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(21-5816) Page: 1/24

Committee on Anti-Dumping Practices

MINUTES OF THE REGULAR MEETING HELD ON 28 APRIL 2021

CHAIR: MS. MAARIT KEITANEN (FINLAND)

1. The Committee on Anti-Dumping Practices (the "Committee") held a regular meeting on 28 April 2021.

2. As the meeting was held only virtually via Interprefy, with no delegations joining the meeting in person, the Chair reminded Members of the different technical arrangements for participating remotely as included in the "Technical Guide", a link to which had also been included in the airgram convening the meeting.

3. The Committee adopted the following agenda contained in document WTO/AIR/ADP/31:

1 NATIONAL LEGISLATION

1.1 Review of notifications of new or amended legislation or regulations not previously reviewed by the Committee (including supplemental notifications of existing provisions not previously reviewed)[1]

1.1.1 Argentina (G/ADP/N/1/ARG/1/Suppl.11 - G/SCM/N/1/ARG/1/Suppl.10)

4. No written or oral questions were posed regarding the notification of Argentina.

1.1.2 Brazil (G/ADP/N/1/BRA/3/Suppl.12 - G/SCM/N/1/BRA/2/Suppl.15 - G/SG/N/1/BRA/3/Suppl.6 and G/ADP/N/1/BRA/3/Suppl.13 - G/SCM/N/1/BRA/2/Suppl.16 - G/SG/N/1/BRA/3/Suppl.7)

5. No written or oral questions were posed regarding the two legislative notifications of Brazil.

6. With respect to the legislative notification contained in document G/ADP/N/1/BRA/3/Suppl.12, Brazil made a statement explaining that this notification refers to a normative instruction issued in August 2020 which provides for the necessary adaptation of trade remedies investigations to the COVID-19 pandemic, by specifically suspending the execution of on-the-spot verifications.

7. Concerning the legislative notification contained in document G/ADP/N/1/BRA/3/Suppl.13, Brazil explained that this notification refers to an Ordinance issued in March 2020 which provides for the use of electronic means for notifications and communications to interested parties in trade remedies investigations in line with the COVID-19 pandemic.

1.1.3 Canada (G/ADP/N/1/CAN/4/Suppl.4 - G/SCM/N/1/CAN/4/Suppl.3)

8. No written or oral questions were posed regarding the notification of Canada.

[1] Relevant deadlines for written follow-up questions and written answers regarding the notifications of legislation reviewed in the April 2021 meeting can be found in section 1 of document G/ADP/W/507 - G/SCM/W/582 - G/SG/W/252.

1.1.4 Georgia (G/ADP/N/1/GEO/2)

9. Written questions regarding this notification were posed and can be found in document:

- G/ADP/Q1/GEO/1 - G/SCM/Q1/GEO/1 – Submitted by the United States.

10. Georgia provided oral answers to the written questions posed by the United States.

11. The United States looked forward to receiving written responses to its written questions.

12. Written answers to the United States' written questions were subsequently provided and can now be found in document:

- G/ADP/Q1/GEO/2 – G/SCM/Q1/GEO/2 – Replies to the United States

1.1.5 India (G/ADP/N/1/IND/2/Suppl.9)

13. No written or oral questions were posed regarding the notification of India.

14. India stated that the amendment to its rules had been notified to the WTO on 4 January 2021. The notification pertained to the amendments to its Anti-Dumping ("AD") rules, namely, "Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Amendment Rules, 1995" to change the anti-circumvention provision and make other miscellaneous changes. The amendment was made effective from 2 February 2020. The changes were made to strengthen the anti-circumvention measure by making them more comprehensive and wider in scope so as to address situations of circumvention. Certain other changes were made to clarify the scope of this rule. The amendment proposes to enhance the rule to prevent circumvention of AD duties and to bring the law at par with the Antidumping Agreement ("AD Agreement").

1.1.6 Peru (G/ADP/N/1/PER/2/Suppl.2 - G/SCM/N/1/PER/2/Suppl.2 and G/ADP/N/1/PER/2/Suppl.3 - G/SCM/N/1/PER/2/Suppl.3)

15. Written questions regarding the two notifications were posed and can be found in documents:

- G/ADP/Q1/PERU/30 - G/SCM/Q1/PER/30 - Submitted by the United States and were posed with respect to the notification contained in document G/ADP/N/1/PER/2/Suppl.2 - G/SCM/N/1/PER/2/Suppl.2.

- G/ADP/Q1/PER/31 - G/SCM/Q1/PER/31 – Submitted by the United States and were posed with respect to the notification contained in document G/ADP/N/1/PER/2/Suppl.3 - G/SCM/N/1/PER/2/Suppl.3.

16. Peru provided oral answers to the written questions posed by the United States.

17. In addition, Peru explained that with respect to the legislative notification contained in document G/ADP/N/1/Suppl.2, its law No. 31089 entitled "Law Combatting the Circumvention of Antidumping and Countervailing Measures" is still in the process of implementation and the regulation of the law is being developed.

18. With respect to the legislative notification contained in document G/ADP/N/1/Suppl.3, Peru stated that the Supreme Decree No. 136-2020-PCM was amended with the aim of strengthening the implementation of its trade remedies regulations and optimizing the proceedings of investigating dumping and subsidization practices. It noted that the Supreme Decree No. 006-2003-PCM established Regulations - pursuant to the AD Agreement, the Agreement on Subsidies and Countervailing Measures and the Agreement on Agriculture - amended by the Supreme Decree No. 004-2009-PCM approving provisions with the aim of preventing and correcting distortions of competitions in the market caused by dumping and subsidies.

19. The United States looked forward to receiving written responses to its written questions.

20. Written answers to the United States' written questions were subsequently provided and can now be found in documents:

- G/ADP/Q1/PERU/32 - G/SCM/Q1/PER/32 - Replies to the United States
- G/ADP/Q1/PERU/33 - G/SCM/Q1/PER/33 - Replies to the United States

1.1.7 Saint Kitts and Nevis (G/ADP/N/1/KNA/1 - G/SCM/N/1/KNA/1)

21. Written questions regarding this notification were posed and can be found in document:

- G/ADP/Q1/KNA/1 – G/SCM/Q1/KNA/1 – Submitted by the United States

22. **Saint Kitts and Nevis was not present at the time**. Oral answers were not provided at the meeting, **nor had written answers been received to date.**

1.1.8 Turkey (G/ADP/N/1/TUR/3/Suppl.4 - G/SCM/N/1/TUR/3/Suppl.4)

23. No written or oral questions were posed regarding the notification of Turkey.

24. The Committee took note of the notifications, statements, questions, and answers.

1.2 Review of notifications of new or amended legislation or regulations with outstanding written questions

1.2.1 Bolivia, Plurinational State of (G/ADP/N/1/BOL/3 - G/SCM/N/1/BOL/3 - G/SG/N/1/BOL/2)

25. Written questions were posed regarding this notification and can be found in document:

- G/ADP/Q1/BOL/4 - G/SCM/Q1/BOL/4 - G/SG/Q1/BOL/1 – Submitted by the United States

26. The Chair noted that these questions have been pending since the Committee meeting of October 2020.

27. Written answers to the United States' written questions were provided and can be found in document:

- G/ADP/Q1/BOL/5 – G/SCM/Q1/BOL/5 – G/SG/Q1/BOL/2 – Replies to the United States

28. A written follow-up question was posed regarding this notification and can be found in document:

- G/ADP/Q1/BOL/6 – G/SCM/Q1/BOL/6 – G/SG/Q1/BOL/3

29. Bolivia stated that the question posed by the United States has been transmitted to capital and that it would provide a reply as soon as possible.

30. The United States looked forward to receiving a written response to its written question.

31. Written answer to the United States' written question was subsequently provided and can now be found in document:

- G/ADP/Q1/BOL/7 – G/SCM/Q1/BOL/7 – G/SG/Q1/BOL/4 – Replies to the United States

1.2.2 Cameroon (G/ADP/N/1/CMR/1/Suppl.1 - G/SCM/N/1/CMR/1/Suppl.1 - G/SG/N/1/CMR/1/Suppl.1)

32. Written questions were posed regarding this notification and can be found in document:

- G/ADP/Q1/CMR/3 - G/SCM/Q1/CMR/3 - G/SG/Q1/CMR/3 – Submitted by the United States

33. The Chair noted that these questions have been pending since the Committee meeting of October 2014.

34. Cameroon thanked the United States for its interest in its notification. It stated that it is currently reviewing the written questions and that relevant authorities in capital are collecting the necessary information to respond to the written questions very soon. Cameroon indicated its availability for further bilateral exchange, if requested.

35. The United States looked forward to receiving written responses to its written questions.

36. **No written answers have been received to date**.

1.2.3 United Kingdom (G/ADP/N/1/GBR/1 - G/SCM/N/1/GBR/1 - G/SG/N/1/GBR/1, G/ADP/N/1/GBR/1/Suppl.2 - G/SCM/N/1/GBR/1/Suppl.2 – and G/ADP/N/1/GBR/1/Suppl.4 - G/SCM/N/1/GBR/1/Suppl.4 - G/SG/N/1/GBR/1/Suppl.4)

37. Written questions regarding these three legislative notifications were posed and can be found in documents:

- G/ADP/Q1/GBR/1 - G/SCM/Q1/GBR/1 – G/SG/Q1/GBR/1 - Submitted by the United States and were posed with respect to the notification contained in document G/ADP/N/1/GBR/1 - G/SCM/N/1/GBR/1 – G/SG/N/1/GBR/1

- G/ADP/Q1/GBR/2 - G/SCM/Q1/GBR/2 – Submitted by the United States and were posed with respect to the notification contained in document G/ADP/N/1/GBR/1/Suppl.2 - G/SCM/N/1/GBR/1/Suppl.2.

