

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

ADP/M/4

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Committee on Anti-Dumping Practices

## MINUTES OF THE MEETING HELD ON 2-3 FEBRUARY 1981

Chairman: Mr. M. Lemmel

1. The Committee on Anti-Dumping Practices held its fourth meeting on 2-3 February 1981.
2. The purpose of the meeting (as set out in GATT/AIR/1693) was to discuss the question of basic price systems.
3. The Chairman recalled that at the October 1980 meeting several delegations raised various problems involved in basic price systems. In particular the delegation of Canada had proposed that the Committee should examine what Article 8:4 of the Agreement really meant and that, in the light of this examination, the Parties should either agree on certain guidelines for the application of basic price systems or decide that such systems should not be established at all (ADP/M/3, paragraph 61). The delegation of Canada had also proposed that the secretariat prepare a background note on the discussion of basic price systems in the GATT (ADP/M/3, paragraph 95). This note had been circulated in ADP/W/12. It reproduced the relevant parts of GATT documents referring to this question. The representative of Canada had also submitted an informal note discussing various aspects of basic price systems and other anti-dumping monitoring systems and setting out certain proposals for an international discipline in this field. This paper could serve as a basis for discussion at this meeting. As to the proceedings of the Committee the Chairman proposed that there should be a general discussion of various aspects of the matter and then the members should hold informal consultations with a view to elaborating certain proposals or conclusions which could be examined in detail by the Committee.
4. The representative of Canada said that the Canadian draft legislation constituted a genuine effort to articulate in detail what was exactly meant by Article 8:4 of the Agreement. He said he was quite prepared to accept that this interpretation might not be correct and therefore he wanted to hear comments of other members of the Committee and would be ready to take these comments into account. He also said that there were many ambiguities in Article 8:4, but, before going into details, he thought that the Committee should have a general discussion on the philosophy behind Article 8:4, the types of situation that this Article tended to remedy and the scope for its use. He recalled his statement made in the former Anti-Dumping Committee in 1978 (COM.AD/48, paragraphs 15-17) where he had pointed to the very real dangers of basic price systems and reference price systems. At present there

was a trigger price system for steel applied by the United States and something less than a full basic price system applied by the European Communities. These systems were not exactly covered by Article 8:4, but they were all dangerous. If the proposed Canadian system was implemented it would, in some way, amount to a minimum price system. Therefore it was important to know what was meant by Article 8:4 and how far a Party could go, what the Committee wanted out of Article 8:4 and whether this Article was at all necessary. He said that in his informal paper he came up with essentially two interpretations. According to the first one, Article 8:4 was no more than a mechanism to facilitate the calculation and collection of anti-dumping duties in cases where there were many firms, and countries, involved. The second interpretation was that it provided for a completely different mechanism for applying anti-dumping duties which would be used in exceptional circumstances only and under which there was no need to go through all the legislative steps normally followed in an ordinary case. The relevant part of the proposed Canadian legislation was based on this second interpretation. The procedures to be followed in such cases were the same as in normal cases, with one exception - that there would not be recourse to the court on the question of an injury. In this respect further procedures would be administrative ones, as was the case in most of the Parties to the Agreement. The dumping and injury would be determined by the authorities at the cabinet level. Another difference was that in a normal case, at the end of the proceedings, the established normal value was communicated privately to the exporters concerned, while under the basic price system the basic price was published and applied to all exporters, irrespective of the country of exportation. He stressed that all such systems, irrespective of whether basic price or reference price systems, resulted in pressure on exporters to adjust their prices to the published price and consequently adversely affected the liberal conduct of trade. For these reasons one should apply such systems with the maximum of care. Unfortunately Article 8:4 did not give sufficient guidance in this respect. In his paper he tried to outline a possible international discipline covering all basic price related systems, which would put certain constraints on their use and reduce, as far as possible, their trade-distorting effects. There was however a very real danger in following this approach. Once certain criteria had been established they would, in a way, legitimate all these systems and there would be an enormous pressure on those governments which had not yet established such systems to do so.

