

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

ADP/M/20

15 January 1988

Special Distribution

Committee on Anti-Dumping Practices

MINUTES OF THE MEETING HELD ON
26 AND 28 OCTOBER 1987

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

1. The Committee held a regular meeting on 26 and 28 October 1987.
2. The Committee adopted the following agenda:
 - A. Adherence to or acceptance of the Agreement by other countries (L/5808/Add.14 and Corr.1)
 - B. Examination of anti-dumping laws and regulations of Parties to the Agreement (ADP/1 and addenda)
 - (i) EEC (ADP/1/Add.1/Suppl.4 and Suppl.5)
 - (ii) Australia (ADP/1/Add.18/Rev.1/Suppl.1)
 - (iii) Brazil (ADP/1/Add.26/Suppl.1)
 - (iv) Japan (ADP/1/Add.8/Suppl.1 and ADP/W/147, 148, 150 and 153)
 - (v) Korea (ADP/1/Add.13/Rev.1 and ADP/W/135, 137, 145, 146, 149 and 156)
 - (vi) Pakistan (ADP/1/Add.24 and ADP/W/117, 120 and 124)
 - (vii) India (ADP/1/Add.25 and Corr.1 and ADP/W/118, 120 and 121)
 - (viii) Legislation of other Parties
 - C. Semi-annual report by the United States on anti-dumping actions taken within the period 1 July-31 December 1986 (ADP/32/Add.7)
 - D. Semi-annual reports of anti-dumping actions taken within the period 1 January-30 June 1987 (ADP/34 and addenda)
 - E. Reports on all preliminary or final anti-dumping actions (ADP/W/151, 154, 155 and 157)

F. Ad-Hoc Group on the Implementation of the Anti-Dumping Code:

- (i) Draft recommendation on input dumping (ADP/W/83/Rev.2)
- (ii) Status of the work of the Group

G. Other business

- (i) Request by the Chairman of the Uruguay Round Negotiating Group on MTN Agreements and Arrangements for information on the activities of the Group
- (ii) Request by Romania for bilateral consultations under Article 15 of the Agreement

H. Annual Review and Report to the CONTRACTING PARTIES

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

3. The Chairman brought to the attention of the Committee the fact that on 24 July 1987 Mexico had signed the Agreement ad referendum.

4. The observer for Mexico said his country had recently signed four MTN Agreements, including the Agreement on Implementation of Article VI of the General Agreement. That this signature was ad referendum was due to the fact that for constitutional reasons, approval by the Mexican Senate was required before his country could ratify the Agreement. He informed the Committee that the Agreement had already been referred to the Senate for consideration and that Mexico would ratify the Agreement in the near future. Regarding the Mexican anti-dumping legislation, he said his Government was of the view that this legislation was in conformity with the provisions of the Agreement and that it was his Government's intention to fully observe those provisions. Nevertheless, in case difficulties would arise in this respect, his authorities trusted that they could receive the appropriate technical assistance from other Parties and from the secretariat. He further stated that Mexico was a developing country within the meaning of Article 13 of the Agreement and that, consequently, in cases involving imports from Mexico, developed countries should explore possibilities of constructive remedies provided for by the Agreement before applying anti-dumping duties. Finally, he informed the Committee that the Mexican anti-dumping law (Law Regulating Article 131 of the Constitution) and the implementing regulation (Regulation against Unfair Practices in International Trade) had been published in the Mexican Official Journal (Diario Oficial de la Federacion) on 13 January and 25 November 1986, respectively.

5. The Committee took note of the statement made by the observer for Mexico.

6. The Chairman recalled that at previous meetings of the Committee, New Zealand had indicated its intention to accept the Agreement (ADP/M/18, paragraphs 3-5 and ADP/M/19, paragraphs 6 and 7). The observer for New Zealand said her Government had formally approved the acceptance of the Agreement and an instrument of acceptance would be deposited shortly.

