WORKING PARTY ON ACCEPTANCE OF THE ANTI-DUMPING CODE

Meeting on 10 October 1973

Note by the Secretariat

1. The Working Party on Acceptance of the Anti-Dumping Code was established by the Council at its meeting on 29 September 1970 to examine special problems of developing countries in connexion with the Agreement on the Implementation of Article VI and any proposals and suggestions for a solution to these problems, which may lead to wide and early acceptance of the Agreement, and to report to the Council.

2. The Working Party held its first and second meetings on 23 September 1971 and on 27 September 1972, respectively, on both occasions discussing proposals made by members of the Working Party, inter alia a proposal by India (Spec(72)93). Notes by the secretariat on these meetings were distributed in documents Spec(71)127 and Corr.1 and Spec(72)125.

3. At the end of the 1972 meeting the Working Party decided to base its discussion at the 1973 meeting on the following Indian draft text as amended, and to be incorporated as a note to Article 2(d) of the Code:

"The application of Article 2(a) would not be appropriate for the exports from developing countries in the cases where sales in domestic markets of such exporting countries do not permit proper comparison for the purpose of that Article. For the purpose of price comparison in such cases it would be therefore appropriate to use "particular market situation" provisions of Article 2(d) and determine normal value on the basis of comparable price of the product when exported to any third country market."

4. The Working Party held its third meeting on 10 October 1973 under the chairmanship of Mr. M.J. Huslid (Norway).

5. Members of the Working Party, signatories to the Anti-Dumping Code, while expressing their wish to facilitate the acceptance of the Code by developing countries, stressed the need not to infringe the principles embodied in both Article VI of the General Agreement and the Code. The representative of the European Communities, supported by several other members of the Working Party, suggested that the text of the Indian proposal be amended to read as follows:

"The application of Article 2(a) would not be appropriate for the exports from developing countries in the cases where sales in domestic markets of such exporting countries do not permit proper comparison for the purpose of that Article. For the
purpose of price comparison in such cases it would be therefore appropriate to use "particular market situation" provisions of Article 2(d) which provides, inter alia, for the determination of normal value on the basis of comparable price of the product when exported to any third country market."

This formula would, in their view, enable developing countries to accept the Code, and at the same time avoid a formal amendment that would dilute the strict rules of Article VI and the Code.

6. The representative of India pointed out that although a slight improvement, this proposal was a mere elaboration of what was already stated in Article 2(d) of the Code. However, he would like to refer it to his authorities for their consideration.

7. The Working Party agreed to adopt the text of the note contained in paragraph 5 above on an ad referendum basis, the understanding being that the text would be referred to capitals for consideration, and that if no objection was raised by any member of the Working Party by 31 December 1973, the text would be considered to have been approved by the Working Party. It was also understood that new proposals could also be made during this period, in which case the matter would have to be taken up again at a further meeting of the Working Party.