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GENERAL AGREEMENT ON TARIFFS AND TRADE

Committee on Anti-Dumping Practices

MINUTES OF THE MEETING HELD ON 26-27 APRIL 1982

Chairman: Mr. T.H. Chau (Hong Kong)

1. The Committee on Anti-Dumping Practices held its seventh meeting on 26-27 April 1982.

2. The Committee elected Mr. T.H. Chau (UK-Hong Kong) as Chairman and Mr. D.E.R. Hobson (Canada) as Vice-Chairman.

3. The Committee adopted the following agenda:

A. Adherence of further countries to the Agreement

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

C. Reports on all preliminary or final anti-dumping actions (ADP/W/25, 29, 30, 31, and 32)

D. Semi-annual reports of anti-dumping actions taken within the period 1 July 1981-31 December 1981 (ADP/11 and addenda)

E. Questionnaires used in anti-dumping investigations

F. Possible contribution to the Ministerial Meeting

A. Adherence of further countries to the Agreement

4. The Chairman welcomed the representative of Egypt whose Government had signed the Agreement (subject to ratification) on 28 December 1981. He also informed the Committee that on 25 March 1982 Yugoslavia had ratified the Agreement. The Chairman recalled that three of the parties to the 1967 Anti-Dumping Code, namely Australia, Malta and Portugal had not yet signed the 1979 Agreement.

5. The representative of Egypt said that his Government would abide by the provisions of the Agreement and would fully co-operate with other Signatories in the Committee.

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

6. The Chairman said that no new legislation had been notified since the last meeting of the Committee. The Committee might wish to discuss certain

points concerning various legislations raised at previous meetings (ADP/M/3, paragraphs 17-66, ADP/M/5, paragraphs 4-11 and ADP/M/6, paragraphs 10-14).

7. The representative of the European Communities said that although there was no formal GATT notification of changes in the Australian legislation he understood that the Australian Anti-Dumping Act 1975 had been amended in 1981. If it was the most recent Australian legislation he had a number of critical points to raise with respect to that document.

8. The observer for Australia said that being an observer to the 1979 Agreement his authorities were not obliged to notify the domestic law until Australia signed the Agreement. He was not in a position to say whether the amendments referred to by the representative of the European Communities were the most recent ones. He did not deny the EC representative's prerogative to make any criticism he wished at this meeting or bilaterally or at the moment when Australia would be signing the Agreement but he was not in a position, at this point of time, to answer to such a criticism. The representative of the European Communities said that he did not want to wait with his criticism until Australia had signed the Agreement because Australia was after all a contracting party to the GATT and the points he wanted to raise were covered not only by the Code but also by Article VI of the GATT. However he was ready to pursue the discussion bilaterally.

9. The representative of the United States asked the delegation of Canada to present the status report on the implementation of the Anti-Dumping Code, in particular with respect to two aspects of the draft legislation - Article 28 dealing with basic prices and the question of the definition of sale. As to the latter he considered that any such definition should be discussed and possibly agreed in the Committee. The representative of Canada said that the Parliamentary Committee had still not issued its report and therefore he could not answer the questions of the US representative. He recalled that at the October 1981 meeting he had reserved his delegation's position on the question of basic prices. As to the definition of sale he could only assure the Committee that he would take a very close look at it.

10. The representative of Spain said that the anti-dumping legislation of his country did not require any special adaptation because Spain had been party to the 1967 Anti-Dumping Code. However on 14 April 1982 his Government had signed the Subsidies Code which also referred to implementation of Article VI. Consequently the Spanish authorities had decided to gather in the same text matters concerning anti-dumping and countervailing duties. This procedure had caused some delay but he hoped that by the next regular session of this Committee his delegation would be able to present the new Spanish legislation.

11. The representative of the European Communities said that Yugoslavia had announced at the October 1981 meeting of the Committee that there would be a new anti-dumping law in 1982 and he would like to know what the situation was in this respect. The representative of Yugoslavia said that his authorities had taken all the necessary measures in order to ensure the conformity of Yugoslavian law, regulations and administrative procedures with the provisions of the Code. The appropriate notification would be made within a very short period of time.

12. The representative of the European Communities referred to the US anti-dumping legislation and recalled that for many years his delegation had been making reservations on a particular aspect of this legislation, namely

the mandatory addition of 8 per cent profit in the calculation of the cost of production. As a number of anti-dumping investigations had been initiated against European steel producers, the 8 per cent rule could have a considerable importance in the examination of these cases. For this reason he wished to reiterate the most formal reservation on the conformity of the 8 per cent rule with the provisions of the Code and of the General Agreement. The representative of the United States said that the 8 per cent mandatory addition for profit in a constructed value had existed in the US law since 1921. The Code specifically provided for the inclusion of profit in the constructed value calculation and thus, even if 8 per cent exceeded the profit actually realized, the Code did not preclude the use of the higher amount. The representative of the European Communities said that although the Code did not say very much about profits to be taken into account, Article VI clearly provided that the profit to be taken into account should be that normally realized in the country of production, thus if a profit was less than 8 per cent then the mandatory 8 per cent profit rate was not compatible with the GATT rules. The representative of the United States said that he maintained his position that the 8 per cent rule was consistent with the US international obligations.

13. The representative of the United States recalled that at the October 1980 meeting the EC representative had acknowledged that a case had been pending in Italy with regard to polyester yarn involving an order of the court in Milan excluding US made polyester yarn from Italy. The EC Commission had confirmed that this order was not in conformity with the General Agreement nor with the EC law. This case had been pending for more than two years and although the court's order had not been transmitted to the customs authorities in Italy, the very existence of such an order had a chilling effect on trade and discouraged companies in the United States from exporting to Italy. He wanted to reiterate his concern about this case and asked the representative of the EC Commission whether any action would be taken in this respect. The representative of the European Communities said that it was true that the court procedures had been going on for two years which was a long period. As to the trade effect of the Milan court order he could only repeat that there was no such effect at all because this order had never been notified to the customs authorities and no action had been taken against imports of US products into Italy.

14. The Chairman said that if there were no more comments under this item the Committee should decide to maintain it on its agenda in order to allow the Parties to revert to particular aspects of some legislations at a later stage or in the light of their practical implementation.

C. Reports on all preliminary or final anti-dumping actions (ADP/W/25, 29, 30, 31 and 32)

15. The Chairman said that notifications under these procedures had been received from Australia, Canada, the European Communities and the United States and circulated in ADP/W/25, 29, 30, 31 and 32.