- G/ADP/Q1/GBR/3 - G/SCM/Q1/GBR/3 – G/SG/Q1/GBR/3 – Submitted by the United States and were posed with respect to the notification contained in document G/ADP/N/1/GBR/1/Suppl.4 - G/SCM/N/1/GBR/1/Suppl.4 – G/SG/N/1/GBR/1/Suppl.4.

38. The Chair noted that these questions have been pending since the Committee meeting of October 2020.

39. Written answers to the United States' written questions were provided and can be found in documents:

- G/ADP/Q1/GBR/4 - G/SCM/Q1/GBR/4 – G/SG/Q1/GBR/4 – Replies to the United States

- G/ADP/Q1/GBR/5 - G/SCM/Q1/GBR/5 – Replies to the United States

- G/ADP/Q1/GBR/6 - G/SCM/Q1/GBR/6 – G/SG/Q1/GBR/6 – Replies to the United States

40. The Committee took note of the notifications, statements, questions, and answers.

2 NATIONAL LEGISLATION – CONTINUING REVIEW OF LEGISLATIVE NOTIFICATIONS PREVIOUSLY REVIEWED BY THE COMMITTEE

2.1 Costa Rica (G/ADP/N/1/CRI/3/Suppl.1 - G/SCM/N/1/CRI/4/Suppl.1 - G/SG/N/1/CRI/4/Suppl.1)

41. A written follow-up question was posed regarding this notification and can be found in document:

- G/ADP/Q1/CRI/17 - G/SCM/Q1/CRI/17 - G/SG/Q1/CRI/11 – Submitted by the United States

42. A written answer to the United States' follow-up question was provided and can be found in document:

- G/ADP/Q1/CRI/18 - G/SCM/Q1/CRI/18 - G/SG/Q1/CRI/12 – Replies to the United States

2.2 Ghana (G/ADP/N/1/GHA/2 - G/SCM/N/1/GHA/2 - G/SG/N/1/GHA/2)

43. Written follow-up questions were posed regarding this notification and can be found in document:

- G/ADP/Q1/GHA/3 - G/SCM/Q1/GHA/3 - G/SG/Q1/GHA/3 – Submitted by the United States

44. Ghana[2] thanked the United States for its interest in its legislation and its written follow-up questions. It stated that these questions have been sent to capital and written answers would be submitted as soon as possible.

45. The United States looked forward to receiving written responses to its written questions.

46. **No written answers have been received to date.**

2.3 Kenya (G/ADP/N/1/KEN/3 - G/SCM/N/1/KEN/3 - G/SG/N/1/KEN/2)

47. Written follow-up questions were posed regarding this notification and can be found in document:

- G/ADP/Q1/KEN/6 - G/SCM/Q1/KEN/6 - G/SG/Q1/KEN/5 and G/ADP/Q1/KEN/6/CORR.1 – G/SCM/Q1/KEN/6/CORR.1 – G/SG/Q1/KEN/5/CORR.1 – Submitted by the United States

48. The Chair noted that these questions have been pending since the Committee meeting of October 2020.

49. With respect to the follow-up questions by the United States, Kenya explained that it was still awaiting comprehensive responses from capital and that it would provide them to the United States and to the Secretariat in due course. It added that Kenya's Trade Remedies Agency was still under formation and that this process had taken longer than anticipated, mainly due to challenges posed by the COVID-19 pandemic. Kenya indicated that Members would be notified as soon as the new agency is ready and operational.

50. The United States looked forward to receiving written responses to its written questions.

51. **No written answers have been received to date.**

2.4 Liberia (G/ADP/N/1/LBR/1)

52. Written follow-up questions were posed regarding this notification and can be found in document:

- G/ADP/Q1/LBR/3 - G/SCM/Q1/LBR/3 – Submitted by the United States

53. The Chair noted that these questions have been pending since the Committee meeting of October 2020.

54. **Liberia was not present at the time**. Oral answers were not provided at the meeting, **nor had written answers been received to date**.

55. The Chair informed Members that, pursuant to the Committee's agreed procedures, in order for a new legislative notification to be placed on the agenda of the October 2021 meeting of the

[2] Due to technical difficulties encountered by the delegation of Ghana to virtually join the meeting, this statement was read on Ghana's behalf by the Chairperson, upon the request of the delegation of Ghana.

Committee, the notification should be circulated in all three languages by 13 September 2021. Shortly after this date, the Secretariat will circulate a document informing Members of all legislative notifications to be reviewed at the next Committee meeting in October 2021.

56. The Chair reminded Members that pursuant to paragraph 8 of document G/ADP/W/284/Rev.1, all unanswered written questions pertaining to new legislative notifications reviewed at the meeting, as well as the subject notifications, shall automatically be retained on the agenda of the next Committee meeting and on the agendas of subsequent Committee meetings until written answers are submitted.

57. The Chair noted that the new legislative notification from **Colombia**, as well as any other received and circulated by the applicable deadlines[3], would be on the agenda for review at the regular meeting of the Committee in October 2021.

58. The Chair expressed concern that some Members had yet to submit a notification on legislation, particularly where all that would be required is a nil notification. The Chair encouraged Members that had not yet made a legislative notification to do so as promptly as possible.

59. Concerning the revised list of competent authorities contained in document G/ADP/N/14/Add.54, the Chair invited Members that had not done so to submit the information required by Article 16.5 of the AD Agreement and encouraged Members to review and update previously submitted information, where necessary.

60. The United States appreciated the fact that most Members have submitted a notification with their domestic AD legislation or a one-time notification that they do not have an AD legislation. However, some countries which have not provided a notification of their legislative status have submitted Trade Policy Review reports indicating that they have AD laws in effect. In other words, the respective WTO Members have already gone through the effort of informing the WTO of their respective AD legislation status, albeit in another forum. The United States encouraged Members to review their respective situations and make the appropriate notification promptly. It added that the notification of AD laws and any revisions to those laws are a key element in maintaining transparency in the administration of the AD remedy. It encouraged all Members to submit future notifications promptly following the implementation of the relevant legislation. In addition, it stated that timely and proper submission of notifications would impact the efficient functioning of the Committee and the WTO more broadly. The United States informed Members that at the most recent Council on Trade in Goods meeting, the co-sponsors of JOB/CTG/14/REV.4 - ''Procedures to Enhance Transparency and Strengthen Notification Requirements Under WTO Agreements'' expressed their intent to relaunch outreach to Members as work continues to refine the proposal and address outstanding Members' concerns. While notification reporting by some Members had improved, overall, these efforts have yielded limited and insufficient results. It noted that part of the inability to meet notification commitments results from capacity constraints that can be supported through technical assistance, but there may also be procedural changes that can improve the operation and effectiveness of notification requirements. The United States welcomed ideas and comments as it works to hone the proposal, balancing benefits with obligations, and seeks ways to reinforce the fundamental principle of transparency that is at the core of the WTO and is critical to helping restore its negotiating function.

61. The Committee took note of the notifications, statements, questions, and answers.

3 SEMI-ANNUAL REPORTS OF ANTI-DUMPING ACTIONS (ARTICLE 16.4) (G/ADP/N/335 AND G/ADP/N/342)

62. The Chair recalled that a request and a reminder for submission of semi-annual reports for the second half of 2020 had been circulated in documents G/ADP/N/350 and supplement 1. Members taking no AD actions should submit a simple letter to that effect twice per year. This would not apply to those Members that had already submitted a one-time notification under Articles 16.4 and 16.5 of the AD Agreement.

[3] Relevant deadlines can be found in Section 1 of document G/ADP/W/507 - G/SCM/W/582 - G/SG/W/252.

63. The Chair noted that a number of Members had not yet responded to the request for semi-annual reports. This notification requirement applied to all Members, whether or not they had taken AD actions during the period in question, except for the 51 Members that had already submitted a one-time notification.[4] The Chair urged Members to comply with this important notification requirement.

64. The Chair explained that while Members are free to raise at the Committee's meetings any questions that they wish regarding the actions reflected in the semi-annual reports, Members may agree that raising issues that are subject to dispute settlement proceedings may be better pursued in depth in other WTO dedicated fora.

65. The Chair recalled that the Rules and the IT Divisions have been cleaning up and redesigning the existing trade remedies databases and are developing a facility to enable Members to submit their semi-annual reports on-line. The new interface consists of a series of fields to be completed with all the required information and is enabled with smart features. It has been programmed to try to catch the most common types of reporting errors, so that data problems will be minimized by the time the report is submitted. This interface has been designed to be as user-friendly and useful for Members as possible with the hope that all these efforts would lead to significant improvements in the quality and accessibility of trade remedies information.

66. The Chair recalled that, in October 2020, the Secretariat announced the soft launch of this new online portal for submission of antidumping semi-annual reports, provided a presentation of the prototype, and Members were provided with access to start testing the new platform. In addition, in December 2020, the Secretariat conducted several virtual sessions in the requested WTO languages for the benefit of all Members. The official launch of the portal took place as scheduled in January 2021 and it became fully functional and accessible to Members to input their data pertaining to the semi-annual report covering the second half of 2020 and to submit that semi-annual report through it.