5. The representative of the European Communities said that he shared the Canadian preoccupation with the dangers of various reference price systems and that he was ready to discuss possible solutions for the future. Article 8:4 did not give sufficient guidance in this respect. There was some contradiction in its text, because, on the one hand it provided for a derogation, on the other it stated that any such action should be taken in conformity with other provisions of the Agreement. The practice had shown that many systems had emerged which had different functions, in particular they used pre-determined normal values and they triggered the initiation of an investigation. Such systems were dangerous because as soon as a reference price had been published it generated a tremendous pressure for anti-dumping duties to be automatically imposed and collected without a full investigation. Moreover, these systems had a tendency to proliferate and as soon as a system had been established for one product, producers of other products also wanted to have their own systems. For these reasons there was an urgent need to have some guarantee for the future, to avoid further proliferation of these systems. As to the system used by the European Communities it was not a full basic price system, because a normal, full investigation had to be initiated and there had to be determination of dumping and injury before any anti-dumping action could be taken. This system was, at present, a dead letter,

because the European Communities had arrangements with almost all steel exporters to the EEC and therefore no action had been taken under it since 1979. He recalled that he had already objected to the proliferation of various anti-dumping monitoring schemes to other products and said that the use of these schemes should be as limited as possible and that no such schemes should be introduced in the future. He wondered whether the proposed Canadian system really differed from the normal anti-dumping procedures and, if not, whether it was really necessary to have two different procedures. He thought it would be sufficient if it was simply said that for certain products the judicial proceedings would be replaced by administrative proceedings. He suggested that the Committee should look for a solution that would limit the use of various special anti-dumping schemes and impose an international discipline.

6. The representative of the United States said that he shared the concern expressed by both the representatives of Canada and the European Communities about basic price systems if interpreted as systems under which dumping duties could be assessed outside the normal and full anti-dumping procedures. Such practices were certainly not allowed by Article 8:4 which established only a method to calculate and collect anti-dumping duties imposed after normal anti-dumping procedures. Therefore, if this Committee was to endorse any sort of basic price system such system should be nothing more than a method to calculate and collect anti-dumping duties. This interpretation was confirmed by the fact that the title of Article 8 was "imposition and collection of anti-dumping duties", and that this Article made it clear that such imposition was possible only after all requirements of the Code had been fulfilled. These requirements meant, first of all, determination of dumping and injury pursuant to a full anti-dumping investigation. Any other interpretation would render the rest of the Agreement a dead letter. If the point of view expressed by the representative of Canada had been accurate and if, indeed, Article 8:4 had allowed the imposition of anti-dumping duties pursuant to something other than a normal and full anti-dumping investigation on a product basis then this Committee should very quickly decide that Article 8:4 was counterproductive and that it should simply be written off, by an amendment to the Agreement or by a decision of the Committee. As to the monitoring systems presently in operation they were quite different from the system which, according to the Canadian interpretation was allowed under Article 8:4. These systems did not allow any imposition of anti-dumping duties except pursuant to a complete investigation and injury determination. However, in practice these systems could have, because of market behaviour, the same impact as basic price systems and this impact was equally prejudicial. These systems existed in the steel sector which had special problems but he would view with great concern any proliferation of any kind of special anti-dumping systems, irrespective of any technical differences existing between them. The Committee should address all sorts of systems and be able to agree that, with the possible exception of the steel sector, any basic price system or any monitoring scheme should be avoided.

7. The representative of Japan said that his Government's view of basic price systems was that if several suppliers from one or more countries were involved, an anti-dumping duty, equivalent to the difference between the actual price and the basic price might be imposed. In establishing a basic price system the importing country had to determine the lowest normal price in supplying countries where normal conditions of competition were prevailing. This determination was frequently a very difficult exercise as it required an in-depth study of domestic prices for a considerable number of products in supplying countries in order to select a country which had the lowest normal

price. For these reasons the judgement whether the basic price systems were desirable or not depended upon how the level of basic prices was established. If this level was not appropriately established there were at least two problems: firstly very efficient producers could be in a disadvantageous situation in the price competition, secondly the system would function as a tool to control imports of the product concerned. This would be inconsistent with the original aim of the Anti-Dumping Code and would constitute an impediment to the smooth development of international trade. On the other hand, if a basic price was established in an appropriate way there was some merit in using it, as for example transparency of the dumping margins and less administrative burden on the importing authorities. Any basic price system should, therefore, be implemented in accordance with the relevant provisions of the Anti-Dumping Code, i.e. only after the existence of dumping and material injury had been established pursuant to a full anti-dumping investigation. Moreover, sufficient evidence on the existence of dumping, of material injury and a causal link between them were essential to the initiation of any investigation. Any proposal to deal with basic price systems should not depart from these important principles.

