Committee on Anti-Dumping Practices

MINUTES OF THE MEETING HELD ON
8 MAY 1984

Chairman: Mr. P. Robertson (Australia)

1. The Committee met on 8 May 1984.

2. The Committee elected Mr. P. Robertson (Australia) as Chairman and Mr. B. Harding (United Kingdom) as Vice-Chairman.

3. The Committee adopted the following agenda:
   A. Adherence of further countries to the Agreement.
   B. Examination of national legislation and implementing regulations (ADP/1 and addenda, ADP/W/71, ADP/1/Add.18 and Suppl.1 and 2, ADP/W/57, 60, 63 and 68 and ADP/M/11, paragraphs 5-32).
   C. Semi-annual reports of anti-dumping actions taken within the period 1 July 1983-31 December 1983 (ADP/20 and addenda).
   D. Reports on all preliminary or final anti-dumping actions (ADP/W/73 and Corr.1, 75, 77 and 78).
   E. Anti-dumping action by Canada against certain electric generators from Italy.
   G. Other business:
      - A suggestion concerning semi-annual reports.
      - the Trade Remedies Reform Bill in the United States.

4. On behalf of the Committee the Chairman expressed sincere thanks and appreciation to the former Chairman, Mr. M.A. Bajwa. He said that Mr. Bajwa had always been of great help to the Committee and contributed to the success of its deliberations. A number of signatories also expressed their thanks and appreciation to Mr. Bajwa for his performance as Chairman. They also congratulated the new Chairman and Vice-Chairman and wished them all the best in their new functions.
A. Adherence of further countries to the Agreement

5. The Chairman informed the Committee that since the last regular session on 15 November 1983 no further country had adhered to the Agreement.

B. Examination of national legislation and implementing regulations (ADP/1 and addenda)

(a) Australia (ADP/1/Add.18 and Suppl.1 and 2, ADP/W/57, 60, 63, 68 and 71, ADP/M/11, paragraphs 5-32)

6. The Chairman recalled that at its previous meeting the Committee had had a detailed discussion of the Australian legislation on the basis of written questions put by some delegations and responses from the Australian delegation. In January 1984 the delegation of Australia had provided the secretariat with a copy of a proposed amendment to its anti-dumping legislation. Subsequently, the amended legislation had been enacted but for technical reasons it had not been possible to circulate the revised version to the Committee in time for this meeting. In view of this he proposed the following procedure: (a) delegations which, through other channels, had been acquainted with the amended legislation might wish to ask questions or seek further clarification and the representative of Australia might wish to respond to them at this meeting; (b) the secretariat would circulate, as soon as possible, the revised legislation (ADP/1/Add.18/Rev.1); (c) the Committee would revert to this legislation at its October 1984 regular meeting.

7. The representative of Australia briefly summarized the main amendments that had been incorporated in the revised legislation. Changes made in connection with transactions between associated companies would enable a better treatment of hidden dumping; adjustments to revenue would permit allowances in the construction of prices and comparisons with the situation where transacted sales were used as the basis of normal value. Under the new legislation the Minister could disregard as dumping sales transacted at a loss if they took place within the scope of normal commercial considerations. The legislation also included an indicative definition of factors which constituted material injury and provided for the possibility of imposing anti-dumping duties at less than full dumping margins. Furthermore, a number of amendments had been made to meet criticisms regarding the problems of transparency and the long delays in making findings. The representative of Australia considered therefore that his country's legislation was in conformity with the Code although there existed constitutional constraints to build procedural matters into that legislation. His Government had also completed a first draft of administrative regulations and was waiting for comments from various interested bodies. Concerning some of the procedures that had been put in place within the last few months he said that they ensured that public notice would be given at the time of initiation of an investigation. Preliminary findings released around forty-five days afterwards, would include all the details of the case, and a final and comprehensive report should be made within a further 120 days. Contrary to previous practices it was now possible to produce a report when termination occurred at any point of the investigation. It was clear that spelling out how and why the investigating authorities had arrived at findings and a quicker handling of cases was less disruptive to trade. He also stressed
that in the Australian legislation there were in-built mechanisms to appeal decisions at any stage of the administrative procedures. He finally indicated that his delegation would reply to any further questions put forward by other delegations.