7. The Committee took note of the statement by the observer for New Zealand.

B. Examination of anti-dumping laws and regulations of Parties to the Agreement (ADP/1 and addenda)

- (i) EEC (Council Regulation No. 2336/86 on existing anti-dumping duties applicable to imports from third countries into Spain and Portugal, document ADP/1/Add.1/Suppl.4; Commission Notice concerning the reimbursement of anti-dumping duties, document ADP/1/Add.1/Suppl.4 and Council Regulation No. 1761/87 amending Regulation No. 2176/84, document ADP/1/Add.1/Suppl.5)

8. The Chairman said that at its meeting held in June 1987 the Committee had considered document ADP/1/Add.1/Suppl.4 which contained the text of a Council Regulation regarding existing anti-dumping duties applicable to imports from third countries into Spain and Portugal and the text of a Commission Notice outlining procedures for the reimbursement of anti-dumping duties. No comments had been made on the Council Regulation but the delegations of the United States and Japan had indicated their wish to have an opportunity to revert to the Commission Notice at the next regular meeting of the Committee (ADP/M/19, paragraph 23). In addition, written questions on this Notice had been received after the meeting in June from Brazil (ADP/W/152).

9. The first question put by Brazil in document ADP/W/152 concerned item 2(b) of Section II of the Commission Notice which provided that the calculations of normal values and export prices used by the Commission in its consideration of the merits of an application for a refund would be based, as far as possible, on the same method applied during the original investigation (ADP/1/Add.1/Suppl.4, p.5). The delegation of Brazil had asked why in this provision the expression "as far as possible" had been used. In response to this question the representative of the EEC said that the provision in item 2(b) was intended to make it clear that, if in the original investigation weighted averages or representative samples had been used in the calculation of the dumping margin, the same methods should normally be applied for the purpose of the determination of the dumping margin in the refund procedure. However, account had to be taken of the possibility that changed circumstances could make it impossible to use exactly the same method in the refund procedure. For example, if in the original investigation the margin of dumping had been based on weighted averages, it would be impossible to apply the same method in the refund procedure if there was only one single transaction to examine. The expression "as far as possible" was intended to account for this sort of eventuality.

10. A second question raised by the delegation of Brazil in document ADP/W/152 concerned the criteria mentioned in item 2(c) of Section II of the Commission Notice to determine the amount of the refund in cases involving constructed export prices. In particular, the delegation of Brazil had asked why the Notice provided that, where products subject to a refund procedure were resold by a related importer to the first independent buyer in the Community on a duty unpaid basis, a reimbursement of the anti-dumping duty would only be granted to the company which had paid the duty if the resale price to such independent buyer had been increased by the amount of the dumping margin or a part thereof. The representative of the EEC said that two basic conditions had to be fulfilled before an anti-dumping duty could be refunded. Firstly, an anti-dumping duty must have been paid. In the situation covered by the provision to which the Brazilian delegation had referred this condition would pose no problems as the duty would have been paid by the first independent buyer. Secondly and more importantly, the margin of dumping had to be eliminated. This required that there be an increase in the net receipt of the exporter. In a situation involving a related importer, such an increase in the net receipt of the exporter could only take place if the related importer had increased its resale price to the first independent buyer.

11. The representative of Brazil thanked the representative of the EEC for his replies and requested that those replies be made available in writing. He also indicated he would like to have an opportunity to revert to the Commission's Notice at the next regular meeting of the Committee.

12. The representative of Japan said his delegation also wished to revert to the Notice at the next regular meeting of the Committee.

13. The representative of the EEC said his delegation would submit in writing its answers to the questions put by Brazil in ADP/W/152.

14. The Chairman said the Committee would revert to the Commission Notice at its next regular meeting and invited delegations wishing to ask further questions on this Notice to do so in writing by 10 January 1988; he also requested the delegation of the EEC to reply to such possible additional questions by 10 March 1988.

15. The Committee had also before it document ADP/1/Add.1/Suppl.5, reproducing the text of Council Regulation (EEC) No. 1761/87 of 22 June 1987 amending Council Regulation (EEC) No. 2176/84 on protection against dumped or subsidized imports from countries not members of the EEC. The Chairman recalled that at the meeting held in June 1987 a number of delegations had expressed their views on a proposal by the EEC Commission to amend Regulation No. 2176/84 in order to prevent circumvention of anti-dumping duties on finished products through importation and assembly in the Community of components (ADP/M/19, paragraphs 24-32). Council Regulation (EEC) No. 1761/87 was the definitive version of this amendment as adopted by the EEC Council of Ministers on 22 June 1987.

