Agreement envisaged the use of only one remedy to deal with injurious dumping, i.e. an anti-dumping duty. He further referred to the proposed introduction of mandatory cumulative injury assessment "across the Codes" and noted that such cumulation would not always be appropriate. This mandatory cross-statute cumulation could result in the application of inappropriate remedies in instances where both anti-dumping and countervailing duties would be applied while only one such duty would be justified. He hoped the delegation of the United States would convey to the appropriate authorities in the United States the expression of the concerns of the Canadian Government regarding these proposals.

59. The representative of Singapore also referred to the anti-dumping provisions in the draft legislation before the United States Congress. Some of these provisions, if enacted, would result in a unilateral interpretation and implementation of the Agreement and would be inconsistent with the international obligations of the United States. Furthermore, these provisions would result in protectionist and arbitrary rules which would penalize exporters to the United States. While she recognized that the proposals before the United States Congress were still draft legislation she pointed to the dangers which could result if these proposals were to become law. She also noted that many of the proposed changes were already influencing the anti-dumping practice of the United States and other parties. She urged the United States administration and Congress to play a constructive rôle in the development of United States trade policy and trade law by taking into account the views expressed in the Committee. She hoped the delegation of the United States would convey these concerns to its authorities so that any trade legislation emerging from the Congress would be consistent with the international obligations of the United States under the General Agreement and the Agreement on Implementation of Article VI of the General Agreement.

60. The representative of Singapore noted the following six provisions in the proposed amendments of the United States anti-dumping law which were of serious concern to her delegation: diversionary input dumping, definition of domestic industry, mandatory initiation of anti-dumping investigations against "multiple offenders", criteria to determine the existence of (threat of) injury, private anti-dumping remedies, and the anti-circumvention provisions.

(i) diversionary input dumping

The representative of Singapore said that under the proposed amendment dealing with situations of diversionary input dumping a foreign exporter would be deemed to have dumped when any material or component incorporated into the merchandise under investigation was purchased by the producer of such merchandise at a price less than fair value. This proposal was inconsistent with Article VI of the General Agreement and with the provisions of the Agreement on Implementation of Article VI of the General Agreement which defined dumping as the difference between the normal value and export price of like products. Inputs used in the production of an exported finished product were not like the exported finished product. Any anti-dumping action against finished products because of the incorporation into those products of inputs alleged to have been dumped in a third country market would, consequently, be inconsistent with the General Agreement and with the Agreement on Implementation of Article VI of the General Agreement. She further noted that the proposal to apply anti-dumping measures in cases of diversionary input dumping also refuted the principle of free competition by denying producers the right to obtain their components from the most competitive source of supply. The proposal also shifted the onus to the producers of the finished product to ensure that the inputs incorporated in the finished product would not be dumped.

(ii) definition of domestic industry

The representative of Singapore said the proposal to amend the definition of domestic industry to include producers of a raw agricultural product as part of the domestic industry producing the processed agricultural product constituted an arbitrary interpretation of the definition of domestic industry. This could be inconsistent with the Agreement. Furthermore, the rules of the Agreement gave standing to file complaints only to those producers of the product which was like the product under investigation. The proposed amendment relating to the standing of agricultural processors to file a petition would therefore violate the Agreement.

(iii) mandatory initiation of anti-dumping investigations against "multiple offenders"

The representative of Singapore recalled that the Agreement provided that an anti-dumping investigation could be opened only if there was sufficient evidence of the existence of dumping, injury and a causal link between the dumping and injury. The proposed provision for a mandatory

initiation of investigations against "multiple offenders" would violate this requirement. The Agreement did not provide for an automatic initiation of investigations. Each case had to be dealt with independently in accordance with the provisions in the Agreement relating to the initiation of anti-dumping investigations.

(iv) criteria to determine the existence of (threat of) injury

With respect to the proposed new criteria to determine the existence of (threat of) injury, the representative of Singapore said these proposals constituted a unilateral expansion of the criteria laid down in the Agreement. In this connection she noted that the new criteria for determining the existence of a threat of injury included the extent to which foreign merchandise had been dumped on third country markets. She considered that a finding of dumping in a third country was not relevant in the context of a determination whether a threat of injury existed in the United States market. This new criterion presumed that imports posed a threat of injury on the basis of conditions in third country markets. This was inconsistent with the Agreement which provided that anti-dumping duties could not be imposed without a prior determination of dumping, injury and the existence of a causal link between dumped imports and injury. On the proposal for cumulative injury assessment "across the codes" she said such cumulation was inconsistent with the Agreement. The Agreement provided for a remedy in case of injury caused by dumped imports which was a situation distinct and separate from the situation where, under the Agreement on Subsidies and Countervailing Measures, measures could be taken in case of injury caused by subsidized imports. The Agreement nowhere allowed or permitted the cumulation of the effects of subsidized and dumped imports for the purpose of a determination of the existence of a threat of material injury.