8. The representative of Sweden said that the informal paper circulated by the representative of Canada raised some fundamental issues concerning the interpretation of the Agreement. He welcomed the opportunity to have a detailed discussion of these problems, particularly as special anti-dumping measures applied by some countries continued to cause very great concern to his Government. He noted that the representative of the United States had agreed that although the trigger price mechanism was not a basic price system within the meaning of Article 8:4, nevertheless it constituted a mechanism for the initiation of anti-dumping or countervailing investigations which was not contemplated by the Agreement. In any discussion of basic price systems, not only Article 8:4 but other relevant provisions of the Agreement should simultaneously be taken into account. Referring to two ancient cases, where Sweden had introduced a basic price system, he wanted to stress that in both cases anti-dumping duties had been imposed only pursuant to a full investigation and finding of a dumping and of an injury resulting therefrom. The basic price system had been chosen only for reasons of simplyfying the imposition and collection of anti-dumping duties. In his opinion Article 8:4 provided only for specific methods of administering an anti-dumping duty. It did not leave room for any deviation from other provisions of the Agreement as, for example, those related to the initiation of an investigation. It clearly resulted from the introductory part of Article 8:4 that its application should be consistent with the other provisions of the Agreement. Furthermore Article 8:4 stipulated that the basic price system could only be used with respect to imports of the product found to have been dumped and to be causing injury from the country or countries concerned. This wording supported the interpretation that basic price systems might be introduced only after a regular anti-dumping investigation, covering all products and countries concerned, had taken place. He recognized that although basic price systems, if established and operated consistently with the Agreement, might have certain advantages they, nevertheless, were easily open to abuse. If the Committee could reach an understanding on how to deal with these systems in order to prevent their proliferation and prevent any possible abuse it would be a very important step forward.

9. The representative of India associated himself with those speakers who emphasized the need for full anti-dumping investigations, resulting in a finding of dumping and injury, as a precondition for any further action. He considered any other approach highly inappropriate. The questions raised in the paper circulated by the representative of Canada needed further thoughts

and reflection. The members of the Committee should be given an ample opportunity to go through these questions again.

10. The representative of Canada said that it seemed that there was a unanimity of view in the Committee that Article 8:4 was designed as a means of facilitating the calculation and collection of anti-dumping duties. If this was what Article 8:4 was supposed to mean he wondered whether there was there any real need to have it at all. This Article provided a mechanism where some countries, if they so wished, might decide to collect less than the full margin of duty. Therefore they might publish a single price which would be the lowest price from all sources and allow everyone else to dump down to the level of the most efficient exporter.. He thought that if Article 8:4 was only a collection mechanism it was completely redundant in the Agreement because paragraphs 1-3 of Article 8 were quite adequate to provide such mechanisms and if any country wished to assess duties at a level lower than the full margin of dumping it was quite free to do so. For these reasons he was in favour of deleting Article 8:4 from the Agreement. However even if the Committee decided to do so it would still have to deal with other special anti-dumping measures like trigger price systems.

11. The representative of the United States said that he wanted to endorse what had just been said by the representative of Canada on the possible deletion of Article 8:4. He was also in favour of discussing other special measures with a view to arriving at appropriate solutions.

12. The representative of the United Kingdom speaking on behalf of Hong Kong said that resorting to the basic price systems was undesirable because it could lead to anti-dumping investigations even if there was no real justification for them. However, Article 8:4 had been included in the Agreement and there was a need to appropriately interpret this provision. Its wording seemed to be quite clear. The basic price systems had to be consistent with the Agreement and there had to be a finding of dumping and injury prior to the assessment of anti-dumping duties. The Canadian draft legislation was not consistent with Article 8:4 because it seemed to give a wide discretionary power to establish prices on the basis of an estimated normal value. Once these basic prices were established the effect would be to terminate the investigation and to levy anti-dumping duties. This was not what Article 8:4 provided for and the discretionary power given to the administrative authorities was too great. Hong Kong had recently suffered from a unilateral imposition by Canada of values for the purposes of customs duty and was aware, from a practical point of view, of the dangers of wide administrative discretion. The Committee should not encourage the use of basic price systems and should have a close look at any inconsistency between the Agreement and the legislation of every Party.

