EIGHTH REPORT BY THE COMMITTEE ON ANTI-DUMPING PRACTICES

1. Previous reports to CONTRACTING PARTIES on the work of the Committee on Anti-Dumping Practices have been circulated in documents L/3333, L/3521, L/3612, L/3745, L/3943, L/4092 and L/4241. The present report refers to the work of the Committee from the annual meeting of the Committee in October 1975 to the annual meeting held on 4 to 6 October 1976.

2. The parties to the Agreement on the Implementation of Article VI of the General Agreement are: Australia (adhered on 24 November 1975), Austria, Belgium, Canada, Czechoslovakia, Denmark, European Economic Community, Finland, France, Federal Republic of Germany, Greece, Hungary, Italy, Japan, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, United Kingdom, United States and Yugoslavia. The Chairman of the Committee is Mr. Eggert (Finland).

3. 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 1975-1 July 1976 is reproduced in the Annex.

4. Austria, Czechoslovakia, Finland, Hungary, Japan, Malta, Portugal, Spain, Sweden, Switzerland and Yugoslavia had notified that no anti-dumping cases were pending or initiated in the period under review.

5. As to the administration of their anti-dumping laws and regulations, some members of the Committee gave detailed explanations on particular points.

6. One member pointed to the large number of notifications emanating from Australia very briefly after its accession to the Anti-Dumping Code. He also pointed out that anti-dumping proceedings had not been officially notified to particular countries and that a number of these proceedings concerned a whole range of countries or imports from all sources. Finally he questioned whether in these cases there had been elements of evidence of dumping in respect of each exporting country concerned. The representative of Australia replied that the notifications against "all sources" in fact had been limited to three countries only.
As to the magnitude of the Australian return he said that Australia had included cases which were at a very preliminary stage of investigation in that all cases where there had been a complaint and where a preliminary contact had been made with the complainant industry were included. Normally foreign governments were not informed at this preliminary stage but were notified once a prima facie case of injury had been established and before any contact was made with overseas suppliers.

7. Some members stressed the impact of unfounded anti-dumping proceedings on international trade. Concern was also expressed with the simultaneous use of price arrangements and of import restraint.

8. The Committee expressed its satisfaction as regards the solution reached in the United States automobile case in respect of the Anti-Dumping Code.

9. Referring to concern expressed as to two concrete cases, i.e. ski bindings and water pumps, where, respectively, it was alleged that there had been no sufficient injury examination before initiation of the proceeding and where a price undertaking had not been accepted despite the fact that the owner initially practising dumping had sold out the plant, the representative of the United States stated that in the first case the evidence of injury had been considered sufficient for introducing an anti-dumping proceeding and that in the second case, the termination of the proceeding would have created an unjustified possibility for evasion of anti-dumping duties by multinational companies.

10. Several members of the Committee expressed deep concern over the recent initiation of an investigation, based in substantial part on dumping and subsidy allegations, of possible unfair methods of competition in the importation into the United States of television receivers from Japan. It was noted that the decision in such investigation, if affirmative, would result in either an embargo or a cease and desist order under threat of embargo. It was further noted that an anti-dumping investigation of television receivers from Japan had resulted in a finding of dumping which was still outstanding, thus making mandatory the levy of United States anti-dumping duties on all such receivers sold at dumped prices. An investigation of the subsidizing of sales of Japanese television receivers had likewise been concluded under the United States countervailing duty law with a negative finding. It was observed that a multiplicity of investigations of the same product could itself constitute harassment of international commerce and that the members should be particularly alert to such problems at this time when the contracting parties were seeking in the multilateral trade negotiations to reduce or eliminate non-tariff barriers to trade. A multiplicity of investigations and the embargo penalty in particular raised additionally troublesome questions
regarding the meaningfulness of the multilateral trade negotiations to the extent that they nullified rights acquired under Articles VI and X of the GATT and Article 8(c) of the Code. Appreciation was expressed of the fact that important forces in the United States were fully alert to the implications of the recently initiated investigation of television receivers from Japan and that consideration was now going on by the United States authorities as to the future course of these proceedings. The representative of the United States noted the concerns expressed by these members and indicated that these concerns would be transmitted to appropriate authorities in the United States.

11. The Committee examined the anti-dumping laws and regulations of Greece, which is an original member of the Committee, and of Hungary and Australia, which adhered to the Code on 18 November 1974 and 24 November 1975 respectively. The Committee also examined certain points of the modified United States Anti-Dumping Regulations. These legal texts were discussed in order to examine their conformity with the requirements of the Anti-Dumping Code. In that connexion, one member of the Committee expressed concern over the provisions of recent Greek legislation relating to investigation procedures. The representative of Greece stated that in conformity with the provisions of the Code those procedures were subject to an appropriate ministerial decision. Concern was also expressed as regards the provisions of Australia's legislation concerning calculation of normal value, dumping made by State-owned industries, conditions and forms for application of provisional measures and freight dumping. The representative of Australia stated that the legislation of his country had been drafted inter alia after a detailed study of the laws and regulations of other countries signatories to the Code and after discussions with their national experts and with representatives of the GATT secretariat. His authorities were fully convinced of the conformity of Australia's legislation with the text of Article VI of the General Agreement and of the Anti-Dumping Code. In relation to State-trading countries and industries, the Australian delegation explained that the relevant provisions of the legislation were intended to apply to State-trading economies. In relation to freight dumping the Australian delegation ascertained that there was nothing in either Article VI of the GATT or in the Code to prevent member countries from including the question of freight dumping in their national legislation. By virtue of Section 14 of the Australian legislation the Code could in practice be considered as a part of Australia's jurisprudence and therefore arguable at law. The Australian authorities were therefore required and had the firm intention to apply this legislation in accordance with the letter and spirit of the Code.