(v) private anti-dumping remedies

The representative of Singapore said that a private right of action for damages caused by dumping was neither foreseen in the General Agreement nor in the Agreement on Implementation of Article VI of the General Agreement which provided for compensatory duties to offset the margin of dumping as the exclusive anti-dumping remedy.

(vi) anti-circumvention provisions

The representative of Singapore said these provisions would extend an anti-dumping action on a particular end product from a particular source to a like product assembled in the United States or in a third country, using components imported from the aforementioned source via a related party. These provisions presumed the existence of dumping without due process provided for in the Agreement. She reiterated that anti-dumping duties could not be imposed without a prior determination of dumping, injury and the existence of a causal link between the specific dumped imports and material injury.

61. The representative of the EEC said he shared the concerns expressed by Canada and Singapore regarding recently proposed amendments to the anti-dumping law of the United States. In this respect he mentioned the proposed provisions dealing with input dumping, revitalization of the Anti-Dumping Act of 1916, private remedies, multiple offenders, mandatory cross-cumulation, definition of domestic industry. The inconsistency of those provisions with the Code was evident. He recognized that the United States Government had underlined with the Congress the need to observe the international rules. However, the outcome of the discussions in Congress was uncertain and he therefore requested the United States delegation to convey to Congress the concerns of his delegation. The proposed provisions were inconsistent with the Code and could give rise to retaliatory measures by other parties. They would also create the danger of the adoption of mirror-legislation by other parties.

62. The representatives of Romania, Yugoslavia, Australia, Hong Kong, Switzerland, Japan, Korea, Egypt and Brazil said they shared the concerns expressed by the previous speakers regarding the proposed changes to the anti-dumping law of the United States.

63. The representative of the United States said he would convey to his authorities the views expressed by the representatives of Canada, Singapore, the EEC, Romania, Yugoslavia, Australia, Hong Kong, Switzerland, Japan, Korea, Egypt and Brazil. He emphasized that the proposals referred to were still pending in the United States Congress. If and when a trade bill would be enacted and implemented the United States would inform the Committee of any changes in its anti-dumping law relevant to the Agreement. He further noted that the preceding discussion had been possible because of the complete transparency of the legislative process in the United States; he looked forward to the day when the legislative processes of other parties would be equally transparent.

64. The Committee took note of the statements made regarding the proposed amendments to the anti-dumping law of the United States.

65. The representative of Australia recalled that at previous meetings his delegation had informed the Committee that the Australian authorities were considering a report concerning a review of the Australian anti-dumping law and procedures (see ADP/M/17, paragraph 33 and ADP/M/16, paragraphs 49 and 50). With respect to the recommendations made in the report the Australian Government had recently decided: (a) to establish an Anti-Dumping Authority to make recommendations to the Minister on anti-dumping action; (b) to endorse the recommendation in the report that there should be no "national interest" clause; (c) to retain Subsection 5(9) of the Customs Tariff (Anti-Dumping) Act of 1975 which prohibited the determination of normal values on the basis of sales made at a loss, and (d) to introduce a provision for the expiration of anti-dumping measures after three years. The necessary legislative proposals to effect these decisions had not yet been introduced into the Australian Parliament. Details of the amendments to the Australian legislation resulting from these decisions would be supplied to the Committee as soon as the legislative proposals were available.

66. The Committee took note of the information provided by the representative of Australia.

67. The Chairman said the Committee would maintain on its agenda the item "legislation of other parties" in order to afford the parties the opportunity to revert to particular aspects of anti-dumping laws and regulations of other parties.

68. The Chairman brought to the attention of the Committee a compendium of anti-dumping and countervailing duty laws and regulations which had just been published by the secretariat (see document L/6174).

C. Semi-annual reports of anti-dumping actions taken within the period 1 July-31 December 1986 (ADP/32 and addenda)

69. The Chairman said document ADP/32/Add.1 listed the parties who had notified that they had not taken any anti-dumping action during the period 1 July-31 December 1986: Austria, Brazil, Czechoslovakia, Egypt, Finland, Hong Kong, Hungary, India, Japan, Norway, Pakistan, Poland, Romania, Singapore, Switzerland and Yugoslavia. Anti-dumping actions had been taken during this period and notified by Australia, Canada, the EEC, Korea, Sweden and the United States. The semi-annual report of the United States had been received very late and he urged the United States to submit future semi-annual reports on time.

