Committee on Anti-Dumping Practices

DRAFT FIFTH REPORT BY THE COMMITTEE

1. Previous reports to the CONTRACTING PARTIES on the work of the Committee on Anti-Dumping Practices have been circulated in documents L/3333, L/3521, L/3612 and L/3743. The present report refers to the work of the Committee from the annual meeting of the Committee in September 1972 to the annual meeting held on 9-12 October 1973.

2. The parties to the Agreement on the Implementation of Article VI of the General Agreement are: Austria, Belgium, Canada, Czechoslovakia, Denmark, European Economic Community, Finland, France, Federal Republic of Germany, Greece, Italy, Japan, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain (adhered on 19 December 1972), Sweden, Switzerland, United Kingdom, United States and Yugoslavia. The Chairman of the Committee is Mr. M.J. Huslid (Norway).

3. Some members of the Committee have submitted legal texts modifying their national provisions on anti-dumping measures already examined in the Committee. These new legal texts and the legislation of Spain, which adhered to the Code in 1972, were discussed in order to examine their conformity with the requirements of the Anti-Dumping Code. The examination of the Spanish legislation will be continued at the next meeting of the Committee. The examination of the Austrian legislation, which was initiated at the 1972 meeting, was terminated after the Committee had heard additional explanations by the representative of Austria. The Committee noted that the legislations of Greece and Portugal were being amended to bring them into full conformity with the Code. The representative of Greece further assured the Committee that any anti-dumping measure would be taken in full accordance with the Code.

4. Some members of the Committee expressed regrets that, in their view, the United States had not seized the opportunity, when revising its Anti-Dumping Regulations, to bring them into full conformity with the Code. The representative of the United States referred to the discussion of the proposed changes at the
Committee's 1972 meeting, and pointed out that some amendments had been made in the proposed Regulations to take account of views expressed by members of the Committee.

5. The Committee examined the reports submitted in accordance with Article 16 of the Agreement on the administration of anti-dumping laws and regulations in the member countries. A table summarizing the cases where investigations have been opened, provisional or final action taken etc., in the notifying countries in the year 1 July 1972-30 June 1973 is reproduced in the Annex.

6. Austria, Czechoslovakia, Denmark, Japan, Malta, Norway, Portugal, Spain, Sweden, Switzerland and Yugoslavia have notified that no anti-dumping cases were pending or initiated in the period under review.

7. Several members of the Committee referred to opinions expressed at previous meetings that in cases where in the United States dumping had been found, the Tariff Commission had determined injury although the relevant criteria of the Code had not always been met. Although the United States had pointed out at the time of the drafting of the Code that it would not be possible to amend the American Anti-Dumping Act upon acceptance of the Code, these members recalled that the United States Government had on several occasions indicated its readiness to respect international obligations undertaken by it, and that the present law was being applied in a manner consistent with the provisions of the Code. In their view, this did not appear to be the case regarding determination of injury.

8. The representative of the United States, on a case by case basis, argued that, for the injury determinations that had been challenged, in no case could it be reasonably held that the injury suffered was less than material. He was of the view that the Tariff Commission's injury determinations were in conformity with the requirements of the Code.
9. Members of the Committee were concerned that, in their view, in some of the cases discussed, investigations in the United States had been initiated upon complaints not representative of the major proportion of the industry, as provided in the Code. The representative of the United States maintained that investigations had been opened only on the basis of complaints by firms representing an industry in the sense of the Code.

10. Some members of the Committee noted that, although the trend towards a quicker resolution of cases initiated in the two countries primarily active in the anti-dumping field must be welcomed, there was reason for concern as to the length of time often needed to settle a case, this both creating considerable uncertainty and having a serious effect on exporters both in terms of costs and loss of market share. Dissatisfaction was also expressed with the practice, in some cases in these two countries, of comparing an allegedly dumped price with that prevailing in the domestic market of the exporting country instead of with the price obtained in third country markets, when sales in the former were negligible. The representatives of the countries concerned pointed to the reduction in the average number of days taken to complete investigations and said that efforts would be made to further shorten the investigation period, always bearing in mind the necessity of keeping the decision-making process strictly fair. They stressed that the price comparison normally foreseen in the Code was with the domestic price in the exporting country; they did not consider that in the cases under consideration the market situation had been such that the domestic sales had not been a proper basis for comparison.