13. The Chairman said that the Committee had had a very candid discussion and that most of those who had spoken were against basic price systems as such. It had also been clearly stated that Article 8:4 was nothing more than a mechanism for the calculation and collection of anti-dumping duties. Since such mechanisms had already been covered by other provisions of the Agreement, a question had been raised as to whether there was any need to have Article 8:4. However it would be extremely difficult, from the procedural point of view, to delete this Article. Article 8:4 would probably have to stay in the Agreement but the limitations on its use were clear: one could not disregard the other provisions of the Agreement, in particular that there should be a full anti-dumping investigation initiated only if there was sufficient evidence of dumping, injury and a causal link between the two.

14. The representative of the European Communities said that although the proposal of the representative of the United States to delete Article 8:4 seemed very radical it merited serious consideration. There were certain contradictions in the wording of Article 8:4 which would always create confusion. The first part of it stipulated that before applying a basic price system, one should have found dumping and injury in accordance with other provisions of the Agreement. It created the impression that Article 8:4 provided only for a simplified method of collecting anti-dumping duties. However, in the second half of this Article there was another idea, namely that after having established a basic price system one had to proceed with an anti-dumping investigation before collecting anti-dumping duties. The conclusion therefore was that one could establish a basic price system without having gone through an appropriate anti-dumping investigation. This contradiction between the beginning and the end of Article 8:4 was very confusing and therefore he would prefer to delete Article 8:4 and replace it with something more sensible.

15. The Chairman said that the Committee should try to define and to limit the possibilities of using basic price systems. He proposed that the Committee adjourn to have informal consultations in order to enable the Chairman to present a draft understanding setting out concrete results of this meeting. The meeting was then adjourned.

16. Having resumed the meeting the Chairman said that an effort had been made to put together what had been discussed earlier at this meeting and informal consultations had resulted in a draft understanding (ADP/W/14).<sup>1</sup> The Committee should not try to make a decision on this draft at this meeting but delegations should refer it to their governments for consideration with a view to adopting the understanding at the next meeting of the Committee. The draft was composed of four paragraphs, all based on what had been said in the Committee. The second paragraph concluded that Article 8:4 was not essential to the effective operation of the Agreement and should not provide the basis for any anti-dumping action in the future. Paragraph 3 restricted the possibilities of using special anti-dumping systems in the future to virtually nil. Paragraph 4 dealt with systems presently in force. As it was politically impossible to abolish these systems right away, the intention of this paragraph was to limit them to their present scope and to clearly state that they were temporary and should be phased out as soon as possible.

17. The observer for Argentina said that he would like to see clearly what was the exact meaning of paragraphs 3 and 4. In particular he wanted to know whether they meant that countries which were presently operating special anti-dumping schemes were given a waiver to maintain them while all other present or future Parties would not be allowed to establish such schemes.

18. The Chairman said that once the understanding had been adopted by the Committee all Parties, which had accepted it, would be bound by its provisions. A country which would sign the Agreement at a later date and which would have such a scheme in operation would also be bound by this understanding unless it stated something to the contrary.

19. The representative of Japan said that he thought that the purpose of this meeting was to elaborate Article 8:4 and to agree on certain guidelines to ensure that basic price systems were applied in conformity with the provisions

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<sup>1</sup>Reproduced in the annex.

of the Agreement. As the discussion went further than his delegation had expected, it was not possible for him to take any stand on the draft understanding and on the proposal to delete Article 8:4. His delegation had no authority to accept this understanding which contained very important policy issues and possible amendments to the Agreement. He wanted to make it clear that his participation in the elaboration of the draft understanding did not, in any way, prejudice the position of the Japanese Government.