8. The representative of India said that the appreciation of a legislation was, to a great extent, dependent upon the manner in which it was implemented. In his view, as the administrative procedures were not built into the Australian Customs Anti-Dumping Tariff Act, its provisions could easily be nullified. He indicated that although his Government's concerns had always been received sympathetically by the Australian authorities, certain Indian exports to Australia had dwindled to a very low level. One of the reasons for that was the problem of transparency. Indian exporters had not been provided with the relevant information as stipulated in the Code, nor with non-confidential summaries. He also recalled his Government's concerns with the way Australian authorities applied the concept of material injury and normal value. As the Australian representative had acknowledged that a number of corrective steps had been taken, it remained for him to look forward to the concrete implementation of these assurances. He hoped that this time the Australian legislation would be fully consistent with the Code. Finally, he expressed his appreciation that some of the cases which had caused particular difficulties were currently under review by the Australian authorities.

9. The representative of the EEC regretted that his authorities had not had the chance to comment again on the Australian legislation before it was sent to Parliament. As a preliminary reaction he welcomed that in the new legislation no mention was made of input dumping, and that certain ideas concerning the determination of dumping in cases of "sales at a loss" had not been incorporated. He associated himself with the criticism made by the Indian representative regarding the fact that certain administrative procedures were not spelled out in the legislation. Assuming that these would be covered in a separate regulation, he wondered what the legal status of these administrative procedures would be and expressed doubts whether they could be invoked before Australian courts of law. These questions were all the more important because points such as criteria on the admissibility of anti-dumping complaints, conditions for initiation of proceedings, protection of confidential information, supply of non-confidential summaries, right of parties to defend their interests, and transparency were covered by the administrative procedures. Furthermore, the new legislation did not contain, as had been previously the case, a specific section obliging the Minister not to take any action inconsistent with Australia's obligations under the Code. His delegation noted this deletion with special concern. In view of all these remarks the EEC delegation had serious doubts about the conformity of the Australian anti-dumping legislation with the Code.

10. The representative of the EEC found it very disturbing that preliminary determinations had to be reached within forty-five days after the initiation of the proceeding. This delay was insufficient, especially as a preliminary dumping and injury investigation had to be carried out at the same time. Furthermore, according to the recommendation adopted by the Committee in November 1983, replies to questionnaires need not be submitted before thirty-seven days after the date of despatch of the questionnaire to the firm under investigation. This would only leave eight days for the Australian
authorities to examine the information and to come to a preliminary conclusion. Concerning the amendments on hidden dumping mentioned by the representative of Australia, he said that imports sold at a loss did not, by definition, indicate that sales had not been made at arms length. According to section 4, paragraph 3 of the Australian Anti-Dumping Act, imports sold at a loss could be taken to mean that imports had not been made at arms length which would, in turn, permit the reconstruction of export prices. This was not in conformity with the Code. He also criticized that under the new legislation parties were obliged to provide evidence even if the latter was self-incriminatory or made them liable to penalty. He recalled that according to the Code, if no evidence had been provided, findings were to be based on facts available. He finally reiterated that his delegation continued to have some difficulties with the retroactive application of anti-dumping duties and with anti-dumping actions in favour of third countries.

11. The representative of the United States shared the concern expressed by the representatives of India and the EEC, particularly on the issues of transparency and the short delays to reach preliminary decisions. He wondered whether standards for decision were spelled out with sufficient detail and recalled that in his country, 160 days were needed for a preliminary determination as opposed to 120 days for a final determination in Australia. It was not clear to his delegation whether the issues previously raised by his delegation on the necessity to limit the Ministerial discretion and on the treatment of export prices in normal value calculations had been adequately addressed in the new legislation. He reserved his right to come back to these questions once his delegation had completed its review of the revised Australian legislation.

12. The representative of the Nordic Countries noted with regret that most of the matters which had previously caused concern to his delegation were still present in the new legislation. He agreed with the views of other delegations, in particular those concerning administrative procedures, hidden dumping and insufficient delays for making preliminary determinations. He also referred to various provisions which in his opinion were not in conformity with the Code: repayment of provisional anti-dumping duties in the context of price undertakings, imposition of fines if the exporting firm did not agree to an on-the-spot investigation, and the ministerial discretion on the establishment of dumping margins when information was not available. He also reserved the right to come back to these issues in the future.

13. The representative of Japan indicated his Government's interest in the revised Australian legislation and reserved his position pending circulation of this legislation.