12. The Committee agreed that as was the case with the national legislation of other members of the Committee, any member had the right to revert to particular aspects of the national legislations of the countries mentioned in paragraph 11 in the light of the practical application of that legislation by the competent authorities.

1 This text will be circulated shortly by the secretariat.
13. In response to a question raised about a recent United States appeal court decision on a case involving the application of a threat of injury determination, the United States representative stated that under the court decision the United States, in those cases in which a threat of injury determination was made (which, in the past, had been rare), would have to apply anti-dumping duties from the date of application of provisional measures and not from the date of the injury determination, as required by Article 11 of the Code. He further stated that the United States would seek a change in its legislation at the first appropriate opportunity. With reference to new Section 153.27 of the United States Anti-Dumping Regulations one member of the Committee stressed the importance of thoroughly reviewing the factual basis for anti-dumping complaints prior to formal initiation of an investigation and expressed the hope that the insertion of the word "should" into the revised regulation in place of the word "shall" did not mean that the United States authorities now attached less importance to this requirement. The United States representative replied that this change in its regulation was made to avoid a conflict with United States anti-trust laws that could be created by requiring that United States companies obtain and submit detailed business data on competing United States companies.

14. The representative of the United States invited the countries signatories to the Code to submit comments by 14 November 1976 on a notice published in the United States Federal Register requesting the submission of possible revisions to Section 153.10 of the United States Anti-Dumping Regulations relating to adjustments for circumstances of sales (see COM.AD/w/59).

15. The Committee noted that the process of adaptation of the legislation of Portugal had been further delayed but that any anti-dumping measures would meanwhile be taken in full conformity with the Code.

16. The Committee noted that there had been no change in the official position of New Zealand and South Africa to the question of their adherence to the Code.

17. The Committee agreed that the question of the examination of questionnaires used in price investigations should remain on the agenda.

18. On the question of establishing an analytical inventory of problems and issues arising under the Code and its application by the parties to the Code, the representative of Austria made a proposal for the inclusion of Article 6(a) into the inventory, in view of the close connexion between Article 6(b) and 6(e) of the Code. The Committee decided to have another special meeting in the week of 21 February 1977 in order to pursue its work to draw up the inventory. It invited its members to submit written proposals for amendments to document COM.AD/y/56 by 31 December 1976. It was agreed that the secretariat should draft a new version of this document on the basis of the contributions made. The Committee furthermore
instructed its Chairman to make a statement at the next meeting of the Council and
the MTN Group "Non-Tariff Measures" inviting representatives of countries non-
adherents to the Code to discuss with the members of the Committee in connexion
with the special meeting in February 1977 the problems that faced those countries
in the anti-dumping field. Countries non-adherents to the Code should also be
given the opportunity to provide any written contribution they might wish to make
for these discussions.
### ANNEX

**Summary of Anti-Dumping Activities**

<table>
<thead>
<tr>
<th></th>
<th>AUSTRALIA</th>
<th>CANADA</th>
<th>EEC</th>
<th>GREECE</th>
<th>NORWAY</th>
<th>UNITED KINGDOM</th>
<th>UNITED STATES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Cases pending as of 1 July 1975</td>
<td>-</td>
<td>6</td>
<td>-</td>
<td>12</td>
<td>1</td>
<td>4</td>
<td>12</td>
</tr>
<tr>
<td>2. Investigations opened</td>
<td>34</td>
<td>15</td>
<td>5</td>
<td>-</td>
<td>-</td>
<td>14</td>
<td>27</td>
</tr>
<tr>
<td>3. Cases on which provisional action taken</td>
<td>8</td>
<td>12</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
<td>15</td>
</tr>
<tr>
<td>4. Cases on which final decision reached</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(i) anti-dumping duties imposed</td>
<td>-</td>
<td>6</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>(ii) cases settled through &quot;arrangements&quot;</td>
<td>7</td>
<td>-</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>(iii) cases terminated</td>
<td>20</td>
<td>4</td>
<td>3</td>
<td>-</td>
<td>1</td>
<td>5</td>
<td>8</td>
</tr>
<tr>
<td>5. Revocation of anti-dumping duties</td>
<td>4</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>6. Cases pending as of 1 July 1976</td>
<td>7</td>
<td>11</td>
<td>-</td>
<td>12</td>
<td>-</td>
<td>10</td>
<td>28</td>
</tr>
</tbody>
</table>