20. The Chairman said that it was clear that the work done in the Committee on this matter was without any prejudice to the final position of delegations. He also recalled that the purpose of this meeting was (as was clearly stated in the minutes of the last meeting, ADP/M/3. paragraph 61) either to agree on certain guidelines for the application of basic price systems or to decide that such systems should not be established at all. Therefore all that the Committee was doing was in conformity with the agreed purpose of this meeting. He also wanted to confirm that the Committee was not supposed to take any decision at this meeting but it should agree to submit the draft understanding to governments for their consideration.

21. The representative of Canada said that he was not in a position to accept any understanding already at this meeting but he would take it back to see whether his Government was ready to go along with it. He also wanted to alert other Parties to the fact that, assuming the draft was acceptable to his Government, he might be obliged, in the context of public hearings on the anti-dumping legislation, to publish this draft in the very near future. Referring to the question raised by the observer for Argentina he said that the first sentence of paragraph 4 meant to him that any system presently in force could be picked up by any Party to this Agreement as long as it did not extend its scope. In other words the understanding was that no-one would extend beyond the existing special anti-dumping systems but all Parties would be free to put in place a system similar to one of those in force, if they needed to do so.

22. The representative of Switzerland said that the Canadian interpretation did not reflect the intention of the drafters of paragraph 4. This paragraph meant that only those systems which were presently in place were allowed to exist. Other Parties were therefore obliged not to introduce such systems. He also welcomed the draft understanding as an important step towards strengthening the discipline in the anti-dumping area.

23. The representative of Sweden wanted to know whether the anti-dumping action by the European Communities with respect to kraft liner paper should be considered as a sort of basic price system, and if so would it be covered by paragraph 2 of the draft understanding? The representative of the European Communities said that he did not think that this action was anything other than a normal anti-dumping duty, imposed after a full anti-dumping investigation as provided for in the Agreement and it was not based on Article 8:4. As to the question of whether this action could be considered as a similar system he said that one should distinguish two types of different basic price or similar systems. The first type, provided for under Article 8:4, was to facilitate the collection of anti-dumping duties. It seemed that the unanimous view of the Committee was that Article 8:4 was superfluous. The second type were trigger price and similar mechanisms which had nothing to do with collection of duties but which were special monitoring systems where the trigger prices were normally established before the opening of an investigation and before any determination had been made. In the European Communities the normal practice was to have fixed anti-dumping duties on the basis of average dumping margins. There was also another possibility,

namely that the anti-dumping duty was not expressed on an ad valorem basis but was calculated as the difference between the normal value established on an EEC frontier basis and the import price. This procedure was also in perfect compliance with the provisions of the Agreement. It was not based on Article 8:4, although it was nearer to the system provided for in Article 8:4 than to a trigger price system. The representative of the United States said that he understood the system just described by the representative of the European Communities as a decision not to collect the full amount of an anti-dumping duty.

24. The representative of the United States referred to the interpretation of paragraph 4 of the draft understanding. He said that it would be very difficult to allow some countries - only because they had already had certain special anti-dumping schemes put in place - to continue these practices and to deny other countries the right to do the same. Of course these practices should be limited to the steel sector. For these reasons and for the reason of equity the Committee should accept the interpretation given by the representative of Canada (paragraph 21 above).

25. The representative of the European Communities said that his interpretation was different. There were two countries where the situation in the steel sector was especially difficult because of the fact that they were huge importers of steel. Other countries, in particular steel exporters, were in a much better situation. The intent behind paragraph 4 was to avoid proliferation of special anti-dumping systems. The only way to avoid it would be to make a fair agreement. Paragraph 4 provided for such an agreement since it contained a "grandfather clause" for the existing systems but subjected them to special conditions and annual reviews by the Committee. In addition no special measures could be taken without full anti-dumping investigations being carried out on a case-by-case basis. It was something to take home even for those countries which did not have such systems and the deal seemed to be well equilibrated on both sides. Moreover it was in everybody's interest to avoid proliferation of these dangerous special anti-dumping systems.