11. One member of the Committee expressed satisfaction that remarks made at the previous meeting that special care should be taken, where export control agreements existed, in observing the injury requirements as provided for in the Code had been taken into account by the country concerned. The same member stated that, where dumping findings were made on a country basis, as was frequently the case in the United States, efforts should be made to exempt companies selling at
not less than fair value from anti-dumping duties after a much shorter period of
time than had hitherto been the case. The representative of the United States
said that the revocation period had been shortened. Furthermore, any company
now had the opportunity to disclose all of its sales; if there was a finding of
no sales at less than fair value, the company would be excluded from the outset
from anti-dumping measures applied.

12. Some members of the Committee welcomed the decision of Canada to eliminate
some anti-dumping duties that had been the subject of considerable controversy
in the Committee. Nevertheless, serious concern was voiced as to the Canadian
practice of, in their view, applying its anti-dumping legislation for the
purposes of protecting imcompetitive domestic industries. The representative of
Canada stated that the decisions to impose as well as to eliminate the anti-
dumping duties in question had been taken in the light of the particular situation
at different points of time, in conformity with the provisions of Article VI
and the Code. In reply to observations by members of the Committee and with
reference to the discussion at the 1972 meeting, he said that in principle Canada
made allowance for drawback of indirect taxes on materials and components for the
purpose of determining normal value. Replying to observations made, he said that
in the Canadian interpretation of Article VI and the relevant provisions of the
Code, there could be a case of "like product" even if a substantial part of the
imported product was not produced in the importing country.

13. With regard to the question of the adherence of further countries to the
Code, the Committee noted that an interdepartmental committee had been established
in Australia inter alia to examine the feasibility of Australia adhering to the
Code and to report to the Australian Government by 1 December 1973. The hope was
expressed that the work thus initiated would lead to an early acceptance of the
Code by Australia. The Committee noted with satisfaction that, on the question
of the adherence of developing countries to the Code, the work of the special
Working Party had resulted in agreement, on an ad referendum basis, on a text
that was now under consideration by member governments.
## ANNEX

### Summary of Anti-Dumping Activities

<table>
<thead>
<tr>
<th>Case Type</th>
<th>Canada</th>
<th>EEC</th>
<th>Finland</th>
<th>Greece</th>
<th>United Kingdom</th>
<th>United States</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Cases pending as of 1 July 1973</td>
<td>10</td>
<td>6</td>
<td>1</td>
<td>8</td>
<td>3</td>
<td>44</td>
</tr>
<tr>
<td>2. Investigations opened</td>
<td>10</td>
<td>4</td>
<td>-</td>
<td>2</td>
<td>7</td>
<td>27</td>
</tr>
<tr>
<td>3. Cases on which provisional action taken</td>
<td>6</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
<td>23</td>
</tr>
<tr>
<td>4. Cases on which final decision reached:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>(i) anti-dumping duties imposed</td>
<td>3</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2</td>
<td>9</td>
</tr>
<tr>
<td>(ii) cases settled through prices undertakings</td>
<td>-</td>
<td>8</td>
<td>-</td>
<td>-</td>
<td>2</td>
<td>6</td>
</tr>
<tr>
<td>(iii) cases dismissed</td>
<td>8</td>
<td>-</td>
<td>-</td>
<td>1</td>
<td>3</td>
<td>26</td>
</tr>
<tr>
<td>5. Revocation of anti-dumping duties</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>6. Cases pending as of 30 June 1973</td>
<td>11</td>
<td>3</td>
<td>8</td>
<td>3</td>
<td>3</td>
<td>31</td>
</tr>
</tbody>
</table>