67. The Chair thanked all delegates who had attended the training sessions, who tested the new platform prior to its official launch, as well as those who had submitted their semi-annual reports via the platform. As this is a new system, Members submitted their WORD paper version of the semi-annual report covering the second half of 2020 via email to the Secretariat - as they have done for previous semi-annual reports - and were also encouraged to start doing so through the platform. This would familiarize Members with the platform and its fields and make it easier to use it to submit their next semi-annual report covering the first half of 2021, without the need to submit a WORD copy of the document via email, if they so wished.

68. The Chair announced that up until the date of the meeting, 80 users have so far registered to access and use the platform, 18 draft semi-annual reports were worked on, 10 were submitted through the portal, and 29 Members have been using it.

69. The Chair explained that the Secretariat has been receiving very useful feedback from Members who have been using the new portal. Like any new system, without Members testing it and providing feedback, the Secretariat will never be able to fix any teething problems nor will it be able to detect any new bugs that may need fixing in coordination with its IT Division. To allow for a systemic feedback process, the Chair invited all Members that have submitted their semi-annual reports covering the period July-December 2020 in WORD format to enter the data included in those semi-annual reports in the respective fields of the platform. The Chair assured that the AD Portal Team would be at the Members' disposal to help figure out any issues they may face while using the platform. Introducing this additional information into the system will provide a better picture of any problems that may need correction. To be included in this feedback process, Members were encouraged to enter the data by 31 May 2021. On 4 June 2021, the Secretariat would be sending out a questionnaire to all registered users to receive their feedback, better understand any issues or hurdles faced and pave the way for further improvements to be introduced to the portal. The questionnaire would also include a query as to whether the Member using the system needs an additional training session by the Secretariat, based on that Member's experience in using the system.

[4] All such notifications are contained in the G/ADP/N/193 series of documents.

70. The Chair stated that with regards to the new revamped database, for the Secretariat to successfully clean up and migrate all the data included in the old AD database and subsequently to make it accessible to all Members, the Chair conveyed the Secretariat's plea for Members' cooperation. As the Secretariat is cleaning up and verifying such data manually for all Members as of 1995 as well as sending out to Members specific queries/requests for information that may run into hundreds of pages, the Secretariat would highly appreciate receiving responses from Members to these queries as soon as possible, especially as some of those queries have been pending for a couple of years. With Members' indulgence, following this meeting, the Secretariat would be sending individual reminders to Members with pending responses. The whole AD Portal Team will also remain at the disposal of those Members if they have any issues with providing the information or answering any of those questions, be that via an online meeting, phone or email, etc. As this is a labour-intensive manual process, the Secretariat is still in the process of cleaning/verifying additional data pertaining to other Members and would be sending such queries/requests for information to them in due course. The Chair urged Members – once they receive such queries from the Secretariat – to start working on the responses and to submit those by the date specified for that and which will be indicated in such requests. Those Members can also count on the AD Portal Team's assistance if they encounter any issues while answering such questions.

71. Australia commended the efforts made by the Secretariat and the Chair in relation to the AD database portal and the training that has been provided.

72. The European Union thanked the WTO Secretariat for the creation of the AD notification portal. It stated that it would do better in the utilization of the portal. It added that although no information has been provided on the portal by the European Union yet, it would do so based on the latest semi-annual report it filed in WORD format covering the second half of 2020. It also thanked the Secretariat for going through the data with such forensic detail which has helped the European Union getting its own record very much in line and correct.

73. Indonesia expressed its appreciation for the introduction of the new AD Portal.

74. The Committee reviewed the semi-annual reports for the second half of 2020. No Member raised questions or made comments concerning the reports of Argentina; the member States of the Eurasian Economic Union (Armenia, Kazakhstan, Kyrgyz Republic and the Russian Federation); the member States of the Gulf Cooperation Council "GCC" (Bahrain, Kingdom of; Kuwait, the State of; Oman; Saudi Arabia, Kingdom of; Qatar and United Arab Emirates); Brazil; Chile; Colombia; Costa Rica; Egypt; El Salvador; Israel; Japan; Madagascar; Malaysia; Morocco; New Zealand; Peru; Chinese Taipei; Trinidad and Tobago; Turkey; and Viet Nam.

75. On the semi-annual report of **Australia**, the Russian Federation requested the delegation of Australia to provide an update on the current status of the expiry review of the AD measures on imports of ammonium nitrate originating in the Russian Federation. On 5 March 2021, the Australian Anti-Dumping Commission had issued a statement of essential facts regarding the expiry review of the measures. The statement included a proposal to recommend to the Minister of Industry, Science and Technology that the measures expire on 24 May 2021. According to the statement, the final report was due on 19 April 2021. The Russian Federation welcomed the recommendation not to extend the measures and requested the delegation of Australia to clarify whether the recommendation had been made on 19 April 2021, and whether the expiry of the measures would take place on 24 May 2021.

76. China raised two concerns about Australia's AD investigation practice. First, China referred to the repetitive initiation of investigations on similar products. China stated that Australia had initiated 27 AD and CVD investigations against six Members in 2020 and that it was one of the most frequent users of trade remedies in the world. China noted that among the products investigated by Australia, many are similar to products that are already subject to measures in force. For instance, Australia had investigated and imposed measures on Chinese aluminium zinc coated steel with a width equal to or greater than 600 millimetres several years ago. However, in June 2020, Australia initiated a new investigation on aluminium zinc coated steel of a width less than 600 millimetres. Meanwhile, Australia also initiated new investigations against aluminium zinc coated steel exported from the Republic of Korea, Chinese Taipei, and Viet Nam with a width of more than 600 millimetres. China noted that such repetitive initiations are not commonly seen in the practice of other Members.

77. China requested Australia to clarify how it ensured that such activities did not give rise to excessive protection of its domestic industries. China mentioned that while Australia's AD and CVD measures on exported aluminium extrusions from China are still in force, Australia has launched a new AD investigation on part of that product, i.e. Aluminium micro-extrusions. In the previous investigation, China had obtained a zero-duty rate, yet the repeated initiation of investigations undermined the favourable result obtained previously by the Chinese respondent.

78. The second concern that China expressed related to the issue of cost adjustments in AD investigations. In September 2020, Australia had made a final AD and CVD determination on imports of hot dip galvanised steel angles from China, finding a *de minimis* margin of dumping. China welcomed Australia's decision not to impose measures. However, China noted that in the course of the investigation, the Anti-Dumping Commission of Australia had refused to accept the cost data provided by the investigated respondent, and had used the price data of raw material from the Republic of Korea and Chinese Taipei, instead. In addition, in other cases initiated in 2020, the Australian authority had also rejected cost data from Chinese steel and aluminium producers, although that data was in accordance with generally accepted accounting principles and reasonably reflected the production cost of the product under investigation. China queried the compatibility with the findings by WTO panels and the Appellant Body on these matters, including *EU — Biodiesel*, *Australia – Anti-Dumping Measures on A4 Copy Paper*, and *EU — Cost Adjustment Methodologies II (Russia)*.

79. Australia thanked the Russian Federation and China for their interventions but also noted that it is usual practice in this Committee for Members to give the Member concerned advance notice if they intend to raise questions or concerns regarding an investigation during the meeting.

80. In relation to the concerns raised by the Russian Federation, Australia stated that it had initiated a sunset review on 20 August in relation to imports of ammonium nitrate originating in the Russian Federation. Australia noted that the statement of essential facts was published on the website of Australia's Anti-Dumping Commission on 5 March 2021; that the Commission's final recommendation was provided to the Minister of Industry, Science and Technology for decision on 19 April 2021; and that the Russian Federation had been an active participant in the investigation and had made several submissions. These submissions were considered in preparing the statement of essential facts and the Commissioner's recommendation to the Minister of Industry, Science and Technology. The Minister's decision would be due 30 days after receiving the report and the deadline may be extended in some circumstances. Australia stated that the decision would be published on the Commission's website when it becomes available. The inquiry was conducted consistently with Australia's obligations under the WTO rules. Australia thanked the Russian Federation for its participation and the question raised at the Committee meeting. It indicated its availability for further bilateral consultations.

81. In response to China's systemic concern, Australia explained that investigations are initiated by application of the domestic industries and not at the initiative of the Government; they are thus not retaliatory in nature. Comparing the more limited range of tariff lines Australia exported to China with the larger range of goods imported from China into Australia, together with Australia’s low applied and bound tariffs, the incidence of AD cases was not unusual and reflected Australia’s open trade regime. On the matter of cost adjustments, Australia referred China to the findings in the *Australia – Anti-Dumping Measures on A4 Copy Paper* dispute.

82. In relation to China's questions, Australia noted that it could only provide some information on the investigations referred to by China, given the short notice it had received on this matter. It explained that the AD investigation on imports of hot dip galvanised steel angles from China was initiated on 24 June 2019 in response to a properly documented application from the domestic industry. All interested parties, including the Government of China and Chinese exporters, were able to make submissions. All submissions were carefully considered by the Commissioner in conducting the investigation. The statement of essential facts was published on the Commission's website on 18 June 2020. Australia indicated that the Commissioner had terminated the investigation because dumping was not found above the *de minimis* level. The investigation was terminated by the Commissioner on 18 September 2020 and a notice was published on the Commission's website. A separate AD investigation concerning imports of solid based angles from China was initiated on 26 February 2019 in response to a properly documented application from the domestic industry. However, the applicant withdrew its application and the investigation was subsequently terminated. A notice about the withdrawal was published. Australia does not currently have any investigation or

measures on any of these products. Australia assured the Committee that its AD and CVD regime operates in accordance with its international commitments under the WTO Agreements. Australia encouraged further questions, if any, to be submitted in writing and indicated its availability for bilateral discussions.