16. The representative of India said that he had been on record to have pointed out that in the anti-dumping investigations carried out in Australia against imports from India of pigment, files and rasps, power hacksaws and electric motors, his authorities had not been able, despite their best efforts, to find out the basis for initiation of these investigations; nor had they been provided with any details alleged in the petitions from

Australian producers. He wished to stress that Australian procedures not only required more transparency but also that they were not in conformity with the provisions of Article 6 of the Anti-Dumping Code. He appreciated the efforts made by the observer for Australia in flagging these matters to the Australian authorities. He pointed out that unless his authorities were provided with some details they would not be in a position to respond to the appropriateness of the measures taken against Indian exporters. For these reasons he wished to express his concern and requested once again that the observer for Australia urge his authorities to provide all the necessary information without further delay.

17. The representative of the European Communities said that he had the same points to make as those made by the representative of India. EC exporters had also complainted about the total lack of transparency in Australian proceedings. In particular no notification of initiation nor of preliminary determination was normally given, nobody knew how dumping margins had been calculated, how costs of production had been arrived at, whether price adjustments had been made or not. He wanted to join the representative of India in his request that the Australian Government should ensure the conformity of its legislation and ad°inistrative procedures with GATT and international practices.

18. The observer for Australia said that as he had been consulted by the representative of India on the subject raised, he was prepared to comment on it. Although he was not aware of the background of the comments the EC representative had just made, his reply to India would also cover some of the points raised by the European Communities. Since the previous Indian intervention in October 1981 the Australian Bureau of Customs had established contacts with the Indian High Commission in Australia on all aspects of anti-dumping investigations concerning India. In some cases information was limited because of the need for confidentiality and this was consistent with the Code. He added that Australian anti-dumping procedures had been discussed at bilateral meetings between India and Australia and according to the Australian Bureau of Customs the matters raised previously had either been resolved or were being examined. Nevertheless he would report back to his authorities the comments made both by India and by the European Communities. As a general comment he said that Australian anti-dumping investigation procedures provided adequate opportunities for parties to present evidence and examine evidence provided by others in conformity with Article 6 of the Code.

19. The representative of India thanked the observer for Australia for all the effort he had made personally in flagging the issues to his authorities. He had noted his statement that these issues had been discussed bilaterally between India and Australia but reiterated his request to be provided with details alleged in the domestic petition either in general or in summary form. These details would enable his authorities to respond to the allegations made and, if necessary, challenge their correctness. He had also noted the reference made to the confidentiality requirement and requested that non-confidential summaries be made available to his authorities.

20. The representative of Czechoslovakia said that since the Code had entered into force a number of anti-dumping investigations had been initiated in the European Communities against Czechoslovak exporters and only a few of them had resulted in the imposition of provisional anti-dumping duties. In all other cases proceedings had been terminated because of finding of no injury or dumping or because of acceptance of price undertakings. The anti-dumping

proceedings had, pending their conclusion, discouraged imports from Czechoslovakia and the increased number of such proceedings had, in a time of economic recession, adversely affected Czechoslovakian exports. His Government would shortly present to the Commission written and oral comments and proposals with respect to individual investigations. It was his view that some cases, and in particular the case of imposition of provisional measures on electrical motors, had not been treated in consistency with the Code. In particular he had in mind issues related to procedural safeguards, price comparability and injury. He hoped that these issues would be clarified in bilateral contacts with the EC Commission. If such contacts did not result in positive clarification his authorities would bring these cases to the attention of the Committee through the relevant provisions on consulation and conciliation.

21. The representative of Hungary said that he also had some comments with respect to the proceedings concerning electrical motors. The EC Commission had recently terminated and then re-opened an anti-dumping procedure concerning some electrical motors exported by a Hungarian enterprise and accepted a new price undertaking offered by the Hungarian exporter. While not objecting to the final outcome of the procedure he wanted to express his concern with respect to methods used in selecting comparable prices. The prices of a Brazilian exporter had been proposed by the EC Commission only at the very last stage of the proceedings and the Hungarian exporter had neither sufficient time nor access to the relevant elements of the EC proposal Consequently he had had no possibility to verify prices or to make a counter-proposal and had been compelled to accept the price undertakings. He drew the attention to Article 6:1 of the Code according to which the exporter should be given ample opportunity to present in writing all evidence that he considered useful and to Article 6:2 which provided that "the authorities concerned shall provide opportunities ... to see all information that is relevant to the presentation of their cases". He expressed his hope that the EC Commission would fully respect the provisions of the Code and of their internal legislation and would ensure transparent and fair procedure for all parties concerned.

22. The representative of the European Communities said that if the Czechoslovak exporter wished to make a complaint in the case of electrical motors the Commission would certainly consider all arguments he would make within the time-periods given for making such complaints. As to the arguments made by the representative of Hungary the complainant had cited as comparable prices those of Austrian and Spanish producers. The Hungarian exporter had protested considering that those markets were not appropriate for comparison purposes. Consequently the Commission had opted for the Brazilian market for reasons which had been clearly explained in the Regulation 724/82. He had had the impression that Hungarian exporters were perfectly happy with the choice of Brazil and, at any rate they, had not protested. The choice of Brazil had not been made at the very last moment of the investigation but at the end of the previous year. Consequently an on-the-spot investigation in Brazil had taken place during the month of December 1981. Since December more than four months had elapsed during which detailed calculations had been made and during which everybody had had an opportunity to make points on the adequacy of the Brazilian prices. He also wished to respond to points made by some state-trading countries with respect to the availability of information collected in anti-dumping investigations in the market of another country for price comparison purposes. He recognized that there was a real problem because although under the Code all information should be given to the parties

in an anti-dumping investigation, when such information concerned costs of production the EC Commission could not, for reasons of confidentiality, reveal such information to the exporting countries. The only thing which could be done would be to give information on the methods of calculation and the results thereof.

23. The representative of Poland expressed his concern with respect to the procedures used by the EC Commission in the anti-dumping investigation in the case of electrical motors exported by Poland. As the bilateral discussions with the EC authorities on this matter were still going on he wished to reserve his right to revert to this matter, if necessary, at the appropriate time.