70. The Chairman recalled that at the October meeting the Committee had adopted a revised standard form for the semi-annual report (ADP/31).

71. The Committee examined the semi-annual reports in the order in which they had been circulated:

EEC (ADP/32/Add.2)

72. The representative of Yugoslavia voiced the concern of her authorities regarding the large number of anti-dumping investigations in the EEC involving imports from Yugoslavia. She also noted that in two cases, concerning imports of electric motors and urea, the EEC authorities had assessed injury on a cumulative basis. Thirdly, she requested an explanation of the use of minimum import prices in the EEC anti-dumping investigations. Finally, she urged the EEC to take into consideration the provisions of Article 13 of the Agreement when considering the application of anti-dumping measures on imports from Yugoslavia and other developing countries.

73. On the question of the number of EEC anti-dumping investigations affecting imports from Yugoslavia the representative of the EEC said that in the EEC anti-dumping investigations were initiated exclusively upon receipt by the Commission of a complaint lodged by the injured industry. Where such a complaint had been filed, the Commission was under a legal obligation to open an investigation which it would conduct in full conformity with the relevant provisions of the Agreement. Consequently,

the number of investigations was determined by the number of complaints filed. With respect to the practice of a cumulative injury assessment he said this was a common practice in the EEC and in other countries which applied anti-dumping measures. In response to the question on the use of minimum import prices he said such prices were used where anti-dumping duties took the form of variable duties. In such cases the minimum import price was determined by (a) the normal value in the exporting country adjusted on a c.i.f. Community frontier basis, and (b) the injury found to exist in the Community. The minimum import price would be lower than the normal value where such lower price was adequate to eliminate the injury. In this respect he noted that in a number of cases involving imports from Yugoslavia, including the electric motors case, the minimum import prices had been established at levels much lower than the normal values. Regarding the investigation on imports of urea he said a provisional duty had been imposed and that the investigation was still continuing. While the EEC made every effort to take into account the special situation of developing countries in its anti-dumping practice, this did not mean it was always possible to exempt developing countries from anti-dumping measures. He believed this would be particularly difficult in the urea case because this was a case where major difficulties existed in the world market.

74. The Committee took note of the statements made by the representatives of Yugoslavia and the EEC.

Korea (ADP/32/Add.3)

75. The representative of the United States noted that in two cases listed in ADP/32/Add.3 price undertakings had been agreed to and she asked whether provisional measures had been applied in these cases prior to the acceptance of the undertakings.

76. The representative of Korea said no provisional measures had been taken in these two cases prior to the acceptance of the price undertakings.

Australia (ADP/32/Add.4)

77. The representative of Czechoslovakia noted that in some cases listed in the Australian semi-annual report no data had been provided on final measures despite the fact that provisional measures, which could only remain in force four months, had been introduced in August 1985. He recalled that this issue had already been raised in the Committee but considered the explanation provided by Australia was not completely satisfactory. He requested the Australian delegation to provide additional information on these cases. Furthermore, he wished to know at what stage was the anti-dumping investigation of imports of passenger car tyres from Czechoslovakia (ADP/32/Add.4, page 3). Provisional measures had been imposed on 16 July 1986 but it was unclear whether these measures were still in force or had been revoked. In this regard he reiterated that under the Agreement provisional measures could remain in force for a period of only four months.

78. The representative of Australia said that following an affirmative preliminary finding on a dumping complaint and if considered warranted to prevent material injury to an Australian industry during the period of the investigation, the Australian authorities could require an importer entering goods for home consumption which were subject to investigation to give a security in terms of Section 42 of the Customs Act. This was a general provision in the Customs Act. Any security for the purposes of the Customs Tariff (Anti-Dumping) Act could be in the form of a cash deposit or a documentary security with a surety, at the option of the importer. In each case the particular document was in terms which complied with the provisions of Subsections 45(2) and (3) of the Customs Act which cancelled the document, by statute, after four months from the date of the security (or where the exporter of the goods requested an extension, after a period not exceeding six months. The Customs Tariff (Anti-Dumping) Act also contained provisions in Section 13 which prevented the Minister from making a notice imposing anti-dumping duties on goods already entered for home consumption for which security had been taken but which security had lapsed in accordance with the statute. These provisions ensured that any security action for anti-dumping purposes would be in strict conformity with Australia's obligations under the Agreement.