26. The observer for Australia said that he would have difficulty in referring the understanding to his authorities on the basis of what had been said in the Committee. It would appear that the the Signatories to the Agreement themselves were not unanimous in their understanding as to what this paper meant and he hoped that unanimity would be forthcoming before the end of the day. He drew attention to the possible implications of paragraph 4 of the text for Article 16:3 of the Agreement. While it would obviously be preferable to preclude the use of basic price systems - including "quasi"-basic price systems - the Committee seemed to favour giving its approval to systems already in place, thereby raising questions of equity in terms of both country and product/sector coverage. It also seemed somewhat inappropriate that what was acceptable in the case of two existing systems would not be acceptable in the case of any other Party which might find itself, in the future, in a similar situation.

27. The Chairman said that it should be clear that the Committee was not discussing amendments to the Agreement but was considering an understanding. If a Party felt it necessary to make a reservation to this understanding it would not be a reservation in the terms of Article 16:3, it would merely be a statement in the Committee to the effect that the Party reserved its position on this point. Therefore there was a difference in the legal status between an amendment and what the Committee was trying to achieve now.

28. The representative of Japan said that the Committee should bear in mind the principle of equity between Parties. He also wondered why only the iron and steel sector should enjoy this special treatment. The Chairman said that the reason behind this treatment was simply realism. These systems presently existed and it would not be possible for the Committee to take an action which would dismantle them right away. The understanding provided for their phasing out. The Committee, by accepting this understanding would be mounting a certain pressure to limit the scope of these systems and to phase them out as soon as possible. Paragraph 3 clearly stated that such systems should not be used but, since certain systems were presently in force, the feasible action was to prevent them from being used to a greater extent and to phase them out. This approach was consistent with GATT practices in the sense that if a country had been using certain practices before it entered into the GATT it was normally allowed to continue these practices. However it did not mean that other countries had access to the same practices.

29. The representative of Finland said he shared the Chairman's view on the interpretation of paragraphs 3 and 4. He considered that the Committee should not reduce its level of ambitions only because two countries were presently applying certain special anti-dumping systems. He did not interpret the acceptance of the understanding as equal to the acceptance of these systems. On the contrary paragraph 4 was nothing more than a standstill provision combined with a phasing out commitment. If the Committee wanted to achieve greater liberalization, Parties should refrain from introducing measures which would impair this objective, even if one or two Parties were temporarily using such measures.

30. The representative of Canada said that it would not be possible for him to get his Government's acceptance of a text which prevented Canada from doing something which the European Communities and the United States were allowed to do. He said that Canada had a system called bench-mark system which was a sort of monitoring system and he did not see any reason why any other Party should not be permitted to pick up an identical system - the same coverage and the same scope as one of those currently used. The representative of the United States said he could agree with the representative of Canada and in spite of this interpretation he considered that the steps proposed in the draft understanding were progressive in both the commitment not to use basic price systems in an abusive way and not to abuse trigger price systems. It would be a great pity if the understanding fell through only because of a narrow dispute over its coverage and application. The observer for Argentina said he did not agree with the opinion expressed by the representative of the United States that this was a "narrow dispute". The matter was that the understanding should not provide for a system which would discriminate against future Parties or products to be included. As to the temporary character of existing systems he recalled that a country had got a temporary waiver in GATT many years ago and it continued to make use of it.

31. The representative of the United Kingdom speaking on behalf of Hong Kong said it was a question of the lesser of two evils. On the one hand it was undesirable to have trigger price mechanisms or related systems, on the other hand it was important that they did not proliferate. In this respect the draft suggested that such systems might go beyond the Agreement and it clearly stated that they should not, in future, be adopted by Parties. He could not understand how it could be argued from this text that any other Party would be allowed to use any such system. The text was quite definite on that.

32. The observer for Chile said that he was interested in the matter not only as an observer and a possible future Party but also as a contracting party to the General Agreement. He understood paragraph 4 as a standstill agreement whose essential objective was to avoid further proliferation of special anti-dumping systems. For these reasons he saw some merit in the interpretation given by the representative of the European Communities. This interpretation allowed certain discrimination but it prevented such systems from proliferating and provided for their phasing out. There was also an important provision subjecting existing systems to annual reviews by the Committee.

33. The Chairman asked the representative of Canada whether, bearing in mind the fact that Canada had already had an anti-dumping monitoring system, he could accept the interpretation of paragraph 4 to the effect that it was a sort of a grandfather clause and it did not allow the introduction of any new system. The representative of Canada said that he could accept that interpretation. The only thing which bothered him was that the Canadian system was not such a complete scheme as, for example, that of the United States and that one day his Government might wish to have a system parallel to the United States' scheme.