16. The representative of Japan said it was regrettable that, despite the concerns expressed by his delegation at the last meeting, the EEC had adopted Regulation No. 1761/87. The purpose of that Regulation seemed to be the prevention of circumvention of anti-dumping duties. However, the Agreement did not contain any provision on this issue and no substantive discussions had taken place on this question in the Committee. Consequently, no multilaterally agreed rules existed concerning methods to prevent circumvention of anti-dumping duties.

17. The representative of Japan made the following specific points regarding Regulation 1761/86. Firstly, he said that this Regulation virtually imposed anti-dumping duties on imported parts, not on the finished product on which a duty had originally been imposed. A basic requirement of the Agreement and of Article VI of the General Agreement was that the imposition of anti-dumping duties on two different items necessitated two separate investigations. Secondly, the Regulation imposed anti-dumping duties in a discriminatory manner on products assembled in the EEC by related or associated parties using imported parts above a certain percentage. This was contrary to the requirement of Article 8:2 of the Agreement that anti-dumping duties be applied on a non-discriminatory basis. Thirdly, the new EEC Regulation provided for the imposition of anti-dumping duties only on products assembled or produced in the EEC; this was contrary to Article VI of the General Agreement and to Article 8:2 of the Agreement which provided for the application of anti-dumping duties on imports of a product from another country. Fourthly, the duties provided for in the new EEC Regulation appeared in fact to be internal taxes because they were imposed after the assembly or production of a product in the EEC. As such these duties contravened Articles I and III of the General Agreement because they constituted internal taxes imposed in a discriminatory manner on assembled products using imported parts. Fifthly, the Regulation was not justifiable under Article XX(d) of the General Agreement. This provision only permitted exceptions to GATT rules in case of measures necessary to secure compliance with laws and regulations which were not inconsistent with the provisions of the General Agreement. As the new EEC Regulation was inconsistent with the General Agreement, it could not be justified under Article XX(d). The representative of Japan said his delegation had made additional points on the EEC Regulation in document ADP/W/162. He drew attention to the fact that in September 1987 the EEC had already opened a number of investigations under the new Regulation concerning products manufactured by Japanese producers before the Committee had had an opportunity to examine the Regulation. His authorities were concerned about the possibility that further investigations might be opened and measures applied under the new Regulation without an examination in the Committee of its details and its conformity with the provisions of the Agreement and the General Agreement. He therefore requested that the EEC reply as soon as possible to the questions asked by his delegation in ADP/W/162. He also requested that the Committee hold a special meeting on this matter and reserved the rights of his country under the provisions of the Agreement and the General Agreement, including the provisions for dispute settlement.

18. The representative of Hong Kong said his delegation had expressed its views on the proposal by the EEC Commission at the last meeting of the Committee (ADP/M/19, paragraph 30). He reiterated that anti-dumping duties could only be imposed on a product if there were findings of dumping, injury and a causal link between the dumping and the injury. Furthermore, the basis of these investigations should be a comparison between like products. He said he was interested in the views of the EEC on the conformity of Regulation 1761/87 with these two basic requirements.

19. The representative of Korea said his delegation shared the concerns expressed by the representative of Japan. He drew attention to a statement made by the delegation of the EEC in the Uruguay Round Negotiating Group on Subsidies and Countervailing Measures on the importance of strict compliance with existing rules prior to the establishment of possible new rules. His delegation was of the view that the new EEC Regulation raised serious questions regarding its consistency with the General Agreement and with the Agreement. In this respect he said there were two major problems: firstly, Article 2 of the Code required that a comparison be made between the export price and the normal value of like products. However, Regulation 1761/87 provided that the margin of dumping established for finished products would be used as a basis for the application of anti-dumping duties on parts. Secondly, Article 2:1 of the Agreement used the expression "the export price of the product exported from one country to another" which was generally interpreted as meaning the price at which products crossed a border. In the new EEC Regulation, however, anti-dumping duties could be imposed at the time at which products left the factory in the EEC. His delegation believed that, by adopting this provision, the EEC had given too wide a meaning to the concept of "introduction into the commerce of another country".

20. The representative of Singapore said her delegation had also expressed its views on the proposed amendment to Regulation No. 2176/84 at the last meeting of the Committee (ADP/M/19, paragraph 31); her delegation was interested in the questions raised by Japan and she expressed the hope that the EEC would provide further clarifications as soon as possible.

21. The representative of the United States noted that the first sub-paragraph of Article 1 of Regulation No. 1761/87 used the expression "related or associated" and asked the delegation of the EEC to explain the meaning of these two terms. In particular, he wished to know whether there was any difference in meaning between the word "related" and the word "associated".