83. The Russian Federation thanked the delegation of Australia and sought clarification on whether the Minister's decision would be made on 19 May 2021, when the 30-day deadline would lapse. It expressed its availability for bilateral discussions.

84. Australia confirmed that the Minister's decision was due on 19 May 2021, however, that deadline may be extended if the Minister decided that more time was needed to examine the report.

85. On the semi-annual report of **Canada,** the Russian Federation expressed its deep concerns about the AD investigation of Canada with respect to imports of certain concrete reinforcing bar of Russian origin. The Russian Federation believed that the Canadian authorities had no grounds to initiate the investigation and to impose provisional measures because the volume of imports of the product concerned from the Russian Federation was negligible in 2020. According to Canadian statistics, imports had taken place only in June and November, while there were none during the rest of the year. The period of this investigation covered exactly six months from June to November. The Russian Federation believed that the only explanation for selecting such a short period was the desire to portray the volume of imports as more than negligible, which had nothing to do with objective assessment. The Russian Federation also noted that the product concerned in this investigation fell under four HS codes. Products that were imported by Canada during the investigation period fell under two HS codes; there were zero imports under the other two codes. The Russian Federation failed to see how such small volume of imports could trigger the initiation of an investigation. In the Russian Federation's view, the investigation should have been terminated in accordance with Article 5.8 of the AD Agreement.

86. The Russian Federation added that the Canadian authorities did not have sufficient evidence that Russian imports were causing injury. In its view, it was difficult to imagine that supplies of Russian products, accounting for only 2.6% of total imports of the subject product to Canada, could cause injury, especially during such a short period. Likewise, at the pre-initiation stage, the Canadian authority lacked sufficient evidence of dumping and relied on the normal value which was constructed based on the steel billet price that was not specific to the Russian Federation. In other words, the constructed normal value was not based on the cost of production in the country of origin, as it is required by Article 2.2 of the AD Agreement. In March 2021, the Canadian authorities imposed provisional measures. The Russian Federation failed to see the grounds for those measures. Article 7.1 of the AD Agreement allows the imposition of provisional measures only if they are judged to be necessary to prevent injury being caused during the investigation. However, Canadian authorities have failed to establish that injury is caused while the investigation is ongoing. The Russian Federation called on Canada to reconsider the findings bearing in mind its WTO obligations and urged it to terminate the investigation and to revoke the provisional measures immediately.

87. Canada stated that all Canadian AD investigations and any action taken pursuant to those investigations are fully consistent with Canada's obligations under the AD Agreement and the GATT 1994. With respect to ongoing AD investigations or judicial reviews at the Federal Court of Appeal, Canada declined to comment further pending the outcome of the proceedings. Canada thanked the Russian Federation for its question. It considered the Committee's Q&A exercise to be important in promoting transparency. Canada requested the Russian Federation to provide its questions in writing so it can provide a written response as soon as possible.

88. On the semi-annual report of **China**, Australia raised concerns over China's AD investigation into imports of wine from Australia. Australia thanked the Chinese delegation for the opportunity to hold further constructive bilateral discussion in the week of 19 April 2021. It explained that China initiated the investigation on 18 August 2020 and issued a preliminary affirmative determination on 27 November 2020 with provisional measures set in the range of 107% to 212%. China issued its final determination on 26 March 2021 and imposed final measures in the range of 116.2% to 218.4%. These duties have effectively ceased Australian exports to the Chinese market.

89. Australia indicated that it was still examining the final determination but highlighted some specific areas of concern. Australia respected China's right to investigate alleged dumping consistent

with WTO rules but did not believe that this investigation was justified or properly initiated. In particular, there was a lack of proper identification of the domestic industry and the legal standing of the applicant. It also added that the product under investigation was not properly identified. This had flow-on implications for identifying domestic production and consumption as part of the injury analysis.

90. Australia also raised concerns that its ability to respond to the disclosure report was significantly constrained by China's Ministry of Commerce (MOFCOM) not having provided Australia with complete disclosure of all the essential facts under consideration. Rather, it received in piecemeal fashion distributed extracts from what Australia surmised at the time must have been a fuller disclosure report. In Australia's view, this undermined its procedural fairness entitlements. China used recourse to facts available which was both unwarranted and disregarded in part or in total the information supplied. The Australian Government and the three sampled Australian exporters fully cooperated in this investigation and provided comprehensive information and replies as part of this investigation. Australian exporters completed their respective replies to questionnaires, including supplemental questionnaires issued on 1 February 2021. The Australian Government also completed the questionnaire in so far as it related to the allegation that there were non-market economic conditions in Australia. In this regard, Australia noted that the final determination upheld the preliminary finding that MOFCOM "would not determine the particular market situation of the Australian wine industry". Australia failed to understand this section of the final determination as it did not explain the relevance of the assessment, nor how it was used (or not used) to establish the margin of dumping for the sampled Australian exporters.

91. Australia was also concerned over the apparent misapplication of sampling, specifically as far as purpose, rationale and application are concerned. Australia explained that China apparently drew adverse inferences that registered but non-sampled companies were non-cooperative and used facts available on the basis that not all the non-sampled companies submitted questionnaire replies. In addition, one Australian exporter sought to be one of the sampled companies, but in its final determination, MOFCOM stated that it had limited its selection to three companies for practicality purposes and discouraged the company from providing voluntary replies. Australia continued to remain open to further discussions with China on this case to find a mutually beneficial solution.

92. Japan expressed its concern with respect to the final determination made by China in July 2019 and the continued imposition of the AD duties regarding Japan's stainless billets, hot-rolled plates, and coils. Throughout the investigation, Japan had continued to express its serious concern that the definition of the product under consideration was too broad and included semi-final and final products. It also had expressed concern that the finding of injury to the domestic industry and causal link between the imports and injury had been made inappropriately because the users and consumers of these products were considerably different. In this light, Japan had requested the Chinese investigating authority to make findings and a determination that are consistent with the AD Agreement. However, Japan regretted that the Chinese investigating authority had made the final determination without considering any of Japan's concerns.

93. Japan also referred to the cumulative assessment conducted by China's investigating authority of the effects of Japanese products together with the imports from other countries, including Indonesia, in the injury assessment although it was not appropriate in view of the competitive relationship. Given its doubts as regards the measure's consistency with the AD Agreement, Japan had repeatedly expressed serious concerns to China, including through bilateral exchanges. Nevertheless, China had maintained the AD measure thus far. Japan requested China to take into consideration Japan's serious concerns and review the determination in accordance with the AD Agreement.

94. With regard to Japanese exports of optical fibre preform, Japan expressed its concern on the final determination made in August 2015 and the continued imposition of the AD duties. Article 11.3 of the AD Agreement stipulates that any AD measure shall be terminated in five years unless the authorities determine the substantial necessity to continue the measure, namely that the elimination of the AD duty would be likely to lead to the continuation or recurrence of dumping and injury. Japan opined that China must apply Article 11.3 of the AD Agreement in a strict manner and perform appropriate reviews in accordance with this Agreement. Japan requested the early termination of the AD measures so that it would not be improperly maintained for a long period of time.

95. In response to Australia, China explained that it had initiated the AD investigation on imported wine from Australia on 18 August 2020 at the request of its domestic industry. China had issued its final determination on 26 March 2021. Based on evidence and information obtained during the investigation, the Chinese authority had reached the conclusion that Australian producers export wine to the Chinese market at dumped prices causing material injury to the Chinese industry. It had, therefore, decided to impose an AD duty in the range of 116.2% to 218.4%. To avoid double remedies, China had decided not to impose countervailing duties in a parallel CVD investigation. China stated that the Chinese authority had provided opportunities for all interested parties to present their comments during the investigations and that the investigation procedure was fully in line with Chinese and WTO rules.

96. Regarding the technical issue raised by Australia concerning MOFCOM's disclosure, China stated that its investigating authority had, before making its final decision, disclosed the essential facts to Australia and other relevant parties on 12 March 2021. China claimed that its investigating authority had given all parties reasonable time to comment and that it had taken into consideration their comments.

97. Regarding the issue of duty rate calculation of non-sampled companies, China explained the method used for that purpose. China stated that exporters and producers who registered for the investigation and answered the sampling questionnaire were regarded as cooperative and the dumping margin was determined using the weighted average of the selected companies' margins. Exporters and producers who did not register or answer the sampling questions were referred to as uncooperative and their duty was determined using best information available according to the Chinese law. During the sampling in this case, one Australian exporter sought to be included in the sampling but due to limited resources, only three exporters were selected. Although, this company could have volunteered to respond to the authority, the company did not do so.

98. Concerning MOFCOM's finding of a particular market situation in Australia, China explained that the applicants had asserted a particular market situation in Australia's wine market resulting from the cost impact of the major input on the product under investigation and the like product. After the examination of the application, China's investigating authority determined that the applicants had provided sufficient *prima facie* evidence and initiated an investigation, including with respect to the alleged particular market situation. Based on the information received, and the evidence obtained, the investigating authority found that the activities of the Australian Government had an impact on supply, demand, and price in Australia. Due to limited time and resources, the investigating authority decided not to make a determination with respect to this issue.