79. In reply to the question put by the representative of Czechoslovakia on the investigation of passenger car tyres from Czechoslovakia, the representative of Australia said this investigation had been lengthy and wide-ranging. The investigation had just been completed and the Australian Customs Service was drafting its report to the Minister on this case.

80. The representative of Czechoslovakia said it was still not clear to him whether the provisional measures imposed in July 1986 in the context of the investigating of passenger car tyres were still in force.

81. The representative of Australia said that when the products referred to were imported into Australia a bond had to be filed at the level of the dumping margin tentatively determined in the preliminary stage of the investigation.

82. The Committee took note of the statements made by the representatives of Czechoslovakia and Australia.

Canada (ADP/32/Add.5)

83. No comments were made on this report.

Sweden (ADP/32/Add.6)

84. No comments were made on this report.

United States (ADP/32/Add.7)

85. The representative of Brazil said the semi-annual report of the United States had been submitted only very recently, his delegation had a

number of comments to make on this report but he preferred to make these comments at a future meeting of the Committee.

86. The Chairman said the Committee would revert to the semi-annual report submitted by the United States at its next meeting.

D. Reports on all preliminary or final anti-dumping actions (ADP/W/134 and Corr.1, 136, 141, 142 and 143)

87. The Chairman said that reports under this procedure had been received from Australia, Canada and the EEC. Unfortunately, the United States had not submitted reports under this procedure since September 1986.

88. The representative of the United States said his delegation would take the necessary measures to ensure that in the future reports on anti-dumping actions by the United States would be submitted in time.

89. The representative of Canada said the finding on wooden clothespins, reported in ADP/W/134, had been rescinded. He also said that in some cases the actions notified by Canada under this procedure involved administrative reviews. His delegation would take steps to ensure that in the future only measures taken in the context of new investigations would be notified.

90. The representative of Finland said his country had opened investigations of imports of fibre board from Poland and ski boots from Czechoslovakia. The former investigation had been initiated in January 1987 and after preliminary findings had been made, provisional measures had been imposed in April 1987. The investigation of imports of ski boots had been opened at the end of May 1987. An English summary of the relevant public notices would be sent to the secretariat in the near future.

91. The Committee took note of the statements made.

E. Report of the Ad-Hoc Group on the Implementation of the Anti-Dumping Code

(i) Draft recommendation on input dumping

92. The Chairman recalled that at its meetings held in October 1985 and in April and October of 1986 the Committee had considered a draft recommendation submitted by the Ad-Hoc Group on the question of the treatment of input dumping (ADP/W/83/Rev.2). A number of delegations, in particular those of Hong Kong and the United States, had indicated at those meetings that they were not in a position to adopt this draft recommendation and the Committee had therefore agreed to revert to this issue at this meeting.

93. The representative of Hong Kong said the position of his delegation on this issue had not changed since the last meeting of the Committee.

94. The representative of the United States said her delegation remained unable to accept the draft recommendation at this time.

95. The representative of Finland, speaking on behalf of the Nordic countries, regretted that the Committee had been unable to adopt the draft recommendation on input dumping. He expressed the hope that parties who were preparing legislation on the practice of input dumping would take into consideration the contents of this draft recommendation.

96. The Committee took note of the statements made.

(ii) Report by the Chairman on the work of the Group

97. The Chairman said that at the meeting of the Ad-Hoc Group held on 4 June 1987, the Group had discussed in detail Working Papers on the use of price undertakings in anti-dumping proceedings involving developing countries and on the procedures for a revision of an undertaking. The discussion of these two issues had made it clear that substantial divergencies of views continued to exist regarding certain aspects of the Working Papers and the view had been expressed in the Group that the Group should have one full day for its meeting in October in order to arrive at a consensus. It had also been suggested that prior to this meeting informal consultations would be necessary to facilitate the Group's discussion at the October meeting. The Chairman further said that the examination of a Working Paper on the termination of undertakings which had also been on the agenda of the Group for some time, had been deferred to the October meeting. With respect to the question of the definition of sale the Group had agreed that it would not be useful to continue to discuss this issue at this point in time and that it would revert to it at one of its future meetings. Finally, the Chairman informed the Committee that the Group had not continued its discussion of the method of determining a constructed value and of the question of the cumulative assessment of injury.