24. The representative of Romania said that the EC Commission had determined the normal value of trichlorethylene exported by a Romanian enterprise on the basis of the prices of the US market utilizing the rate of exchange of the US dollar prevailing in the period 1 September 1 December 1981 despite the fact that the alleged injury had occurred in the first trimester of 1981 and the Romanian exports had taken place only in that period. For this reason the Romanian exporter had requested that the exchange rate which prevailed in the first trimester of 1981 should be used. The EC Commission had rejected this request pretending that other suppliers would have been affected if the period for the calculation of the exchange rate had been changed. He also referred to the case of hardboard exported by Romania and wondered how the provisions of the Code and those of the EC legislation were respected if an injury had been found in a case where the Romanian exporter had 1 per cent in 1977, 0.8 per cent in 1980, 0.4 per cent in 1981 and 0 per cent in 1982 of the Community market. It was true that for the totality of exporters to the European Communities there had been an increase in their share of the market from 20 per cent in 1977 to 30 per cent in 1980 but this increase was not caused by the Romanian exporter and his inclusion into the anti-dumping proceedings was unjust and artificial. Another problem was that the EC Commission had established a uniform minimum price for all ten member countries while the commercial conditions differed between these countries and this fact had been recognized by the EC producers themselves. This practice of a uniform price had resulted in an increase of 60 per cent of normal prices for Italy and 40 per cent for the Federal Republic of Germany. Such a sudden and brutal increase as compared with prices previously accepted by the EC in price undertakings could not be considered as a simple price adjustment but had serious commercial consequences. He also wished to request conciliation in the Committee under Article 15:3. The reason was that his authorities had failed to reach a satisfactory solution with the European Communities with respect to an EC practice under which, simultaneously with a repeal of an undertaking, provisional measures were imposed, even if the undertaking had not been violated. Article 7:5 of the Anti-Dumping Code clearly provided that authorities of the importing country might take provisional measures only in the case of violation of an undertaking but he wanted to stress that in the cases he referred, to there had been no violation and the undertakings had been scrupulously observed. If an undertaking had been repealed during the period of its validity, there should be no automatic presumption of dumping or of injury. The only reference prices were those agreed in the undertaking and they were not undercut. Consequently the exporterhad behaved as agreed and accepted by the importer and there was no reason to consider that this had resulted in an injury. He therefore requested the Committee to pay special attention to the EC practices which violated the letter and the spirit of the Agreement and affected the possibility of finding a mutually acceptable

solution in the field of prices. There would be no security for exporters if the importing country could at any time repeal an undertaking and immediately impose provisional measures.

25. The representative of the European Communities said that he could not answer in detail all the questions raised by the representative of Romania because he had not been informed in advance that such questions would be raised. As to the question of the rate of exchange applied in the case of trichlorethylene he could not give a final reply because the case was still under investigation and no preliminary determination had been made. He supposed that the average rate for the reference period had been used as was the normal practice in all anti-dumping investigations. He would, however, examine this case with due attention. As to the question of hardboard the investigation was under way and no finding had been made. There were many state-trading countries involved in this investigation and their cumulative market share was around 25-30 per cent. At the same time the situation of the EC industry was very bad, but nevertheless the Commission had accepted, two years ago, an undertaking with some of these countries, including Romania. At present, and despite this undertaking, there were several cases of dumping and there was serious evidence of injury. For this reason an investigation had been initiated. Referring to the request for conciliation under Article 15:3 he said that there was a principle in the EC legislation that nothing was permanent and everything was subject to a revision. This principle was applicable also to price undertakings. If in 1980 an exporter had undertaken to export at certain prices which eliminated the margin of dumping, the normal value had, because of the inflation, become much higher and these prices should also be at a much higher level. In this situation the Commission had no choice but to re-open the investigation in order to determine the new normal value and the new margin of dumping and, in particular, whether there was a new injury. If Romania was against this kind of procedure the only solution for it was not to accept any more undertakings. If Romania preferred final anti-dumping duties the Commission was ready to satisfy this preference. But he wanted to point out that in this procedure it was the Romanian exporter and his Government which had offered an undertaking. It should be, however, clear from the very beginning that if the Commission accepted certain price levels at a given point of time, this level was subject to revision after a certain period depending on the rate of inflation and other circumstances. Taking all this into account he suggested that before invoking Article 15:3 the delegation of Romania should have bilateral consultations with the Commission under Article 15:1 of the Code. He was convinced that the EC procedures were in conformity with the Code and that it would not be appropriate to take the Committee's time without any evidence of violation of the Code. If such bilateral consultations did not produce satisfactory results, his delegation would be ready to follow the dispute settlement procedure of the Code.

26. The representative of Romania said that the procedures applied in the case he had referred to the Committee had no grounds in the Code. The Code did not provide for a denunciation of an undertaking and simultaneous imposition of provisional duties when the undertaking had not been violated. This practice was also inconsistent with Article 10:1. As in the case of electrical motors a provisional duty, which had a significant impact, had already been imposed and Romania considered that the measure had been taken contrary to the provisions of Article 10:1. Thus, in accordance with the provisions of Article 15:3, there was no obligation to hold bilateral

consultations. In addition the Commission had been informed more than two months ago about the complaint of the Romanian exporter and had not reacted to this complaint.

27. The representative of the European Communities said that in such cases as that presented by the representative of Romania the procedure had always been the same. If, for example, Romania had given an undertaking in 1980 to eliminate dumping and injury by accepting a price of, for example, 100 units, the EC producers might find after a certain period that the price of 100 units was not, because of inflation and other changing circumstances, sufficient to eliminate the injury. Consequently they requested a revision of the undertaking. In order to clarify all points the Commission then opened an investigation, nothing more than that. This procedure followed the same rules as any anti-dumping investigation. If as a result of this procedure and after a long investigation, a preliminary finding had been made and this finding confirmed the allegation of the EC producers, only then had undertakings been denounced and provisionaL duties had been imposed. Of course if exporters were ready to revise their previous undertakings accordingly there would be no need to impose anti-dumping duties. Taking all this into account he did not see any reason why Romania considered that the Code had been violated. Referring to the procedure of conciliation proposed by the representative of Romania he pointed out that Article 15 started with a paragraph which, read in conjunction with paragraph 2, required bilateral consultations between the interested parties. Romania had not requested such consultations in terms of Article 15. Before this stage had been completed his delegation was not prepared to go directly to the stage foreseen in Article 15:3.

28. The Chairman said that in accordance with the second sentence of Article 15:3, it was Romania's right to request conciliation in the Committee. He recalled, however, the offer made by the representative of the European Communities to discuss the matter bilaterally. Considering that should such bilateral consultations fail to produce satisfactory results, Romania would still have the right to come back to the Committee under Article 15:3, he suggested that the representative of Romania might consider whether he would give a chance to bilateral consultations.

29. The representative of Romania said that he noted with interest the offer made by the European Communities and he would seek instructions from his Government. Pending these instructions he reserved his right to bring the matter, at any moment, before the Committee.