99. Regarding concerns raised with respect to the definition of the product under investigation, China referred to page 24 of the final determination which sets forth the relevant product definition. China also pointed to page 70 of the determination as regards the legal standing of Chinese applicants and information on domestic consumption and production.

100. With respect to Japan's concern on the final determination regarding Japan's saintliness billets, hot-rolled plates, and coils, China stated that the investigation was initiated on 23 July 2018 at the request of the domestic industry. The final determination was made in July 2019. Recently, China had bilateral discussions with Japan on this measure, after which China's authority provided further written clarification on this issue to Japan. A further bilateral meeting was scheduled in May 2021. China was, therefore, of the view that the Committee meeting was not the appropriate forum for discussion. Nonetheless, China indicated its willingness to clarify Japan's technical questions. China stated that the investigation was conducted in accordance with China's legalisation and regulations. All interested parties, including Japan, were provided with sufficient opportunity to make comments and these comments, including the points raised by Japan, were fully considered in the final determination. Regarding the scope of the product definition, China explained that the chemical components and the main physical properties of the different product classifications were substantially the same. Therefore, and despite certain negligible differences in physical form, etc., the investigating authority determined that the products belong to the same product category.

101. Regarding Japan's concern on the final determination on Japan's optical fibre preform, China took note of Japan's comments and encouraged Japanese companies to cooperate fully in the subsequent review investigation.

102. On the semi-annual report of the **Dominican Republic**, Turkey stated that the Regulatory Commission on Unfair Practices and Safeguards of the Dominican Republic ("the Commission") had imposed AD measures against imports of Turkish steel reinforcing bar on 13 June 2011. An expiry review commenced on 31 December 2015 to determine whether the revocation of the measures would lead to the continuation or recurrence of dumping and injury. As a result, the measure was extended. A second expiry review was initiated on 14 October 2020. Article 5.8 of the AD Agreement states that "[t]here shall be immediate termination in cases where the authorities determine that the margin of dumping is *de minimis*". Moreover, panels and the Appellate Body reports in several disputes, such as *Canada – Welded Pipe*, *Ukraine – Ammonium Nitrate* and *Mexico – Anti-Dumping Measures on Rice*, concluded that it is incompatible with Article 5.8 to include producers found to have *de minimis* margins of dumping. Turkey considered that both the original investigation conducted by the Commission and the extension of the measures have been inconsistent with the AD Agreement and the pertinent WTO jurisprudence. It added that throughout the original investigation, Turkish exporters witnessed several violations of the AD Agreement, most significant being the Commission's decision to impose a country-wide definitive measure even though one of the cooperating parties had a negative dumping margin. It opined that since the initiation of the original investigation had been inconsistent with the Dominican Republic's obligations under Articles 5.8, 6.10 and 9.3 of the AD Agreement, the entire investigation procedure was vitiated and should not, once again, lead to an imposition of AD duties on the subject imports. Turkey believed that the second sunset review was an opportunity to remedy the violations of the original investigation. Turkey indicated that it reserved all its rights stemming from the AD Agreement and other relevant WTO jurisprudence.

103. The Dominican Republic responded that the review procedures were conducted in a transparent manner and in conformity with WTO rules. Opportunities were given to parties, including Turkey, to present their arguments. The review procedure was still ongoing; hence, the Dominican Republic would notify Turkey of the essential facts in May 2021. Also, in July 2021, it would make a final decision and inform Turkey accordingly. The Dominican Republic invited Turkey to submit its questions in writing.

104. On the semi-annual report of the **European Union**, Japan expressed its concerns with respect to the final determination made in November 2015 and the continued imposition of the AD duties on Japan's exports of grain-oriented flat-rolled products of electrical steel. Japan regretted that its exports had been subject to the measures despite its repeated requests for exclusion of Japanese products from the investigation. Japan stated that Article 11.3 of the AD Agreement stipulates that any AD measure shall be terminated in five years unless the authorities determine the substantial necessity to continue the measure, namely that the elimination of the AD duty would be likely to lead to the continuation or recurrence of dumping and injury. Japan stated that the European Union must apply Article 11.3 of the AD Agreement in a strict manner and perform appropriate reviews in accordance with the AD Agreement. A sunset review was initiated in October 2020, and Japanese industries as well as the Government of Japan submitted comments at the public hearing held in February 2021. Japan requested the early termination of these AD measures and that they would no longer be maintained.

105. The European Union thanked Japan for its intervention. It explained that the measures had been in place since 2015 and that the sunset review was initiated in October 2020. The investigation was still ongoing for which reason the European Union declined to comment. In respect of the continuation of the measure, the European Union stated that nothing prevented its extension if dumping and injury continued. The European Union invited Japan to provide its comments on the record of the investigation.

106. On the semi-annual report of **India**, Japan voiced its concerns regarding the final determination made in December 2015 and the continued imposition of the AD duties regarding Japan's exports of phthalic anhydride. Japan explained that Article 11.3 of the AD Agreement stipulates that any AD measure shall be terminated in five years unless the authorities determine the substantial necessity to continue the measure, namely that the elimination of the AD duty would be likely to lead to the continuation or recurrence of dumping and injury. Japan called upon India to apply Article 11.3 of the AD Agreement in a strict manner and perform appropriate reviews in accordance with the AD Agreement. Japan explained that a sunset review was initiated in May 2020 and that the Government of Japan had submitted comments at the public hearing held in November 2020. Japan requested the early termination of these AD measures.

107. India noted the concern of Japan. It explained that the final findings issued on 5 January 2021 recommended the termination of the AD duty on phthalic anhydride. The duty had thus lapsed on 21 January 2021.

108. On the semi-annual report of **Indonesia**, Japan expressed its concerns with respect to the final determination made in March 2013 and the continued imposition of the AD duties on Japan's exports of cold-rolled stainless-steel sheet. Japan regretted that its exports had been subject to the measures despite its repeated requests for the exclusion of Japanese products from the investigation. Japan noted that a sunset review was initiated in September 2015, but the results of the investigation have not been published. Japan commented that this may be in violation of Article 11.4 of the AD Agreement. Japan requested the Indonesian Government to notify the prompt termination of these measures in the official gazette.

109. In response to Japan, Indonesia stated that it had taken note of Japan's intervention and requested Japan to provide a written version of its comments that could be forwarded to its capital.

110. On the semi-annual report of the **Republic of Korea**, Japan expressed its concern with respect to the final determination made in July 2004 and the continued imposition of the AD duties based on the fourth sunset review by the Republic of Korea regarding Japan's exports of stainless steel bar. As the measure was extended for another five years following the fourth sunset review on 22 January 2015, sixteen years have already passed since the measure was originally imposed. On 30 November 2020, the WTO panel report was issued with respect to the AD measure extended by the Republic of Korea based on the third sunset review. The panel found that the extension of the measure by the Republic of Korea was inconsistent with the AD Agreement, and it thus recommended that the Republic of Korea bring its measure into conformity with the AD Agreement. In view of the panel's determination, the fourth extension of the measure at issue lacked any basis. It opined that while the Republic of Korea should have terminated the AD measure during the fourth sunset review, it decided upon the fourth extension. Japan referred to flaws in the Republic of Korea's fourth sunset review determination, such as comparing relevant products without ensuring comparability. According to Japan, the determination could not explain why the lack of competitive relationships and export incentives, as identified by the panel with respect to the third sunset review, did not equally apply to the fourth sunset review. In particular, the Korean investigating authority did not provide any sufficient basis for its findings that (i) competitive relationships existed among imports from Japan, India and the domestic Korean products that, despite significant price differences, could justify the imposition of the AD duty, and that (ii) Japanese producers had the capacity to increase their exports after the termination of the AD duties. Accordingly, the authority did not reasonably explain why injury to the domestic industry was likely to recur following the termination of the AD duty. Japan urged the Republic of Korea to reassess the pertinent issues, including the question of the competitive relationships, and to take into consideration the findings of the panel in this respect. Japan requested the early termination of the AD measure which was, in its view, improperly maintained for a long period of time.

111. The Republic of Korea responded that the AD measures were still under appeal, for which reason it declined to comment on this issue.

112. On the semi-annual report of **Mexico**, Japan expressed its concern on the final determination made in November 2000 and the continued imposition of the AD duties regarding Japan's exports of seamless steel tubing. The AD measures were initially imposed in November 2000 and have been extended continuously ever since. The measure was last extended for another five years following a sunset review in 2015. Japan noted that twenty years have already passed since the measure was originally imposed. Article 11.3 of the AD Agreement stipulates that any AD measure shall be terminated in five years unless the authorities determine the substantial necessity to continue the measure, namely that the elimination of the AD duty would be likely to lead to the continuation or recurrence of dumping and injury. Japan urged Mexico to apply Article 11.3 of the AD Agreement in a strict manner and perform appropriate reviews in accordance with this AD Agreement. A sunset review was initiated in November 2020. Japan requested the early termination of the AD measures.

113. Mexico took note of Japan's comments which it would transmit to capital.

114. On the semi-annual report of **Pakistan,** Ukraine expressed its concern over the expiry review of the AD duty on cold-rolled coils. Ukraine believed that the expiry of the measure would not result

in the recurrence of dumping and injury to Pakistan's domestic industry considering the significant reduction in the steel production and export capacity of Ukraine. Since the imposition of the measures in 2016, overall steel production in Ukraine fell by 16% due to the reduction in production capacity. Ukraine stated that the AD measures on cold-rolled coil from Ukraine should be terminated in accordance with Articles 11.1 and 11.3 of the AD Agreement. Furthermore, Ukraine noted that it was not notified of the review as required by the AD Agreement. Ukraine requested Pakistan to clarify why it did not notify Ukraine of the initiation of the review.