98. The representative of Romania said the Committee had decided that the question of the use of price undertakings in anti-dumping proceedings involving imports from developing countries should be a priority item in the Group's work. However, two years of work on this issue in the Group had made it clear that many delegations did not have the political will to arrive at an understanding on this issue. He expressed the hope that those delegations would adopt a more co-operative attitude at the October meeting and requested the Chairman to conduct informal consultations to prepare that meeting.

99. The Committee took note of the Report by the Chairman and of the statement made by the representative of Romania.

F. Other business

(i) United States - Anti-dumping duty investigation of fresh cut flowers from various countries

100. The representative of Canada said that on 27 February 1987 the United States International Trade Commission (USITC) had made its final injury determination in anti-dumping and countervailing duty investigations concerning certain fresh cut flowers from various countries, including Canada. In making this determination the USITC had cumulated imports within flower types. Imports of standard carnations from Canada had been found injurious while imports of mini-carnations from Canada had not been found injurious. In making its determination the USITC had ruled out exempting countries on de minimis grounds. The USITC had taken the view that to apply a de minimis test would be inconsistent with the legislative intent of the Trade and Tariff Act of 1984. The representative of Canada considered that this investigation showed that an inflexible application of the cumulation principle could lead to perverse results. Imports into the United States of standard and miniature carnations combined from Canada amounted to no more than US$40,000 per year and accounted for less than 0.05 per cent of apparent consumption in the United states. Imports into the United States of standard carnations from Canada were considerably less than US$40,000. Given the insignificant level of these imports from Canada, it was difficult to see how these imports could, by any criteria, be causing or contributing to material injury to the domestic industry in the United States. The insignificant level of imports from Canada put into question the consistency of the USITC determination with the relevant provisions of the General Agreement and of the Agreement on Implementation of Article VI of the General Agreement.

101. The representative of the United States said the USITC cumulatively assessed the price and volume effects of imports from more than one country only in those circumstances where such imports had a collective effect on the domestic industry. Those circumstances existed if the imports in question competed with each other and with like domestic products, if the imports were reasonably coincident in time and if they were subject to investigation. In the case involving fresh cut flowers from Canada the USITC had considered those factors by looking only at flowers of the same type from each country. It had found no significant quality or other differences among imported flowers and between domestic and imported flowers. Moreover, it had found a significant overlap in marketing areas. The USITC had therefore concluded that it was appropriate to cumulatively assess the effects of imported fresh cut flowers. Her delegation believed that the combined effect of imports from small suppliers could cause injury to a domestic industry and that cumulation therefore accorded with the economic reality.

102. The observer for Colombia referred to an anti-dumping investigation carried out by the United States with respect to imports of seven types of flowers from Colombia. In this case a dumping margin of 3.52 per cent had been established. However, subsequently this margin had been increased to

4.4 per cent in the light of the final USITC injury determination. On this determination he said the USITC had deviated from its usual practice in that it had not cumulatively assessed the effects of the imports from Colombia. He believed this refusal to cumulate was prejudicial to his country. Regarding the determination of dumping he said the United States authorities had used a sample to determine the United States price of the imported flowers; this sample, however, was not representative of the sale of Colombian flowers in the United States. Furthermore, in making the dumping determination the United States authorities had failed to take into consideration the perishability of flowers. His delegation reserved the right to request bilateral consultations with the United States on this matter under Article XXII of the General Agreement.

103. The representative of the United States said that in the final injury determination made by the USITC in the context of the anti-dumping duty investigation of fresh cut flowers from Colombia the USITC had applied the cumulation principle with respect to standard carnations, standard chrysanthemums and pompon chrysanthemums. The USITC had not cumulatively assessed the effects of imports of astroemerie as there were no other investigations pending with respect to this type of flowers. Regarding the adjustment of the anti-dumping margin she said the margin mentioned in the anti-dumping duty order was lower than the margin mentioned in the final affirmative determination as a result of the finding of no injury by the USITC with respect to certain products covered by that determination. Since the margins of dumping which had been found for those products had been relatively low, the exclusion of those products from the anti-dumping duty order had resulted in an increase of the average dumping margin. She further said that her authorities had been well aware of the great number of Colombian exporters and of the perishability of the products concerned. In order to determine the companies which had to be investigated a random sample had been used; this was a well-recognized economic tool. Furthermore, monthly-weighted averages had been used to account for the perishability of the products both with respect to sales in the home market and export sales in the United States.