22. The representative of the EEC explained that the EEC had adopted Regulation No. 1761/87 because experience had shown that in certain cases, particularly cases involving Japanese products, the imposition of anti-dumping duties on a product had been followed by a sharp decline of the imports of that product and a substantial increase of imports of parts and components of the product in question. The EEC had no objections

against foreign production in the Community but if this production took the form of "screwdriver" assembly operations, one had to ask oneself the question whether these assembly operations were not designed to circumvent anti-dumping duties previously introduced with respect to imports of complete products. In this type of situation, Article XX(d) of the General Agreement entitled all contracting parties to take the necessary measures in order to prevent such circumvention. The legal basis of the new EEC Regulation was not Article VI but Article XX(d) of the General Agreement. Accordingly, there was no need to make a determination of dumping with respect to the imported parts; what was necessary was to determine that circumvention of anti-dumping duties took place. It followed that the essential question was how to define the concept of circumvention of anti-dumping duties. There were no agreed rules and jurisprudence on this issue. The EEC had carefully considered this question and had concluded that circumvention could be said to take place if three conditions were fulfilled. Firstly, there had to be a relationship between the firm carrying out the assembly operation in the Community and the firm which had been found to dump the complete product. Secondly, the assembly operation must have been started or substantially increased after the opening of the anti-dumping investigation of the complete product. Thirdly, the value of the parts or materials used in the assembly operation and originating in the country of exportation of the complete product found to have been dumped had to exceed the value of all other parts and materials used in the assembly operation by at least 50 per cent. If all these conditions were fulfilled, a duty would be imposed on the complete product assembled in the EEC; however, the duty imposed would be proportional to the value of the parts or materials imported from the country of exportation of the complete product found to have been dumped. Other Parties who had encountered the same problem of circumvention had applied anti-dumping duties directly to imports of parts but the EEC was of the view that it was more equitable to apply duties to the complete product assembled in the Community. The approach adopted by the EEC was reasonable and moderate and in full conformity with Article XX(d); it was not excessive nor protective.

23. In response to the question asked by the delegation of the United States, the representative of the EEC said the words "related" and "associated", as used in Regulation No. 1761/87, had the same meaning as in the Agreement.

24. The representative of Canada said the Committee should recognize that the issue dealt with by the new EEC Regulation was a real problem; however, the discussions which had been provoked by this Regulation in the Committee showed that there was a need to develop internationally agreed rules to deal with this problem.

25. The representative of Hong Kong said he was concerned about the new EEC Regulation because this type of legislation undermined fundamental principles of the Agreement. On Article XX(d) of the General Agreement he pointed out that this provision specifically referred to laws or

regulations which were not inconsistent with the provisions of the General Agreement. He shared the views expressed by the Canadian representative that a solution of the problem outlined by the EEC should be found within internationally agreed rules yet to be developed.

26. The representative of Japan requested that the EEC reply to his delegation's questions within one month.

27. The representative of the EEC said his delegation preferred to reply to all questions raised on the Regulation at the same time.

28. The Committee took note of the statements made. The Chairman said the Committee would revert to Regulation 1761/87 at its next regular meeting. He invited delegations wishing to raise further questions on this Regulation to do so in writing by 10 January 1988 and he requested the delegation of the EEC to provide written replies by 10 March 1988.

(ii) Australia (Australian Customs Notice No. 87/169, document ADP/1/Add.18/Rev.1/Suppl.1)

29. The Committee had before it the text of Australian Customs Notice No. 87/169 which outlined new procedures for the processing of anti-dumping and countervailing duty petitions accepted on or after 1 September 1987. The representative of Australia said that at the last meeting of the Committee his delegation had provided some information on proposed changes to the Australian anti-dumping legislation (ADP/M/19, paragraph 65). The necessary legislative proposals to give effect to these changes had not yet been submitted to the Australian Parliament. However, it had been decided that some of the proposed changes relating to procedural issues should take effect prior to enactment of the relevant legislation. Details of these changes in the Australian anti-dumping procedures were described in Customs Notice No. 87/169.

30. The representative of the EEC reserved his delegation's right to revert to the Customs Notice at the next regular meeting of the Committee.