D. Semi-annual reports of anti-dumping actions taken within the period of 1 July 1981-31 December 1981 (ADP/11 and addenda)

30. The Chairman recalled that an invitation to submit semi-annual reports under Article 14:4 of the Agreement had been circulated in ADP/11 on 25 January 1982. Responses to this request had been issued in addenda to this document. The following Parties had notified the Committee that they had not taken any anti-dumping action during the reporting period (ADP/11/Add.5): Austria, Brazil, Czechoslovakia, Hungary, India, Japan, Norway, Pakistan, Poland, Romania, Spain, Switzerland, United Kingdom on behalf of Hong Kong and Yugoslavia. Sweden which was enumerated in document ADP/11/Add.5 should be deleted from the list of countries which had taken no action, because the secretariat recently received a notification to the contrary. Accordingly anti-dumping actions had been notified by Finland (ADP/11/Add.1), the European Community (ADP/11/Add.2), Canada (ADP/11/Add.3), the United States

(ADP/11/Add.4) and Sweden (ADP/11/Add.6). The Chairman invited Parties to comment on the reports.

Finland (ADP/11/Add.1)

31. The representative of the European Community referred to a case from the previous report (ADP/10/Add.1) and said that in that case the motivation of the decision taken and its publication were far from sufficient. The Finnish authorities had accepted price undertakings but no formal publication of results of the investigation and in particular of the finding of injury, with appropriate motivation, had ever been made. He wanted to draw the attention of the Committee to the fact that the Code clearly provided for publication of notifications of every decision taken whether such decisions concerned imposition of preliminary or final duties or the acceptance of price undertakings.

32. The representative of Finland said that he had transmitted the opinion expressed by the representative of the European Communities to his authorities and subsequently the Ministry of Finance had prepared a final finding on the investigation in question which had been submitted to the GATT secretariat. It was not the intention of the Finnish authorities to publish a new notice on this matter in the Official Gazette unless the case was reopened. The representative of the European Communities said that he was surprised by the Finnish practice because Article 8:5 of the Code stated clearly that "public notice shall be given of any preliminary or final finding whether affirmative or negative". Consequently an internal report made in Finland from one authority to another authority did not meet the requirements of Article 8. There should be a formal, public notice and this notice should be motivated. He insisted that the Finnish representative report back that this point had been raised again in the Committee and that Finnish practices should be aligned on the Code. The representative of Finland said he would report this request to his authorities.

Canada (ADP/11/Add.3)

33. The representative of India said that he would like to draw the attention of the Committee to the anti-dumping action with respect to 12 Hydroxystearic Acid from India. In the course of the investigation the Canadian authorities had determined normal values on a constructed basis. He was surprised that this investigation had been conducted on the basis of construction of normal value. Article VI of the General Agreement and Article 2:4 of the Code clearly stipulated that only when there were no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or when, because of the particular market situation, such sales did not permit a proper comparison could such a basis be used. In the case of 12 Hydroxystearic Acid, there were domestic sales and in addition, the Canadian authorities had overlooked the fact that there were exports by the concerned Indian firm to other countries and the export price in Canada was the highest but one, the highest price being on miniscule unrepresentative exports to Syria. He believed that if the Canadian authorities had taken into account the domestic sales price of 12 Hydroxystearic Acid in India or the export price in third country markets, the question of a preliminary finding of dumping could not have arisen. He felt that the finding of dumping had been, therefore, a conclusion which had been reached without going through appropriate procedures. The choosing of the most disadvantageous method was of special concern in view of Article 13 of the Code relating to developing

countries. Not only had constructive remedies referred to in this Article not even been considered but the comparison most disadvantageous to a developing country had been adopted. Referring to Article 6:2 of the Code he said that in this case, the only official communication from the Canadian Government had been to the Indian High Commission in Ottawa in October 1981 blandly informing them that the Canadian Deputy Minister had formed the opinion that 12 Hydroxystearic Acid from India was being dumped in the Canadian market and was causing injury to Canadian manufacturers. A notice of investigation enclosed with this letter gave some more information but did not establish any statistical basis either for dumping or for injury. The provisions of the Code to the effect that the concerned Government as well as the exporter should be provided with all the relevant information was not only not complied with but, in particular, the petition filed by the Canadian manufacturers in October last year had to date not been made available to the Indian authorities.

34. He further said that a Canadian team had visited India and had had discussions with the concerned exporting company. This team not only did not contact either the Government of India or the concerned Export Promotion Council but the entire sequential procedures outlined in Article 6:5 of the Code were violated. Not only had the Canadian authorities not officially informed the Government of India, they had not given the Government of India an opportunity to take a view either positive or negative. It seemed that the Canadian authorities merely had written to the firm in question which, unaware of the provisions of the Code and the rights and obligations inherent therein, had just been faced by a visit by the investigation team. This visit also did not follow the sequential procedure outlined in Article 6 which provided for a visit by an investigating team in a foreign country essentially after the parties had been given ample opportunities to study each other's allegations and documentation and to present written evidence. The purpose of the field investigation was clearly to verify information already provided. In the present case, the first input from the Indian side, i.e. from the exporter, had come only when the Canadian team had visited its premises. The Indian exporter had been made to respond without being aware not only of the rules of the game but, what was more important, without being provided any statistical basis for the allegations. The entire procedure not only bristled with irregularities but was clearly in violation of Article 6 of the Code.

35. On the substance of the matter he said that the information available suggested that the Canadian authorities had compared the export price of 12 Hydroxystearic Acid with the domestic cost of production of Stearic Acid RR Grade in the process of constructing normal value. This was clearly in violation of Article 2:2 of the Code which provided what should be meant by a like product. In the present case, the 12 Hydroxystearic Acid was produced from domestically produced castor oil or if this was not available, rice bran or cotton seed oil and was used in Canada in the grease manufacturing industry, whereas the product with which it had been compared, Stearic Acid RR Grade was manufactured from imported mutton tallow and was used in the domestic tyre manufacturing industry. Not only were the production processes and the cost elements involved dissimilar, but in the case of Stearic Acid, the cost structure was further pushed up by the necessity of having to rely on imports. It was, therefore, with considerable regret that he had to assume that this peculiar comparison between Hydroxystearic Acid and Stearic Acid RR Grade, by-passing the existence of sales of Hydroxystearic Acid in the

domestic market or their sale in third country export markets, had been resorted to because the Canadian authorities had made up their mind to find dumping.

36. He also said that it was apparent that the Canadian authorities had not made due and full allowance for the refund of indirect taxes which the exported product bore and which an exporter received from the Government. He believed that after taking into account this refund of indirect taxes and discounting the Cash Compensatory Support which the product received, the exporter was left not only with sufficient margin of profits on exports to Canada but had a comfortable margin. He concluded by saying that apart from violating the provisions of the Code in respect of the procedures, the Canadian action could not be justified in substance when the price comparison was considered. What appeared to be equally serious, was that the resulting duty which had been imposed on a preliminary basis was not a pure anti-dumping duty but a mixture of anti-dumping and countervailing duty because the Canadian authorities had discounted only part of the Cash Compensatory Support given to the product by the Government of India, claiming that the balance constituted a Government subsidy. This carried with it the implication that they had come to a finding of subsidy and had imposed a countervailing duty without having given the Government of India an opportunity to explain the matter as was provided in the Subsidies Code which would have been the appropriate Code being invoked in such an action.