104. The representative of Hong Kong recalled that his delegation had always opposed the practice of cumulating imports from more than one country for the purpose of making an injury determination. His delegation considered that this practice was inconsistent with Article 5:3 of the Agreement. The case referred to by the representative of Canada and the observer for Colombia was a good example of how this practice could be used to the disadvantage of exporters.

105. The representative if Canada said his delegation might wish to revert to the fresh cut flowers case at the next meeting of the Committee.

106. The Committee took note of the statements made.

(ii) United States - Review and revocation of outstanding anti-dumping measures

107. The representative of Canada raised some questions regarding the procedures in the United States for review and revocation of existing anti-dumping measures. Under current procedures in the United States it took a minimum of two years to reflect major changes in margins of dumping. Although over-payments were reimbursed those procedures nonetheless imposed an unnecessary burden on exporters. He asked whether the United States intended to review its anti-dumping duty review procedures with a view to permit quick revisions of anti-dumping duty orders. If this was not the case, he would urge the United States to do so. In addition he noted that there were many longstanding anti-dumping duty orders in effect in the United States. Many countries had included in their anti-dumping legislation "sunset" clauses to ensure periodic reviews of the need for the continued application of anti-dumping measures. Under the Canadian anti-dumping law an injury finding lapsed after five years unless a review by the Canadian Import Tribunal had led to the conclusion that a finding should be continued. However, the United States anti-dumping legislation did not contain a similar clause. He asked whether plans existed in the United States to introduce this type of clause; if this was not the case, he urged the United States to do so.

108. The representative of the United States said the United States anti-dumping duty law and regulations provided for annual reviews of anti-dumping duty orders upon request. Such a request could be made on the anniversary date of the order. The first opportunity to request a review occurred one year after the order took effect. This first review might be completed at the end of the second year in which the order was in effect. This was the only situation in which it took two years to review an order. She added that for administrative reasons it was unfeasible to conduct more than one review per year. Regarding longstanding anti-dumping measures she said producers could use the above-mentioned procedure and ask for a review; if such a review resulted in a finding that the producers were no longer dumping no duties would be collected. In any case, overpayments were reimbursed with interest. Finally, she said that the United States had certain informal procedures for the revocation of anti-dumping measures. As shown by the semi-annual reports submitted by the United States, there were always some revocations of anti-dumping measures.

109. The representative of Canada recognized that under the review procedures described by the representative of the United States, exporters who would be found to be no longer dumping could be exempted from the payment of anti-dumping duties. However, the point he had been trying to make was that there should be a review of the necessity of the anti-dumping duty order itself.

110. The representative of the United States said that Section 751(b) of the Tariff Act of 1930, allowing for a review of an anti-dumping duty order if warranted by changed circumstances, enabled the United States

authorities to review the need for the continued application of an anti-dumping duty order. The change in circumstances which could warrant this type of review could relate either to the amount of dumping or to the question whether there was still injury.

111. The Committee took note of the statements made by the representatives of Canada and the United States.

(iii) Seminar on anti-dumping procedures held in Belgrade

112. The representative of Yugoslavia said that a seminar on anti-dumping procedures had been held in Belgrade from 9-12 March 1987. She thanked the experts from the United States, the EEC and the GATT secretariat for their contributions to the success of this seminar.

(iv) Uruguay Round Negotiating Group on MTN Agreements and Arrangements - Proposal submitted by Korea

113. The representative of Korea brought to the attention of the Committee a proposal submitted by his delegation to the Negotiating Group on MTN Agreements and Arrangements regarding possible improvements of the Agreement (document MTN.GNG/NG8/W/3 of 20 May 1987). He considered that, while this proposal should be examined in the Negotiating Group, there was a need for co-ordination and close co-operation between the Committee and the Negotiating Group.

114. The Chairman said the representative of Korea had raised an important issue and he invited the parties to reflect on the relationship between the work done in the Committee and in the Ad-Hoc Group and the work done in the Negotiating Group. In this regard he also referred to the discussion which had taken place in the Negotiating Group on MTN Agreements and Arrangements regarding the relationship between the Negotiating Group and the MTN Code Committees (see document MTN.GNG/NG8/2). If necessary, the Committee would revert to this issue at its next meeting.

G. Date of next regular meeting

115. The Chairman said that, in accordance with a decision taken by the Committee at its meeting held in April 1981, the next regular meeting should take place in the week of 26 October 1987. However, he would consider the possibility of holding this meeting in conjunction with one of the autumn meetings of the Uruguay Round Negotiating Group on Subsidies and Countervailing Measures.