31. The Chairman concluded that the Committee would retain the Australian Customs Notice on its agenda for the next regular meeting. He further invited delegations wishing to raise questions on this Notice to do so in writing by 10 January 1988 and requested the Australian delegation to furnish written replies to possible questions by 10 March 1988.

(iii) Brazil (Customs Policy Commission Resolution No. 00-1227, document ADP/1/Add.26/Suppl.1)

32. The Chairman said that at its meeting in June 1987 the Committee had taken note of Decree No. 93.941 of 16 January 1987 as a result of which the Agreement had become applicable as domestic law in Brazil. Under Article 3 of that Decree the Brazilian Customs Policy Commission had been authorized to issue complementary rules for the application of the

Agreement. Such complementary rules had been adopted by the Commission on 14 May 1987 in Resolution No. 00-1227, the text of which had been circulated in document ADP/1/Add.26/Suppl.1.

33. The representative of Brazil said he would appreciate it if delegations which had specific questions on the Resolution would submit such questions in writing.

34. The representative of Finland asked a question relating to Article 3 of the Resolution which provided that the Customs Policy Commission could apply a provisional measure by requiring that "a cash security deposit" be made. He noted that Article 10:2 of the Agreement provided that provisional measures might take the form of a provisional duty or, preferably, a security by cash deposit or bond. In light of this provision he asked whether the Brazilian authorities would be prepared to accept a security other than in the form of a cash deposit.

35. The representative of Brazil said he would consult his authorities on this issue and provide a reply to the question put by the representative of Finland at the next regular meeting of the Committee.

36. The representative of Canada said the Resolution contained no provisions on the time-limits for each stage of the investigation process and requested that the delegation of Brazil provide further clarification on this issue. Regarding Article 14 which stipulated that respondents in an anti-dumping investigation had forty days to furnish their replies to a questionnaire, he asked whether this period could be extended, for example in complicated cases. He further noted that under Article 20 of the Resolution, if a petitioner had requested that a proceeding be terminated, the Customs Policy Commission was allowed to use its discretion to terminate or continue the investigation; he asked under what circumstances the Commission would continue a proceeding after having received such a request. Finally, he requested an explanation of the definition of the term "injury" in Article 36 and asked why there was a special definition of this term for the purpose of that Article.

37. The representative of Brazil said he would like to receive the questions put by the delegation of Canada in writing. On the time period mentioned in Article 14 he said that this Article did not preclude an extension of the forty day period. Regarding Article 36 he said the definition of the term "injury" contained in that Article was intended to be consistent with the manner in which this term was used in the Agreement.

38. The Chairman concluded that the Committee would revert to the Customs Policy Resolution at its next regular meeting and requested that delegations which wished to raise additional questions on this Resolution do so in writing by 10 January 1988. He requested the delegation of Brazil to reply in writing by 10 March 1988.

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

39. The Chairman recalled that at its meeting held in June 1987 the Committee had begun its examination of the Japanese Guidelines for the conduct of anti-dumping and countervailing duty investigations (ADP/M/19, paragraphs 10-18). Subsequent to that meeting written questions had been received from Canada (ADP/W/147), the EEC (ADP/W/148), the United States (ADP/W/150) and Brazil (ADP/W/153). The replies by Japan to the questions submitted by these Parties had been circulated in document ADP/W/160.

40. The representatives of the EEC and Brazil said that, in view of the late circulation of the replies by Japan, they would like to have the opportunity to revert to the Guidelines at the next regular meeting of the Committee.

41. The Chairman said the Committee would revert to the Guidelines at its next regular meeting.

- (v) Korea (Article 10 of the Customs Act and Article 4:2-7 and 4:17 of the Presidential Decree of the Customs Act, document ADP/1/Add.13/Rev.1)

42. The Chairman recalled that the Committee had been discussing the Korean anti-dumping legislation at its meetings held in October 1986 and June 1987 (ADP/M/18, paragraphs 6-11, and ADP/M/19, paragraphs 34-38, respectively). Written questions on the Korean legislation had been received from the EEC (ADP/W/135), Australia (ADP/W/137) and the United States (ADP/W/149). Replies by Korea to these questions had been circulated in, respectively, ADP/W/145, 146 and 156.

43. The representative of the EEC thanked the delegation of Korea for the replies it had provided to the questions put by the EEC; on a number of points, these replies had provided further clarification. However, his delegation remained concerned about the vague provisions in the Korean legislation regarding the initiation of anti-dumping investigations ex officio.