37. The representative of Canada said that he would like to make it clear that the Canadian Government had never made up its mind in advance to find a dumping. As to the methods used to determine the normal value he said that as in this case the Canadian authorities had not been able to use domestic sales of 12 Hydroxystearic Acid in India itself, they had used the cost of production of this acid, the costs of export to Canada and to that they had added a mark-up which had been the most suitable, namely that for Stearic Acid. This method had been discussed with the producer concerned who did not object. Consequently there was nothing in the procedure which could be inconsistent with the Code. The reason why the domestic price could not be used was that there had not been a sufficient number of sales to ascertain the relevant comparison. As to the sales to third countries, the investigating authorities had not been able to find sales which could be used for comparison purposes as there had been substantial doubts about their profitability. On the question of opportunity to discuss, he said that prior to the preliminary determination being made there had been consultations with representatives of the importer who had also been representing the interests of the exporter. When the investigation had been initiated a public notice had been given, not only to exporters, but to the Government of India as well. No objections had been made and therefore the investigating authorities had proceeded with the investigation in full observance of the provisions of the Code. The exporter had been informed about the Canadian team's visit six weeks before it had actually taken place. In addition a questionnaire had been sent well before any action had been taken. Consequently, if there had been any problems, the exporter or the Indian Government had had adequate time to get back to the investigating authorities before the visiting team went to India. As to the question of rebate of indirect taxes he said that the visiting team, looking over the figures on indirect taxes, could only establish a figure of 5.8 per cent as against 10 per cent which had been submitted and for this reason the full 10 per cent had not been allowed. Lastly he wanted to make it clear that there had not been a mixture of anti-dumping and countervailing duty; the

question of indirect taxes and refunds on them were also tied to the Anti-Dumping Code.

38. The representative of India said that he had before him a record of the meeting between the representative of the exporter and the Canadian team and reading through the minutes he could not find anything which could indicate that the exporter had accepted the method of calculation of the constructed value. On the contrary, the exporting company had made objections to the methods used by Canada. The fact that they had provided certain data concerning the Stearic Acid had not meant that they had been agreeable to such a comparison being undertaken. He also could not understand the reason why the export price to third country markets could not be considered. In fact, apart from sales to Syria, the export price to Canada was the highest. He pointed out that although the Code provided for some options the importing country could not unilaterally disregard the domestic sales price. Neither should it choose the most disadvantageous option for the exporting country. He could not agree that the Government of India had received a notice sufficiently in advance. The notice in question was dated 14 October 1981 while on 16 November 1981 the investigating team had already been in Bombay having discussions. The investigating team had never contacted the Government of India or the Export Promotion Council. As to the difference of opinion with respect to rebate of indirect taxes he considered that such difference should have been discussed with the Government of India but it had never happened. None of the interested parties on the Indian side had ever been given any details of what the allegations had been and the first input from that side had been given when the investigating team had arrived in Bombay. These were only some of the points which were inconsistent with the Code but for the moment he was disposed to discuss them bilaterally with the Canadian delegation and revert to the Committee, if necessary, in due course.

39. The representative of Canada commented on the use of mark-up for Stearic Acid. He said that the Code referred to the profit normally realized on sales of products of the same general category. The idea was to look, not at the cost of production of this other product, but at the types of costs plus a profit factor which were reasonable in the kind of business under investigation. Sometimes this approach was not an ideal one but in this case it was the best which was available. On the question of export price to third country markets he said that in such cases as the one under consideration it was very difficult for the investigating country to be sure that other prices were really representative, especially when there was some evidence that even the highest of these prices, namely that for Canada, did not cover all mark-ups. Referring to the investigating team he observed that it was not their obligation to contact the Indian authorities. When the investigation had been initiated these authorities had been informed about the proceedings, including the forthcoming visit by the Canadian investigators.

40. The representative of India said that there was no precise definition of like product in the Code but in this case the flexibility inherent in the word "like" had been carried a little bit too far. Not only were the inputs going into two products under consideration dissimilar but their end-uses were totally dissimilar and in the case of Stearic Acid the cost structure was higher, pushed up by the necessity of having to rely on imports. Secondly, although it did not result from the Code that the investigating team had to contact the authorities of the exporting country, it was clear however that such a field investigation should take place only at the end of a certain sequential procedure, only after the interested parties had been given a

chance to examine the allegations made and to exchange information. In this case not only had the earlier stages not been gone through but the Indian Government had not even been aware that the team was physically present in Bombay.

41. The representative of the European Communities said that for a number of years his exporters had had similar problems with the Canadian authorities as far as the on-spot investigation had been concerned. For many years he had been drawing the attention of the Canadian authorities to the fact that EC member States had not been informed in time about on-spot investigations. He considered that giving advance notice was not a very complicated matter and that the Canadian authorities could take the necessary steps to avoid such problems from arising in the future.

42. The representative of the European Communities said that in some anti-dumping investigations against EC producers in Canada provisional measures had been imposed without any preliminary determination of injury. The reason was that the Canadian legislation had not been adapted to the requirements of the new Anti-Dumping Code. He recalled that more than two years had elapsed since the acceptance by Canada of the Code and something should have been done to ensure that its provisions be observed and practical problems avoided pending the entry into force of the new Canadian legislation. Referring to a particular case of baler twine in which German producers had been involved, he said that he understood that these producers had not been mentioned in the original complaint which had been filed with the Canadian authorities. If this was the case he wished to know why the Federal Republic of Germany had been included in the investigation.

43. The representative of Canada said that he could not agree with the contention that provisional measures were imposed without an injury test. In every investigation the question of injury was simultaneously considered with that of dumping. Section 13:6 of the Canadian legislation provided that no preliminary determination would be made unless there was evidence of dumping, injury and a causal link between the two. Referring to the specific case of baler twine he said that the Federal Republic of Germany had not been mentioned in the original complaint but four weeks later an addendum to the complaint had been published which included the Federal Republic of Germany.

44. The representative of the European Communities said that there was a misunderstanding on the question of preliminary determination of injury. The Code clearly provided that there had to be a preliminary determination that there was sufficient evidence of injury before provisional measures could be taken. In Canada, when there was a decision to open an investigation, the investigating authorities had on the record evidence of both dumping and injury. Nevertheless there was a fundamental difference between considering whether there was evidence on the record and making a formal preliminary determination of injury which had to be motivated, substantiated with figures and published and which could be attacked in the court. This had not been done by the Canadian authorities.