115. Pakistan stated that the review is still ongoing and that it would follow-up on the concerns raised by Ukraine.

116. On the semi-annual report of the **Philippines**, Turkey stated that the Tariff Commission of the Philippines has been imposing AD measures on imports of Turkish wheat flour since 9 January 2015 and that it had conducted an expiry review with respect to these measures. On 9 September 2020, the Tariff Commission published its final report and concluded to extend the measure for another three years.

117. In this context, Turkey raised concerns regarding the calculation of the AD duties for Turkish exporters with *de minimis* margins in the original investigation. Turkey referred to Article 5.8 of the AD Agreement and to the panels and Appellate Body reports in several disputes, such as *Canada – Welded Pipe*, *Ukraine – Ammonium Nitrate,* and *Mexico – AD Measures on Rice*, which have concluded that the determination of dumping margins for *de minimis* exporters was incompatible with Article 5.8. Turkey, therefore, considered that the Tariff Commission's practice was in violation of the AD Agreement and contrary to the findings in relevant WTO jurisprudence.

118. Turkey explained that it had conveyed its views on this issue to the Tariff Commission but that it has not yet received any response. Also, Turkey had raised this issue at the previous meeting of this Committee and with the Permanent Mission of the Philippines to the WTO and received no response. Turkey requested the Philippines to re-examine its decision with a view to finding a bilateral solution.

119. In response to Turkey, the Philippines stated that it had noted Turkey's concerns which it had conveyed to capital. The Philippines explained that this issue was subject to ongoing exchanges between the Mission in Geneva and the investigating authority. The Philippines also noted that two Turkish exporters did not comment on or object to their inclusion in the original investigation despite their *de minimis* margins. The Philippines assured Turkey that it would continue to treat the issue with utmost importance.

120. On the semi-annual report of **South Africa**, the European Union expressed its concern over the AD investigation on imports of frozen chicken. The European Union stated that poultry products in the Southern African Customs Union were already heavily protected by simultaneously applied measures, in particular, bilateral safeguard and AD measures against Germany and the Netherlands that are currently under review. The European Union considered that any additional measure would not be warranted given that imports were already decreasing significantly. Furthermore, the European Union stated that the increase in sales volume in 2017 and 2019 was indicative of the fact that the domestic industry was not experiencing injury. Injury, if any, was due to factors other than imports. The European Union stated that the investigation should be terminated as any such measure would breach WTO rules.

121. **South Africa** did not take the floor to provide its comments.

122. On the semi-annual report of **Thailand**, Japan expressed its concern on the final determination made in March and May 2003 and the continued imposition of the AD duties regarding Japan's exports of flat cold-rolled stainless steel and flat hot-rolled steel in coils and not in coils, respectively. Regarding the AD measures on hot-rolled steel products, Japan had repeatedly pointed out from the beginning that there was no evidence that Japanese steel products had caused injury to the domestic industry in Thailand. Japan regretted that AD measures were imposed in May 2003 and continuously extended thereafter. This measure was extended for another five years following a sunset review in May 2015. The AD measures on cold-rolled stainless steel were imposed in March 2003 and continuously extended thereafter. This measure was extended for another five years following a sunset review in February 2015.

123. Japan further indicated that Article 11.3 of the AD Agreement stipulates that any AD measure shall be terminated in five years unless the authorities determine the substantial necessity to continue the measure, namely that the elimination of the AD duty would be likely to lead to the continuation or recurrence of dumping and injury. Japan claimed that as compared with Thailand's steel products, Japanese steel products were of higher quality and in a different price range, and thus not in a competitive relationship. Hence, there was no possibility that the termination of the AD measures on Japanese steel products would lead to the continuation or recurrence of injury to Thailand's domestic steel industry. Japan requested Thailand's investigating authority to take the comments of the Japanese steel industry into consideration and immediately terminate the AD measures, which have been imposed for more than seventeen years.

124. Thailand stated that it took note of the concerns raised by Japan and that it would transmit them to capital.

125. On the semi-annual report of **Ukraine**, Turkey expressed its concerns on the initiation of AD investigations against Turkish imports of cement and pivot-reclining devices (mechanisms) for window and balcony door blocks on 5 September 2020 and 25 February 2020, respectively. As a general remark, Turkey claimed that Ukraine's investigating authority had not observed the due process rights of the interested parties. Turkey recalled that Article 6.2 of the AD Agreement provides that "[t]hroughout the anti-dumping investigation all interested parties shall have a full opportunity for the defense of their interests […]". Moreover, Article 6.9 of the AD Agreement states that before a final determination is made, all interested parties must be given notice of the essential facts and this disclosure should take place in sufficient time for the parties to defend their interests. Turkey noted that with respect to the investigations at issue, the Turkish exporters and the Government of Turkey had been given only 4 and 3 working days, respectively, to make comments on the key facts and conclusions reports. Such short deadlines for comments were nearly impossible to observe considering that these reports had to be translated from the Ukrainian language and that comments also had to be translated back into Ukrainian.

126. Furthermore, Turkey explained that mandatory respondents in the turn-tilt fittings (mechanisms) for window and balcony door blocks AD investigation were unable to obtain more detailed explanations from the investigating authority regarding the dumping margin calculation methodology, which made them unable to present their views, partly, on the export price and normal value calculations, and related adjustments. Turkey underlined the importance of providing an adequate opportunity for interested parties to properly defend their rights. Turkey recalled that it is the investigating authority's obligation and responsibility to make sure that such opportunity is afforded under Articles 6.2 and 6.9 of the AD Agreement.

127. With regard to the AD investigation on cement, Ukraine stated that the investigation was initiated on 2 September 2020 according to the decision of the Interdepartmental Commission for International Trade and in accordance with the relevant provisions of the WTO and the Ukrainian law. Ukraine indicated that due to the large number of Turkish producers and exporters involved in the investigation, the determination of dumping was limited to the largest percentage of the volume of the imports from Turkey, i.e. 72%. For such exporters, an individual dumping margin was calculated, and disclosure of such calculation was provided. Ukraine's investigating authority informed all interested parties of the essential facts under consideration, which formed the basis for the decision to apply definitive measures. After the disclosure, two rounds of consultations were held to clarify the rationale of the authority's decision. During said consultations, the Ukrainian authorities clarified that the Turkish exporters and producers had the opportunity to provide relevant data but failed to do so to the full extent. The Ukrainian authorities rejected the data on sales of the like product in the domestic market in Turkey due to the low volume of sales or sales below cost. The amount of profit for the constructed normal value, pursuant to Article 2.2.2 of the AD Agreement, was based on actual data pertaining to sales in the ordinary course of trade of the like product by the Turkish exporters and producers under investigation. For this purpose, the profitability rate for sales made in 2017 was used because it was found that starting from the second half of 2018, a drop in demand took place in the cement market of Turkey which led sales prices in the domestic market to fall to abnormally low levels in a manner that was insufficient to recover costs. Ukraine was of the view that the use of profit data pertaining to periods after the second half of 2018 would not reflect the prices normally obtained by the Turkish producers. A number of Turkish exporting producers admitted to dumping and offered a price undertaking. Ukraine stated that several consultations have been held with Turkish producers to explain the provisions of the Ukrainian law

and that the Ukrainian authorities are currently analysing whether such a commitment by the Turkish exporters would be sufficient to remove the consequences of the dumping.

128. With regard to the investigation on imports of pivot-recycling devices, Ukraine stated that the investigation was initiated on 21 February 2020, according to the decision of the Interdepartmental Commission for International Trade. Ukraine explained that during the investigation, it had afforded all interested parties with an opportunity to provide comments, to participate in a hearing and to respond to the other parties. It also explained that it had informed all parties of the essential facts which formed the basis for the decision whether to apply definitive AD measures. Ukraine stated that Turkey had not availed itself of its right to request consultations after receiving the relevant facts and consideration. The final decision on the AD measures is currently pending, and Ukraine would notify Members of the outcome in due course. Ukraine stressed that it complied with all relevant laws in conducting its investigations.

129. On the semi-annual report of the **United Kingdom**, China expressed its concern over the continued application of the European Union trade remedy measures and the transition reviews conducted by the United Kingdom after Brexit. China opined that this practice was in breach of the provisions of the AD Agreement. China requested that the United Kingdom terminate all AD measures originally taken by the European Union as well as the transition reviews. China was of the view that the United Kingdom should initiate new investigations if it considered that its domestic industries were injured.

130. The Russian Federation expressed its concerns regarding the transition review of AD measures on imports of certain welded pipes and tubes of Russian origin. It failed to see the grounds either for the initiation of the review, or for the continued application of the measures in the territory of the United Kingdom. It hoped that the transition review would end soon with a decision to withdraw the measures. As a systemic point, the Russian Federation noted that the United Kingdom's transition reviews could not amount to a proper review of any given measure. In the view of the Russian Federation, it would take an analysis as in an original investigation to adapt the measures to the United Kingdom. The Russian Federation hoped that the United Kingdom would make an objective and comprehensive analysis in accordance with the WTO rules when conducting its transition reviews.