44. The representative of the United States thanked the Korean delegation for its replies to the questions put by the United States. With respect to the answers given by Korea to question 1(a) and (b) in document ADP/W/156, he said these replies raised a further question concerning the meaning of the expression "the party who files a petition on behalf of the domestic industry" used in Article 4:4(2) of the Presidential Decree. He requested the delegation of Korea to provide a further explanation of the meaning of this expression.

45. The representative of Korea said he welcomed additional questions in writing.

46. The representative of the United States said he would submit his delegation's question in writing.

47. The Chairman concluded by saying that the Committee would revert to the anti-dumping legislation of Korea at its next regular meeting. He requested delegations wishing to submit additional questions to do so in writing by 10 January 1988 and invited the delegation of Korea to reply in writing to such possible questions by 10 March 1988.

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

48. The Chairman said that since the representative of Pakistan was not in the meeting room, the Committee would revert to the anti-dumping legislation of Pakistan at its next regular meeting.

(vii) 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)

49. The Chairman said the anti-dumping legislation of India had been the subject of discussion in the Committee at its meetings held in April 1986 (ADP/M/17, paragraphs 12-17), October 1986 (ADP/M/18, paragraphs 25-37) and June 1987 (ADP/M/19, paragraphs 42-46). Written questions on the Indian anti-dumping legislation had been received from the United States (ADP/W/118), Australia (ADP/W/120) and the EEC (ADP/W/121). At the meeting held in October 1986 the representative of India had replied to some of the questions raised (ADP/M/18, paragraphs 26-32). At the meeting held in June 1987 the representative of the EEC had requested a further explanation of the criteria for the application of provisional duties under Section 13 of the Customs Tariff Rules (ADP/M/19, paragraph 44) and the delegation of the United States had indicated that it was still not completely satisfied with the answers which had been provided by the delegation of India (ADP/M/19, paragraph 45). In light of these comments the Committee had decided to revert to the Indian legislation at its next regular meeting and the delegation of India had been requested to provide further replies in writing prior to the next meeting (ADP/M/19, paragraph 46).

50. The representative of India, replying to questions raised concerning the procedures and criteria for the application of provisional duties (ADP/M/17, paragraph 14, ADP/M/18, paragraph 33, ADP/M/19, paragraph 44), said that Section 13 of the Customs Tariff Rules was intended to enable the relevant authorities to impose provisional duties after a preliminary finding based on information available to those authorities. This information would include any material or information furnished by exporters if they chose to submit such information. This provision was in conformity with Article 10 of the Agreement. Furthermore, once a definitive duty had been imposed as a result of a final determination, Section 22 of the Customs Tariff Rules provided for the refund of provisional duties paid in excess of the amount of the definitive duties.

In reply to the request by the EEC at the meeting in June for a further clarification of the provisions on preliminary injury determinations, the representative of India said the benefit of an injury test was available only to those countries specified in Section 9B(2) of the Customs Tariff Act; this Section applied to all Parties to the Agreement and contracting parties to the General Agreement.

51. The representative of the EEC said the Agreement required that provisional measures be taken only after preliminary determinations had been made which showed sufficient evidence of dumping and injury to justify the imposition of such measures. It was unclear on what factual basis the Indian authorities would make a preliminary determination of the existence of injury. The replies given by the representative of India suggested that such a determination would be based on the best information available to the Indian authorities, including information submitted by exporters. His delegation considered that the preliminary determination of injury required by the Agreement could not be carried out if the investigation was limited to this type of information.

52. The representative of India said he would consult with his authorities on the issue raised by the delegation of the EEC; if possible, he would submit a written reply prior to the next regular meeting of the Committee.

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

(viii) Legislation of other Parties

54. The representative of Canada recalled the concerns expressed by his delegation at the meeting in June regarding proposed amendments to the anti-dumping legislation of the United States contained in HR 3 (see ADP/M/19, paragraph 58). The proposals for anti-dumping remedies in case of diversionary input dumping and for the revitalization of the Anti-Dumping Act of 1916, if enacted, could have significant negative implications for the implementation of the Agreement and for the negotiations in the context of the Uruguay Round. Moreover, the proposal for mandatory cumulative injury assessment "across the Codes" could result in the application of inappropriate remedies. He hoped the United States delegation would bring the concerns of the Canadian Government to the attention of the appropriate United States authorities.