45. The representative of Finland referred to the case of papermaking machinery and recalled that at the October 1981 meeting he had registered some concern about the insufficient simultaneity in the examination of dumping and injury in the Canadian proceedings. He observed that this case had shown what might happen if the existence of dumping and injury were not examined in parallel. A number of cases which had finally been terminated because there

had not been injury could have been avoided. The representative of Canada said that he could not agree with the contention that there was no simultaneous examination of dumping and injury. Prior to initiating the investigation in the case of papermaking machinery the investigating authorities had received an extensive complaint which clearly showed that the large percentage of imports during the previous two or three years had been coming from Finland. Subsequently the investigating team had gone to Finland and found that there had been dumping. The information from the complainant had continued to be up-dated and it had continued to show injury. He thought that the problem had arisen because prior to preliminary determination injury was examined by a different body than the Anti-Dumping Tribunal. However this did not mean that examination at that stage was not done correctly. The representative of Finland said that he was not contesting the Canadian system as such but he was concerned about the fact that preliminary determinations of injury were based on insufficient evidence. For example in the papermaking machinery case the determination had been based on the increase of imports without taking into account that orders for the domestic industry had increased as well. Preliminary positive determinations taken on such a weak basis had, nevertheless, adversely affected Finnish imports to Canada and the final negative determination could not repair the damage which had already occurred. He considered that for this reason it was important that preliminary determinations by Canadian authorities should be based on more substantial evidence than had been the case so far.

46. The representative of the United Kingdom speaking on behalf of Hong Kong asked about the actual stage of investigation with respect to waterproof rubber footwear. The representative of Canada informed him that the preliminary determination had been made on 26 January 1982 and that the Tribunal finding should be out in the very near future.

United States (ADP/11/Add.4)

47. The representative of the European Communities said that a general problem had arisen in the context of US anti-dumping investigations concerning steel exported by EC producers. The US authorities had requested the exporters to submit all the required information on a computer tape system. This system was the one used by the investigating authorities but it caused serious problems and costs to the respondents which did not use the same system. He wished to draw attention to this practice and pointed out that the Code neither provided for any time limits as applied by the US administration nor for the use of any particular computer system. The representative of the United States said that the request for a specific computer system resulted from a desire to handle large amounts of data in the most efficient fashion. This also substantially reduced the error rate. The request to submit information on these kind of tapes was not mandatory in the sense that responses in some other format were disregarded. Any respondent having problems with the requested format should contact the investigating authorities which would try to find a satisfactory solution.

General comments

48. The representative of Yugoslavia said that, when examining semi-annual reports in ADP/11 and addenda, he had ascertained that a number of countries had applied, within a relatively short period, an increased number of anti-dumping measures. The previous report had contained 128 cases and in the present one the number was almost identical. He was very concerned about

this fact which proved that anti-dumping measures were applied more and more frequently. This increased frequency raised a question of whether anti-dumping measures were really used to deal with genuine problems of dumping or whether they were applied for other, unjustified, reasons. If the latter was the case it would be highly worrying, particularly as such practices adversely affected international trade. Having examined the reports and heard the discussion he could not exclude that certain authorities too easily accepted any anti-dumping complaint, even not sufficiently substantiated, which created serious problems to the exporting countries. He considered that the problem of practical application of the Code required more profound examination. For this reason he suggested that the secretariat should prepare, for the October meeting of the Committee, an analysis of all notified anti-dumping cases in order to obtain an exact and detailed answer to the problem. This analysis should also show how many investigations had been terminated with a positive finding of a dumping and of injury and how many cases had been terminated with a negative determination. Finally the analysis should indicate in how many cases investigations had been opened without being followed by a preliminary determination of injury and it should be done on a country by country basis.

49. The representative of the European Communities said that such an analysis had already been done in each of the annual reports of the Committee to the CONTRACTING PARTIES. As to the contention that there was an important increase of anti-dumping actions he did not know on what basis it had been made. The number of cases in the European Communities had been more or less at the same level for at least four or five years. In the United States there had been a decrease of investigations and Canada had been on the same level for many years.

50. The Chairman said that the table reproduced in the annual report of the Committee already contained most of the information required by the representative of Yugoslavia expect for an indication of the countries against whom anti-dumping activities had been taken and this could easily be added. As regards comparison, it was possible to go back only to 1980 because prior to that date the reporting system had been different.

51. The representative of India said that he considered the proposal by Yugoslavia very useful because it could give some idea as to the actual situation with respect to anti-dumping actions. Such a table could also give an idea about a total number of cases in which no dumping had been found and it would facilitate the answer to the question of whether some countries too readily agreed to carry out an anti-dumping investigation. Another important point to be considered here was the trade effects of such actions.

52. The representative of the European Communities said that he supported the idea advanced by the representative of India that the GATT secretariat should try to make some assessment as to what proportion of the volume of trade between countries concerned had been affected by anti-dumping investigations. He admitted that it would not be an easy task but it would be interesting and he thought that additional data could be supplied by interested countries.

53. The representative of the United States said that he too would be ready to supply to the secretariat data on trade volume involved.

54. The representative of Romania supported the proposal made by the representative of Yugoslavia. He pointed out that the representative of

Yugoslavia had proposed an analysis not only a table. Such an analysis would be very important. The secretariat should also consult countries against which actions had been taken to have the full picture of the situation. It should also include an analysis on how the interests of developing countries had been taken into account. Such an analysis could also be used in the contribution this Committee could make to the Ministerial meeting in the terms of increasing international discipline in the use of anti-dumping measures. He also said that one of the ways to avoid negative effects of anti-dumping measures could take the form of bilateral talks to find a solution before any investigation had been initiated.

55. The Chairman said that the secretariat should not have any special difficulty in producing a factual table for the Committee but any conclusions or value analysis to be drawn from this table should be done by the Committee itself.

56. The representative of the United States said that he agreed with the Chairman's remarks as to any conclusions that might be drawn from the statistical base which could be prepared by the secretariat. He also said that although certain delegations seemed to imply that trade was distorted by anti-dumping actions it was the dumping itself which distorted trade and these actions were to prevent distortion, not to create it. This point should be made clear before the Committee undertook any analysis on the basis of statistical data prepared by the secretariat. Secondly he pointed out that it would not be possible to make any appreciation as to the observance of the Code on the basis of global data. Any conclusion could only be drawn on the basis of an analysis of each individual case. Such an analysis was currently done at each Committee meeting when semi-annual reports were discussed. He did not think that a conclusion of the kind suggested by certain representatives could be drawn on the basis of statistics, even very detailed ones. As to the question of bilateral solutions he wished to express his concern about this idea. The Code had been agreed, inter alia, in order to avoid the use of some informal measures which had been proliferating. The Code contained rules protecting interests of all parties involved and any attempt to create informal channels of eluding them should be looked upon with great concern.