34. The observer for Chile suggested that in order to make the understanding more complete and more transparent it would be useful to attach to it a list of existing special anti-dumping schemes with a description of their scope and application. The representative of the United States said that he could accept this suggestion and could provide the relevant information. The representative of the European Communities said that the detailed description of their system was published in the Official Gazette and anyone interested could read it.

35. The Chairman said that for the moment the text would remain as it was, it being understood that it contained certain ambiguities and that different interpretations were possible. This text should be referred to respective governments for consideration with a view to taking a final decision on it at the next meeting of the Committee.

36. The observer for Argentina wanted to know what would be the relationship between the understanding and the General Agreement, in particular in a case of dispute under Article XXIII of the General Agreement. The Chairman said that this understanding could not be used in such a case because it imposed certain obligations only on those who had accepted it. The observer for Argentina said he did not think it was compatible with the Agreement to have, within its scope, an understanding which provided for special treatment of certain Parties. If the practices maintained by those Parties were to be brought to the GATT under Article XXIII what would be the legal status of this understanding? Would it be considered, in such a case, as a waiver from GATT obligations? The Chairman said that it was quite clear that the fact that this Committee took a decision would not be used as a defence in an Article XXIII case concerning obligations under Article VI. The understanding was a commitment between Parties only and it did not go beyond that. The representative of the United Kingdom speaking on behalf of Hong Kong said that he also had some reservations with respect to the draft. The question raised by the observer for Argentina concerned not only what Parties were doing but it had a wider significance. He would be suspicious of any action by the Committee which might create a system which went beyond the intent of the Agreement. Consequently Parties should be very careful and possibly the best way to proceed would be to consider the understanding up to paragraph 3 only. At any rate the question would need to be discussed further at the next meeting of the Committee.

37. The Chairman said that taking into account the programme of GATT meetings and other obligations of the Chairman, it seemed that the most suitable period for the next regular session of the Committee would be the week of 27 April 1981. The Committee would meet on Monday, 27 April at 3 p.m. and probably it could finish its work by Tuesday night. This would leave at least two days before 1 May for the Committee on Subsidies and Countervailing Measures to meet and complete its work. The Committee accepted this proposal.

38. The Chairman reminded the Parties that they should submit their semi-annual reports under Article 14:4 on all anti-dumping actions taken within the period 1 July 1980-31 December 1980. Parties who had not taken any such action should also inform the Committee accordingly. Bearing in mind the date of the meeting, these reports should be sent to the secretariat not later than mid-March 1980 in order to leave sufficient time to other Parties to study them before the next meeting.

ANNEX

DRAFT UNDERSTANDING ON ARTICLE 8:4 OF THE  
AGREEMENT ON IMPLEMENTATION OF ARTICLE VI  
OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE

1. The Committee discussed the extent to which basic price systems may be utilized in conformity with the provisions of the Agreement.
2. The Committee agreed that basic price systems as provided for in Article 8:4 were intended exclusively as a device to facilitate the calculation and collection of anti-dumping duties following a full investigation for each product and country concerned, and for suppliers concerned, resulting in a finding of injurious dumping. However the Committee recognized that the wording of Article 8:4 contained ambiguities and, in the light of different possible interpretations, concluded that Article 8:4 is not essential to the effective operation of the Agreement and shall not provide the basis for any anti-dumping investigation or for imposition and collection of anti-dumping duties.
3. At the same time the Committee reviewed special anti-dumping monitoring schemes such as trigger price mechanisms and related systems. The Committee concluded that they give cause for concern in that they could have the effect of extending the meaning of the Agreement beyond its intent, and that they shall not, in future, be adopted by Parties.
4. The Committee also agreed that such special anti-dumping monitoring schemes in force on the date of this understanding shall be limited to their present scope. They shall be temporary and shall remain in effect no longer than the situation which gave rise to their introduction exists. In no case shall these schemes be used as a substitute for carrying out full anti-dumping investigations in accordance with the provisions of the Agreement. The Committee on Anti-Dumping Practices will review annually the operation of these schemes.