55. The representatives of Hong Kong, Singapore, the EEC, Japan and Korea reiterated the concerns expressed at the previous meeting of the Committee regarding proposed amendments of the anti-dumping legislation of the United States and requested the delegation of the United States to convey these concerns to the relevant United States authorities. The observer for Mexico shared the concerns expressed by these delegations.

56. The representative of the United States said his delegation had conveyed to its authorities the concerns expressed at the previous meeting by a number of Parties with respect to the proposals to amend the

anti-dumping legislation of the United States. He reiterated that the proposals referred to were still under consideration in the United States Congress and said his delegation would keep the Committee informed of any further relevant developments in this respect.

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

58. The representative of the United States requested the delegation of Mexico to indicate when the Committee would have an opportunity to examine the anti-dumping legislation of Mexico. He noted that, while Mexico had not yet ratified the Agreement, it had maintained in the past that its anti-dumping legislation was fully consistent with the provisions of the Agreement. However, the United States Government had some doubts about this. In this respect he mentioned a recent anti-dumping investigation opened by the Mexican Government of imports of caustic soda from the United States. In this case Mexico had taken provisional measures only five days after the initiation of the investigation and the United States exporters had not been given an opportunity to provide information prior to the application of these provisional measures. His Government therefore doubted whether the procedures followed by Mexico were consistent with the Agreement. He asked the delegation of Mexico whether it would be possible for the Committee to review the Mexican anti-dumping legislation at its next regular meeting.

59. The observer for Mexico requested the delegation of the United States to submit its comments in writing and said his delegation would provide a written reply to these comments prior to the next regular meeting of the Committee. By way of preliminary reply he said that in the case referred to by the United States, provisional measures had been taken almost four months after the filing of the complaint and not, as suggested by the United States delegation, five days after the opening of the investigation. Furthermore, public notice had been given of the relevant decisions in the Diario Oficial and the exporters from the United States had been given an opportunity to provide information.

60. The Committee took note of the statements made by the representative of the United States and the observer for Mexico.

61. The Chairman said the Committee would keep on its agenda the item "Legislation of other Parties" in order to allow the Parties to revert to particular aspects of national anti-dumping laws and regulations. He further said that the examination of anti-dumping laws and/or regulations would be facilitated by the submission of written questions and replies and recalled that, regarding the laws and regulations to which the Committee had agreed to revert at its next meeting, the deadline for the submission of written questions was 10 January 1988 and that the deadline for the submission of written replies was 10 March 1988.

C. Semi-annual report by the United States on anti-dumping actions taken within the period 1 July-31 December 1986 (ADP/32/Add.7)

62. The Chairman recalled that, in view of the fact that the semi-annual report by the United States for the period 1 July-31 December 1986 had been received very late, the Committee had decided at its meeting in June to revert to this report at its next regular meeting (ADP/M/19, paragraph 86).

63. The representative of Finland made some comments on anti-dumping proceedings concerning kraft condenser paper and viscose rayon staple fibre from Finland (ADP/32/Add.7, page 12). Firstly, he noted that no figures were available on the trade volume covered by these proceedings and said that if the petitioners had not been able to provide data on trade volume, it was difficult to see that these proceedings had been initiated on the basis of sufficient evidence of injury. Secondly, he noted that in the case concerning kraft condenser paper, a margin of dumping of 0.04 per cent had been found and said that even under the standards normally applied by the United States such a small margin should be considered to be de minimis. Thirdly, he said that in the kraft condenser paper case the normal value had been determined on the basis of market prices in Brazil which seemed to imply that the United States considered Finland as a non-market economy. He emphasized that Finland was a market-economy country and that it was therefore not appropriate to determine the normal value of products exported from Finland on the basis of prices in third countries.

64. The representative of the United States said the cases referred to by the representative of Finland involved annual administrative reviews of anti-dumping orders. As indicated in ADP/34/Add.6, the final result of the administrative review of the anti-dumping duty order on kraft condenser paper had been a determination of no dumping (ADP/34/Add.6, page 10). The absence of figures on trade volume could be explained by the fact that these proceedings were administrative reviews rather than new investigations.

65. The representative of Finland said the comments made by the United States delegation had provided some clarification on the kraft condenser paper case; he requested the delegation of the United States to provide a further explanation of the viscose rayon staple fibre case.