57. The representative of the United Kingdom speaking on behalf of Hong Kong said that, at this stage, the Committee should limit its aims to what could readily be done by the secretariat. The question of how the trade was affected was a relevant one and he thought that comments on this aspect could be made on the basis of statistical data.

58. The representative of the European Communities said that he full associated himself with the comments made by the representative of the United States. In particular the idea of bilateral talks advanced by the representative of Romania was unacceptable. In addition to the reasons given by the representative of the United States he wished to point out that such talks were completely useless because at that stage there was nothing to discuss. It was not known whether there was a dumping, what the margin was, whether there was injury and how serious it was. Such discussions could only take place after certain conclusions had been reached in the course of an investigation.

59. The Chairman concluded that for the October meeting the secretariat would prepare the usual summary table of anti-dumping actions taken. This table

should be expanded by indication of countries against whom various actions had been taken and by inclusion of the volume of trade involved. In addition to this the secretariat should give a factual description of the results contained in the table. It would then be up to the Committee to decide what follow-up should be given to this exercise. It was so decided.

E. Questionnaires used in anti-dumping investigations

60. The Chairman said that there had been no new developments in this field since the last meeting. The questionnaires submitted by the following delegations were available in the secretariat for inspection: Canada, United States, European Communities and Australia (observer).

F. Possible contribution to the Ministerial Meeting

61. The Chairman recalled that the Preparatory Committee had invited contributions to the preparations for the Ministerial Meeting from other GATT bodies (PREP.COM/R.2, paragraph 5). Members of the Committee might wish to reflect on problems which should be brought to the attention of the Preparatory Committee.

62. The representative of India said that one of the basic objectives of the Anti-Dumping Code was to elaborate rules for the application of anti-dumping measures in order to provide greater uniformity and certainty in their application. This objective had unfortunately not been fully achieved. Apart from the fact that anti-dumping actions by developed countries against developing countries had increased considerably since the entry into force of the Code, there was no uniformity in the procedures and practices being followed by different countries. This might be responsible for the fact that some developing countries, who had not signed the 1967 Anti-Dumping Code but had signed the present Code in the expectation that there would be greater certainty in the application of dumping measures, now felt disappointed. The procedures being followed suffered in some cases from a complete lack of transparency. Whereas transparency was desirable as an objective by itself, it became all the more important in the context of Article 13 of the Code, and, in particular, the second statement appended to the Code. However not only had these provisions not been implemented but anti-dumping actions were being taken without any attempt being made to explore other constructive remedies before imposing anti-dumping duties.

63. He further said that in pursuing anti-dumping investigations, some countries had been using concepts and practices which were relevant only in countervailing duty investigations. It would be inappropriate in an anti-dumping investigation to go into the extent of subsidies enjoyed by an exported product and to levy an anti-dumping duty to compensate for such subsidization. It was clear that anti-dumping and subsidy investigations were two separate courses in GATT with two separate remedies and had to be pursued separately and independently. He also said that the questionnaires used in anti-dumping investigations were not only extremely complicated but were designed for well established corporate structures in industrialized countries, rather than for small firms in developing countries, which had neither the accounting expertise or resources to meet the requirements of such questionnaires, and for which the deadlines set were impossible to respect. Furthermore, the discussions on the interpretation of Article 8:4 which had been held in the Committee so far showed that some developed countries were attempting to legitimize basic price systems to trigger off anti-dumping

investigations, though the agreed interpretation of the General Agreement clearly provided for investigation only on a case-by-case basis.

64. The representative of the European Communities said that he was surprised to hear that there was a total lack of uniformity in the legislation and practice in the anti-dumping area. He wondered whether the representative of India could indicate any other area of international law where there was greater uniformity than in anti-dumping field. The Code provided for common definitions, very detailed procedures and common rules on every determination. Also with respect to transparency one could hardly find any other area where there was greater transparency. Every step of the procedures had to be published and decisions to be published and motivated, and parties had access to the files. It would be very difficult to achieve greater transparency. He also questioned that there was an increase of investigations concerning developing countries. The European Communities might have one anti-dumping investigation per year involving developing countries; almost all actions were taken with respect to other developed countries. He further said that the question of basic prices had been settled by the Committee and the international discipline in this field had been considerably strengthened.

65. The representative of the United States said that he associated himself with the views expressed by the representative of the European Communities. He wished to point out that in the anti-dumping area there was a Code which was practically fully observed by all parties and he wondered why the issues mentioned by the representative of India should be taken up at the Ministerial Meeting. It would imply that these issues were not adequately addressed by the Committee itself.

66. The representative of India said that he had raised issues about which his delegation felt concerned and he thought that the Committee should attempt a kind of stock-taking of the functioning of the Code and in the process of that stock-taking see what the difficulties were and then see what possible contributions could be made. He was not suggesting that the points raised by him should necessarily be taken to the Ministerial Meeting. He could not agree that the question of basic prices and special schemes had been settled. The Committee had agreed on a first step in this respect taking into account the particular situation which existed at that time. However several reservations had been made and it was clear that the Committee should pursue this issue. Referring to other aspects of the statement of the representative of the European Communities he said that he could agree that the Code itself provided for uniformity and transparency. The question, however, was how these provisions were implemented in practice by individual countries. Here certainly there was room for improvement.

67. The representative of the United Kingdom speaking on behalf of Hong Kong said that there were a number of matters with which some countries were concerned and he could agree that there was something this Committee could contribute to the Ministerial meeting. He thought that the suggestion of the Indian representative was very reasonable and moderate and the Committee should have a stock-taking exercise to consider whether or not the Code had been operating satisfactorily. He pointed out that not only technical aspects of the Code were to be taken into consideration but also more general aspects of the world trading situation. Referring to the question of basic prices he agreed with the representative of India that only certain aspects of this question had been tentatively resolved but there were many elements which needed further examination. There was also Article 13 of the Code dealing

with developing countries and the question of whether in its implementation account had been taken of the relevant decisions of the Committee (ADP/2).

68. The representative of Czechoslovakia said that his delegation shared some of the preoccupations expressed by the representative of India. There were problems with the administration and implementation of the Code and the Indian proposal should be given serious consideration from this point of view. The Committee should have a stock-taking exercise and subsequently the Ministerial meeting could be informed about its results and possible give guidelines for the resolution of certain issues.