131. In response, the United Kingdom stated that it had retained certain definitive trade remedy measures applied before the end of the United Kingdom-European Union transition period and in respect of which the United Kingdom held an interest. These measures had been established based on an investigation covering the entire territory of the European Union, including the United Kingdom. Therefore, they have been maintained in respect of the United Kingdom territory as of the end of the United Kingdom-European Union transition period. The United Kingdom explained that it determined which AD measures should be retained based on evidence presented by the United Kingdom's industries and all interested parties. The relevant assessment was based on objective evidence relating to specific criteria, including a market share threshold for the United Kingdom-based producers of the product in question of more than 1%. The United Kingdom underlined that it was committed to maintain a fair and transparent approach. Its investigating body would conduct objective evidence-based transition reviews of the retained measures. These reviews would determine whether the measures remained necessary to offset dumping and whether injury of the United Kingdom's domestic industries would recur in case the measures were lifted. This could result in the measures being amended, terminated, or maintained. Until the conclusion of the reviews, the measures would be maintained. Its investigating body had initiated five transition reviews in respect of AD duties. The United Kingdom noted that it has an online digital service where interested parties could register their interest, access the public files, and participate in the cases.

132. On the semi-annual report of the **United States**, the European Union raised concern over the AD duty imposed by the United States on imports of common alloy aluminium sheet from six European Union member States. The European Union was concerned by the large scope of the investigation which targeted all aluminium supplying countries to the United States. In the European Union's view, it was unlikely that all the countries were dumping, which was confirmed by the low or zero percent dumping margins of exporters from several countries. Therefore, the European Union called upon the United States to rely on the AD instrument in a more targeted way.

133. The European Union also referred to duties of 240% levied on a European exporter, which was six times higher than the alleged dumping margin submitted by the United States' industry.

According to the European Union, a duty rate of that order was obtained by resorting to adverse facts available, although the European Union's exporter was in fact cooperating. The use of adverse facts available instead of the reported information was, however, in breach of the AD Agreement. Further, the European Union stated that injury was not caused by imports but by other factors, such as the COVID-19 pandemic or structural inefficiencies of the domestic industry. The European Union urged the United States to apply the AD instrument in a more targeted way.

134. Ukraine expressed its concern over two AD investigations currently being finalised by the United States on imports of prestressed concrete steel wire strand ("PC strand") and seamless carbon and alloy steel standard, line, and pressure pipe ("SSLP pipe"). Ukraine was of the opinion that neither of these investigations should result in measures against imports from Ukraine. In the case of SSLP pipe, records showed that the alleged injury to the United States industry was caused by other factors, such as the COVID-19 pandemic, resulting in a significant decline in the consumption of SSLP pipe in the United States' market. Ukraine emphasised that the imposition of measures would lead to unprecedented market access barriers. Seven countries were already subject to restrictive measures and the current investigation targeted 15 countries. Most of the subject countries, including Ukraine, had less than 3% import share. The application of the AD measures under such circumstances would not be in line with WTO principles. Therefore, Ukraine urged the United States to take into consideration all relevant evidence in reaching a decision consistent with WTO rules and principles.

135. The Russian Federation referred to the provisional determination of the United States in its AD investigation concerning imports of SSLP pipe from the Russian Federation. The Russian Federation explained that the preliminary determination suggested that the estimated weighted-average dumping margin for the responding Russian producer amounted to 290.72%. The high dumping margin was established by applying facts available and drawing adverse inferences. The Russian Federation stated that the company concerned was cooperating to the best of its ability and provided to the United States' investigators as much information as it could. However, the respondent was required to obtain certain information from an affiliated company, which it had no opportunity to do.

136. The Russian Federation drew the attention of the United States to paragraphs 5 and 7 of Annex II to the AD Agreement. It added that paragraph 5 establishes that even if the information provided by an interested party is not ideal in all respects, an investigating authority is not justified to disregard it, provided that an interested party has acted to the best of its ability. Further, the Russian Federation referred to paragraph 7 of Annex II which prescribes special circumspection when using information from secondary sources. The Russian Federation explained that a responding company cannot provide requested information that it was unable to be obtain from a third party. In such circumstances, it would be unfair to punish an exporter for the inability to provide the information, and it would be difficult to imagine that a margin of 290% could be something other than a punishment. It added that this would run counter to the requirements of paragraphs 5 and 7 of Annex II to the AD Agreement. The Russian Federation thus called on the United States to explore all opportunities to recalculate the dumping margin, taking due account of the efforts of the respondent and using the available information with special circumspection. The Russian Federation added that the responding company had provided the United States authorities with sufficiently detailed information illustrating that the volume of imports of the product concerned from the Russian Federation was negligible. The Russian Federation requested the United States to carefully consider the provided information and to terminate the investigation immediately.

137. Japan raised concerns with respect to the prolonged United States' AD measures against Japanese products. Japan explained that the United States currently has 19 measures in force against Japanese products. The longest measures have continued for more than 42 years, and 14 of them have been in force for more than five years. For example, diffusion-annealed nickel-plated flat-rolled steel products (from May 2014), certain hot-rolled steel flat products (from October 2016), non-oriented electrical steel (from December 2014), polyvinyl alcohol (from July 2003), and prestressed concrete steel wire strand HTSUS (from December 1978), which all remained in force for more than five years. Article 11.3 of the AD Agreement stipulates that any AD measure shall be terminated in five years unless the authorities determine the substantial necessity to continue the measure, namely that the elimination of the AD duty would be likely to lead to the continuation or recurrence of dumping and injury. Japan urged the United States to apply Article 11.3 of the AD Agreement in a strict manner and to perform appropriate reviews in accordance with the

AD Agreement. Japan requested the early termination of these AD measures which were, in its view, improperly maintained for a long period of time.

138. China addressed what it referred to as the United States' use of multiple layers of protection that lead to global trade distortions. China noted that in recent years the United States has imposed several AD measures on aluminum products, including aluminum volume and steel from China and several other countries. The United States' Department of Commerce published the final determination in this case and AD duties ranged from 49.4% to 242.8% and CVDs ranged from 4.89% to 25.5%. China claimed that the world production and consumption of aluminum products remained relatively stable, with Asia, North America, and Europe being the main producers and consumers of aluminum products. Despite all these measures, the United States was still taking measures or conducting trade remedy investigations on these products. China referred to the United States' Section 232 measures on imported aluminum as affording the United States domestic industry protection on the ground of national security. China stated that multi-layer protection of the domestic industries was not conductive to resolving any real issues but could only result in distorting consumption and production of the affected products.

139. The United States responded to the European Union, Ukraine, and the Russian Federation by stating that it would be inappropriate to comment as the cases were still ongoing. It observed that interested parties have the opportunity to comment in the respective proceedings, and that all timely filed comments would be considered.

140. In response to China, the United States noted that this Committee was not the right forum to discuss the Section 232 actions. The United States encouraged Members to follow the practice of informing Members of their intention to raise questions in order to enable the responding Member to provide appropriate answers.

141. With respect to Japan's comments, the United States explained that its expiry review proceedings are in conformity with the requirements in the AD Agreement. It disagreed with Japan that a measure ceased to have a valid basis because it has been imposed for a long period of time. The United States explained that the purpose of expiry reviews was to examine if dumping and injury would recur if the measures were removed. The United States expiry review proceedings are evidence-based and participation by Japanese companies is helpful in terms of obtaining relevant information and arguments from the relevant parties. The United States observed that many measures involving Japanese exporters have been terminated; out of 66 reviews 52 lead to the termination of measures. Seven of the oldest 10 measures remained in effect due to the lack of participation by Japanese companies. The United States encouraged participation by Japanese industries in the review proceedings.

142. With respect to semi-annual reports that the Committee had not previously reviewed due to late circulation, neither comments were made, nor questions were posed by any Member.

143. The Committee took note of the semi-annual reports, the statements made, the questions posed, and the answers provided.

4 PRELIMINARY AND FINAL ANTI-DUMPING ACTIONS: NOTIFICATIONS

144. The Chair referred to the notifications of preliminary and final AD actions submitted by Members since the Committee's last meeting listed in documents G/ADP/N/348, 349, 351, 352, 353 & Corrigendum 1 and 354. During this period Argentina; Armenia; Australia; Brazil; Canada; China; Dominican Republic; Egypt; European Union; Ghana; India; Japan; Kazakhstan; Korea, Republic of; Kyrgyz Republic; Madagascar; Mexico; Morocco; New Zealand; Pakistan; Russian Federation; South Africa; Chinese Taipei; Turkey; Ukraine; United Kingdom; United States and Viet Nam notified preliminary and/or final AD actions, which were listed in these documents. Since document G/ADP/N/354 was circulated, Argentina; Australia; Brazil; Canada; European Union; India; Indonesia; Kazakhstan; Korea, Republic of; Kyrgyz Republic; Mexico; Philippines; Russian Federation; South Africa and Turkey have submitted such a notification, which would appear in the next list circulated by the Secretariat.

145. The Chair drew attention to the continued apparent lack of full compliance with this notification requirement. These reports are a key element of the required transparency concerning Members'

AD actions, and the Committee could not effectively carry out its monitoring and discussion functions if Members did not fulfil their obligations in this regard. The Chair strongly urged all Members taking AD actions to provide these notifications of preliminary and final actions, regularly, consistently and in a timely fashion. The minimum information format for these notifications adopted by the Committee in October 2006 and revised in October 2009 (document G/ADP/2/Rev.2), contains important guidance as to the kinds of actions that should be notified and the information that should be provided.