66. The representative of the United States said this proceeding was an annual administrative review of an anti-dumping duty order which had entered into force on 21 March 1979 (ADP/32/Add.7, page 37). In this review a margin of dumping had been determined on a preliminary basis which was greater than de minimis (ADP/34/Add.6, page 10).

D. Semi-annual reports on anti-dumping actions during the period 1 January-30 June 1987 (ADP/34 and addenda)

67. The Chairman said the following Parties had informed the Committee that during the period 1 January-30 June 1987 they had taken no

anti-dumping measures: Austria, Brazil, Czechoslovakia, Hong Kong, Hungary, India, Japan, Norway, Pakistan, Poland, Singapore, Sweden, Switzerland and Yugoslavia. Anti-dumping actions had been notified by Australia, Canada, the EEC, Finland, Korea and the United States. No reports had been received from Egypt and Romania.

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

Canada (ADP/34/Add.2)

69. No comments were made on this report.

Finland (ADP/34/Add.3)

70. The representative of Czechoslovakia said his delegation would seek bilateral consultations with Finland on the investigation initiated in May 1987 on imports of ski boots from Czechoslovakia and reserved his delegation's right to revert to this case at the next regular meeting of the Committee.

Australia (ADP/34/Add.4)

71. No comments were made on this report.

EEC (ADP/34/Add.5)

72. No comments were made on this report.

Korea (ADP/34/Add.7) and the United States (ADP/34/Add.6)

73. The Chairman said these two reports had been received very late and the Committee would therefore examine these reports at its next regular meeting.

E. Reports on all preliminary or final anti-dumping actions (ADP/W/151, 154, 155 and 157)

74. The Chairman said reports under these procedures had been received from Australia, Canada and the United States. No comments were made on these reports.

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

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

75. The Chairman recalled that this draft recommendation had been before the Committee at its meetings held in October 1985, April and October 1986 and June 1987. As a result of objections expressed by the delegations of Hong Kong and the United States, the Committee had been unable to adopt this draft recommendation.

76. The representatives of Hong Kong and the United States informed the Committee that their views on this matter had not changed since the previous meeting of the Committee.

77. The Committee agreed that it would revert to the draft recommendation at a future meeting if requested to do so by any Party.

(ii) Report by the Chairman on the work of the Ad-Hoc Group on the Implementation of the Anti-Dumping Code

78. The Chairman said that at its meeting held on 26 October 1987 the Ad-Hoc Group had continued its discussion of a number of working papers dealing with various aspects of price undertakings in anti-dumping proceedings. Although the Group had not yet reached a consensus on these working papers, some constructive proposals had been made and the Group had therefore agreed to revert to these papers at its next meeting.

C. Other business

(i) Request by the Chairman of the Uruguay Round Negotiating Group on MTN Agreements and Arrangements for information on the activities of the Committee.

79. The Chairman said the secretariat had informed him that the Chairman of the Uruguay Round Negotiating Group on MTN Agreements and Arrangements had requested that the Committee provide this Group with information on its work. He proposed that the Committee reply to this request as follows. A concise summary of each meeting of the Committee could be circulated in an L/ document. These summaries and the annual reports by the Committee to the CONTRACTING PARTIES would be available to the participants in the Negotiating Group. Furthermore, all the ADP, ADP/W and ADP/M documents would be available to all contracting parties upon request.

80. The Committee agreed to respond to the request made by the Chairman of the Negotiating Group on MTN Agreements and Arrangements in the manner proposed by the Committee's Chairman. The Chairman said that the Committee could perhaps revert to this matter at its next regular meeting to consider whether it would be appropriate to provide further information on the Committee's work to the Negotiating Group.

(ii) Request by Romania for bilateral consultations under Article 15 of the Agreement

81. The representative of Romania informed the Committee that his delegation had requested bilateral consultations with Australia under Article 15 of the Agreement and reserved his delegation's right to revert to this matter at the next regular meeting of the Committee.

82. The Committee took note of the statement by the representative of Romania.

H. Annual Review and Report to the CONTRACTING PARTIES

83. The Committee adopted its Report (1987) to the CONTRACTING PARTIES (L/6247).

Date of the next regular meeting

84. The Chairman said that, in accordance with the decision taken by the Committee at its meeting held in April 1981 (ADP/M/5), the next regular meeting of the Committee would take place in the week of 25 April 1988.