69. The observer for Australia said that although he had no problems with the Indian proposal he could not help but ask himself what the end result of such a stock-taking would be. Even if during such an exercise it was found that certain articles of the Code were not implemented with such great precision as some Parties would like, what could Ministers do about such a finding? His concept of the Ministerial meeting was that it was designed to tackle major problem areas and to address priority issues for the coming years. He did not have the impression that issues raised in this Committee were of such great importance that Ministers would want to get involved in their examination.

70. The representative of Yugoslavia said that the implementation of the Code was of a special concern to many countries. He shared the preoccupations expressed by the representative of India and considered that they should be brought to the attention of the Ministerial meeting.

71. The representative of Canada said that he agreed with the reaction of the United States and the European Communities to the Indian proposal. The problems raised in this proposal were important but the Committee had not heard of any evidence that there was wide spread abuse which would call for examination by Ministers. The operation of the Code had been exemplary in the area of GATT and there was not sufficient cause to refer questions of its operation to the Ministerial meeting.

72. The representative of Finland said that he had thought that if there had been a Committee in GATT which did not need to make any contribution to the Ministerial Meeting, it was certainly this Committee. Of course there were some matters which could be criticized but this did not imply that these matters were eligible for consideration by the Ministerial meeting. He thought that the most appropriate forum to deal with them was the Committee itself. However, he thought that there was one general aspect which could be suitable for the Ministerial meeting, namely that in the period of serious economic recession certain tendencies had appeared to use anti-dumping procedures and measures more easily than in normal circumstances.

73. The representative of the United States said that he agreed with the representative of Finland that in the implementation and operation of the Code there were no priority issues which the Ministers would be willing to deal with.

74. The representative of Hungary said that the Ministerial meeting would discuss major problems of international trade and one such problem was protectionism. Anti-dumping actions could be used for protectionist purposes. The discussion in the Committee had shown that there were a number of problems related to the operation of the Code. He thought that the Indian representative had correctly summarized what could be done at this stage. The

stock-taking operation, identifying major problems in the anti-dumping area, should take place and if these problems could be generalized, they should be brought to the attention of Ministers.

75. The representative of the European Communities said that there were no problems in the area of anti-dumping which were so important that they deserved the attention of Ministers. Problems which existed could be dealt with in the Committee. He was surprised to hear the representative of Hungary including anti-dumping measures in protectionist devices. He wished to point out that dumping was qualified by the General Agreement and the Code as an unfair practice and consequently the anti-dumping policy was designed to eliminate unfair trade practices and not to introduce protectionism.

76. The representative of India did not think that it was up to the Anti-Dumping Committee to judge whether the agenda for the Ministerial meeting would be over-burdened by the inclusion of certain problems. This function was to be performed by the Preparatory Committee. This Committee should consider whether there were certain aspects which arose in the operation of the Code which were of sufficient importance to be placed before the Preparatory Committee which, in turn, would decide what to do with them. He reiterated his proposal for a stock-taking exercise during which some of the subjects of concern could be discussed. If, after such a discussion, the Committee as a whole believed that there was something it could contribute to the Ministerial meeting, it should do so. He was astonished to find a reluctance even to consider the issues.

77. The Chairman said that there was no disagreement that only issues of sufficient importance should be brought to the attention of the Preparatory Committee. It was also correct to say that it was up to the Anti-Dumping Committee to decide whether there were such important issues. The Indian delegation had suggested a stock-taking exercise so that the various issues related to the implementation of the Agreement could be raised and discussed. The Committee could thus come to an agreement whether there were real problems and whether they were of sufficient importance. It seemed that although some delegations had serious doubts about whether there were such important issues, nobody strongly objected to the idea of having a stock-taking exercise.

78. The representative of the United States asked which issues could possibly be put on the agenda of the Preparatory Committee. He thought that the only issues which could be selected for the attention of the Preparatory Committee were those which this Committee had failed to resolve. For the moment he did not see any such issue.

79. The representative of the European Communities said that he too would like to know which issues were to be discussed during the stock-taking exercise and what was precisely meant by this operation. He also said that if some delegations wanted to raise a problem, it should be done not in the abstract, but with an indication of the concrete situation, of the magnitude of the problem including the volume of trade concerned and how often such a problem had occurred. All that information should be provided in writing so that the Committee could have something concrete to look at.

80. The Chairman said that the delegations which had proposed the stock-taking exercise should give more precise views on its organization and specific items which would be raised.

81. The representative of Romania said that the Committee should try to establish an inventory of problems and ideas which could be submitted to the Preparatory Committee. His delegation was ready to make a contribution in this respect.

82. The representative of India proposed that the Committee should hold a special meeting in June 1982 to discuss the possible input to the Preparatory Committee. It was not his intention to put forward specific problems vis-à-vis specific countries. He thought that the basis for discussion should be problems evolving around broad themes such as a commitment to abide by agreed rules, transparency, etc. He said that he would be ready to prepare a very brief paper outlining some of the areas of general concern and then, depending on the nature of the discussion, the Committee could decide on the contribution it could make.

83. The representative of the European Communities said that he was still not clear what the purpose of the action was that had been proposed by India. Was it to renegotiate the Code or was it to assess whether there had been concrete difficulties and to consider how these concrete difficulties could be solved? If it was this latter orientation, it was indispensable to know the concrete problems on the basis of concrete cases. The Committee then could see whether it was worthwhile bothering the Ministers with the problems.

84. The representative of the United Kingdom speaking on behalf of Hong Kong said that there was no real conflict on this question because for the moment the problem was not what the results might be but whether there should be a stock-taking exercise so that the Committee could find out what could be referred to the Preparatory Committee. He thought that the Indian proposal had the virtue of enabling the Committee to find out whether, and what, it could contribute.

85. The observer for Australia suggested that the Chairman should hold consultations with interested parties with a view to deciding on further procedures with respect to possible contributions.

86. The representative of Romania said that the question was not to renegotiate the Code but to consider concrete, although general, issues. For example, the consequences of the fact that some parties had not brought their legislation in full conformity with the Code or different interpretations of certain provisions of the Code. The competence and authority of the Committee should also be strengthened to ensure full observance of all principles of the Code. The operation of Article 13 should also be reviewed.

87. The Chairman said that the Indian delegation had requested that a special meeting be held in June to decide whether or not there were issues of sufficient importance to be brought to the attention of the Ministerial meeting. Those delegations which had ideas on the substance to be discussed at a special meeting should submit them in writing to the Chairman by 10 May, who, on the basis of these submissions, would consult interested delegations in order to decide whether or not to convene such a meeting. It was so decided.

Date of the next regular session

88. In accordance with the decision taken by the Committee at its April 1981 meeting (ADP/M/5, paragraph 51), the Committee decided that the next regular session of the Committee should take place in the week of 25 October 1982.