146. The Chair noted that some Members were still submitting the same ad hoc notifications pertaining to certain AD actions via different means, i.e. electronically, by fax and post. In certain instances, certain Members, while submitting new ad hoc notifications, also tended to resubmit previously notified actions and in some cases provided electronic links that did not correspond to the notification the Member submits. In addition, some of these notifications were not submitted to the Centre of Registration and Notification (CRN) directly, but to the Rules Division Secretariat which had to resend it to CRN for registration. The Chair reminded all Members that a given ad hoc notification, as in case of all other notifications, should be sent electronically and only once to CRN with a copy to the Secretary of the Committee and that any previously submitted notifications should not be resubmitted. The Chair also requested Members, instead of providing electronic links to general websites, to attach directly the relevant document containing the action they wish to notify in WORD or PDF formats. Members are also able to consult presentation audios' and interactive presentations made by the Secretariat at the 2015 workshop on notifications, which are made available on the AD webpage on the WTO website. The Chair stressed the need to avoid any confusion, repetition or duplication as these notifications were the source of necessary information contained in Annex D of the Committee's annual report.

147. Brazil expressed its concerns with respect to the AD investigation initiated by **South Africa** in February 2021 on imports of frozen chicken portions of Brazilian and other origins. Brazil was concerned about the lack of sufficient evidence to justify the initiation of the investigation, as provided for in Articles 5.2 and 5.3 of the AD Agreement. Brazil noted that the methodologies and sources of information submitted by the applicants were the same as those used in a previous investigation of the same industry in 2011. During that investigation, Brazil had pointed out the many inconsistencies in those pieces of evidence and, as interested parties to that investigation, the applicants had full access to the official records. Brazil, therefore, stated that South Africa could not claim that it was unaware of the deficiencies as regards the proposed methodology, or that the applicants have provided all information that was reasonably available to them. Brazil claimed that normal value should have been calculated at the ex-factory level after deducting taxation, freight costs and mark-ups from the price at which the products were normally sold inside the exporting country. Based on the data reported in the recent application, however, retail selling prices were adjusted only for mark-ups, while freight costs and indirect taxes were not considered in the determination of normal value. Moreover, the average retail price calculated by the applicants was based on sales prices of products obtained from supermarket websites, many of which did not fall into the description of the investigated product. The significant flaws in the data presented by the applicants thus seriously impaired a fair comparison between the export price and the normal value, in contravention of Article 2.4 of the AD Agreement. Brazil also noted that the applicants had failed to provide non-confidential summaries of confidential information, as provided for in Article 6.5.1 of the AD Agreement which was fundamental for other parties to defend their interests. Brazil noted that it had already filed a submission before the South African investigating authority that further elaborated on all these points. Brazil requested South Africa to take into account its submission. It also encouraged South Africa to promptly terminate the investigation in accordance with Article 5.8 of the AD Agreement.

148. **South Africa** did not take the floor to provide its comments.

149. The Committee took note of the statements made.

5 CHAIRPERSON'S REPORT ON THE MEETING OF THE INFORMAL GROUP ON ANTI-CIRCUMVENTION

150. The Chair stated that the meeting of the Informal Group on Anti-Circumvention was not held. As for the Committee autumn meeting of 2021, the approach agreed in the Spring of 2015 would be applied in deciding whether the Informal Group will meet.

151. No statements were made by any Member.

152. The Committee took note of the report made.

6 CHAIRPERSON'S REPORT ON THE MEETING OF THE WORKING GROUP ON IMPLEMENTATION

153. The Chair recalled that the spring 2020 meeting of the Working Group on Implementation ("WGI") of the Committee was postponed due to the COVID-19 outbreak. In addition, due to the heavy agenda of the last regular meeting of the Committee as well as the travel restrictions in force, no WGI meeting could be held in the autumn of 2020. Unfortunately, due to the ongoing pandemic-related restrictions, the WGI could not meet this spring either.

154. Based on the clear direction from Members that topics for the WGI should be selected as far in advance as possible in order to allow adequate preparation time, the Chair had conducted consultations about the possible topics for discussion, and a discussant to help animate it. After consulting with a number of delegations, support had been expressed for taking up the following topics: (1) reviews for the purpose of determining individual margins of dumping for any exporters or producers in the exporting country (new shipper reviews); (2) price undertakings; and (3) access to non-confidential case files. During the consultations, Ms Youmna El-Shabrawy, who has been working on antidumping issues for a long time for the Egyptian investigating authority, appeared to be the only candidate for the discussant role.

155. The Chair recalled that in an email dated 17 March 2021, she had reported back to the Committee about the outcome of the consultations and asked whether Members had any reactions to the suggested topics as well as the discussant for the next meeting of the WGI. She had indicated in the email that in the absence of any objections by 6 April 2021, the suggestions would be deemed to be accepted by Members. The Chair noted that no objection had been raised by the deadline.

156. No statements were made by any Member.

157. The Committee took note of the report made.

7 EUROPEAN UNION – REGULATION (EU) 2017/2321 AND REGULATION (EU) 2018/825 – ITEM REQUESTED BY THE RUSSIAN FEDERATION

158. The Russian Federation raised concern over the issue of certain amendments to the European Union's legislation on AD, namely the ones introduced by Regulation (EU) 2017/2321 and Regulation (EU) 2018/825. It stated that the European Commission had published two country reports on so-called significant distortions in the Russian Federation and China. As the European Union explained, these reports would be part of the record of the investigations against Russian and Chinese imports. The Russian Federation noted that at the beginning of an investigation concerning any other country, the record of this investigation would be empty. By contrast, the record of the investigations concerning the Russian Federation and China would already contain the respective country report. The Russian Federation queried how the European Union would ensure country-neutrality in these circumstances.

159. The Russian Federation also noted that one and the same situation may be described in a country report as a significant distortion, and at the same time be labelled as a raw material distortion. The Russian Federation thus asked the European Union for clarification on the distinction between a significant distortion and a raw material distortion.

160. The Russian Federation opined that the European Union was building a system of discriminative application of trade defense instruments to manipulate access to its market. According to the Russian Federation, this practice was obviously WTO-inconsistent. It also expressed disappointment with the quality of the country report on the Russian Federation. Having studied the report carefully, its disappointment had exacerbated.

161. In this context, the Russian Federation called upon the European Union to base its determinations on credible evidence and to assess the appropriateness of using concrete pieces of evidence. The Russian Federation urged the European Commission, as well as any other investigating

authority in any other jurisdiction, first, to undertake a critical assessment of any evidence put on the investigation record by an interested party or the authority itself; second, to avoid applying the methodologies and practices similar to the ones envisaged in the said amendments to the European Union legislation; and third, to conduct the analysis in an objective and impartial manner, and in strict compliance with the WTO rules.

162. China also addressed the European Union's legislation and practices. It reiterated that the European Union's legislation and practices regarding significant market distortions are inconsistent with the relevant WTO principles and rules. First, the European Union's AD law created the concept of significant market distortions and other concepts not included in the AD Agreement which authorise the European Commission to review the market situations of other Members in an AD investigation and to construct the normal value. China opined that this practice would contravene WTO rules. China explained that so far, the European Union had issued only two reports on significant market distortions in the Chinese and Russian markets. There were no reports on any other market, which China considered to amount to *de facto* discrimination.

163. Second, China added that the methods for constructing normal value in the European Union's AD law were inconsistent with WTO rules. China claimed that according to the European Union's AD law, normal value should be constructed exclusively based on the cost of production and sales in a sufficiently representative country, or on international prices, if a significant market distortion is found to exist. China hoped that the European Union would return to the method set forth in the WTO AD Agreement and comply with its obligations as a WTO Member.

164. The European Union stated that it had addressed this issue at previous meetings of the Committee, and that it would therefore only comment on the statement from the Russian Federation about the quality of the report. The European Union reminded Members that both reports were prepared using reliable and reputable sources, including the official public records of the countries concerned. The reports were thoroughly reviewed, and the European Union was confident of their accuracy, objectivity, and impartiality. Prior to its publication, the European Union had invited the Russian Federation to review the document and to provide any comments or clarifications, which the Russian Federation declined to do.

165. With regard to the issue of compliance with WTO rules, the European Union referred both countries to the regulations that have been published in the official journal, where all these arguments have been duly addressed.

166. The Committee took note of the statements made.

8 OTHER BUSINESS

167. The Chair encouraged Members that had issues to raise with other Members under other business to give sufficient notice to the Members concerned prior to the meeting in order to ascertain whether or not an answer could be obtained at the meeting.

168. No issues were raised under this agenda item.

169. The Committee took note of the statement made.

9 DATE OF THE NEXT REGULAR MEETING

170. The next regular meeting of the Committee would be held in the week of 25 October 2021.

10 ELECTION OF OFFICERS

171. The Chair recalled Rule 12 of the Committee's Rules of Procedure which provides that the election of the new Chair shall take place at the first regular meeting of the year and that the election shall take effect at the end of that meeting.

172. The Chair stated that consultation at the CTG level regarding the selection of the new chair of this Committee as well as of other subsidiary bodies under the CTG is still under way, therefore a new Chair cannot be elected at this meeting. In these circumstances, the Chair suggested that the

Secretariat send a communication once the CTG had completed its work, indicating the Chair identified by the CTG. The new Chair would be deemed to be elected by the Committee absent any objection. This approach, which had been taken in previous years, would obviate the need for an additional meeting of the Committee.

173. On the Vice-Chair, the Chair proposed to postpone the election of the new Vice-Chair until the new Chair is appointed, until he or she holds the usual consultations and sends the usual communication nominating a new Vice-Chair who, absent any objection, would be deemed to be elected by the Committee.

174. The Committee so decided.