14. The representative of Australia reiterated that his country, in response to certain criticisms, had made a great effort to make procedures more transparent. As the Indian representative had rightly pointed out, Australia was reviewing those cases which had created some difficulties to Indian exporters. Regarding the problems of delays for preliminary and final decisions he said that in normal circumstances forty-five days should be sufficient for a preliminary finding and a further 120 days for a final determination. He also indicated that both preliminary and final findings were subject to legal appeal. While mentioning that one provision permitting
the right to appeal had been removed from the revised legislation, he explained that in fact appeal was still possible but to a different court. Concerning hidden dumping he insisted that although the Minister had the necessary discretion, he was not obliged to take certain actions, which was in accordance with the Code. On the issue of self-incrimination raised by the EEC he requested clarification as he was not sure he had correctly understood the question. He would also appreciate some clarification on the question of fines, previously raised by the representative of the Nordic countries, when firms disagreed with an on-the-spot investigation. The representative of Australia finally explained that there was nothing mandatory in the legislation that would oblige the Minister to repay the provisional duties when accepting price undertakings. The discretion given to the Minister in the determination of the amount of dumping, when the information was not forthcoming, aimed at allowing the Minister to make such a determination on the basis of the best information available.

15. The representative of India explained that one of the points in his earlier intervention was to expedite the investigations concerning his country. He insisted that information should be made available; at least some non-confidential summaries of the allegations in the petition of the Australian domestic industries should be provided. This matter had been discussed for a long time and he hoped that it would finally materialize in the form of concrete action.

16. The representative of the EEC said that the question of self-incrimination could be found in the Amendments of the Customs Act 1901, Article 6, paragraph 6, "Powers of Officers for purposes of the Customs Tariff Anti-Dumping Act 1975". Referring to the procedures to be followed by the Committee he proposed that at the October 1984 meeting the Committee, after having received full explanations from Australia, should come to some conclusions, i.e. that the Committee was satisfied that the Australian legislation was in conformity with the Code, or that if this is not the case, some recommendations should be made.

17. The representative of the United States was also of the view that it was the Committee's task to come to a resolution concerning the Australian legislation. Hopefully, the Committee would be able to settle this matter at the October meeting; if not, the only solution would be to resort to the pertinent provisions of the Code.

18. The Chairman said that the Committee took note of the expressions of continuing dissatisfaction with the provisions of the Australian anti-dumping legislation and its procedures, although it was recognized that the recently amended legislation showed some improvement over the earlier legislation. Australia had responded in part to criticisms made and continued to take the view that both legislation and procedures were in conformity with the Code. He proposed the following procedure to facilitate consideration at the October meeting: the secretariat would circulate the new comprehensive Australian legislation (ADP/1/Add.18/Rev.1); questions would be submitted, in writing, to Australia through the secretariat by mid-July; Australia would submit replies by mid-September and the questions and answers would then be available in advance of the October meeting. At that meeting the Committee might wish to take up the point made by the EEC, that some decision should be made on the conformity or otherwise of the Australian legislation.
19. The representative of the United States said that his delegation could have some questions even after the mid-July delay, depending on experience with the new procedures; in such a case he would appreciate it if the Australian delegation could provide answers at a later stage than that proposed by the Chairman.

20. The Chairman said that if there were any supplementary questions they should be put to Australia in sufficient time in advance of the meeting so as to enable it to prepare written answers. It was important for the Committee's deliberations to have all written comments and reports in time for its October meeting.

21. The representative of the EEC indicated that since his delegation had handed over to the Australian Government a list of comments and questions some time ago, he would welcome answers at the next meeting. He also suggested that as the implementing regulations specifying anti-dumping procedures were important for the proper assessment of the Australian legislation, they should also be communicated to the Committee. He recalled that Article 16:6 of the Code required the communication of regulations and administrative procedures.

22. The representative of Australia said that the administrative procedures were in draft form and that his Government was still waiting for comments from the Australian Law Council. In view of this he was not sure whether the procedures would be finalized in publishable form before the meeting. However, these issues could be taken up at a later stage.

23. The Chairman encouraged the representative of Australia to provide the Committee, at the earliest possible date, with copies of the procedures. If they were to be examined at the next meeting they should reach the members at least three weeks in advance of the October meeting.

Other legislations

24. The Chairman drew the attention of the Committee to the fact that at the last meeting the representative of Spain had promised to reply to a question put by the representative of Canada concerning the possible use of a basic price system for anti-dumping purposes (ADP/M/11, paragraph 36).

25. The representative of Spain referred the Committee to a Ministerial Order of 7 July 1983 which established certain import prices, and to the Royal Decree 925 of 30 April 1982 which had already been examined by the Committee in the context of the examination of the Spanish anti-dumping legislation. Article 1 of this Ministerial Order provided that if the import price of steel products were lower than some basic prices, the General Directorate of Tariffs Policy and Imports could have recourse to the relevant provisions of the Royal Decree 925 and initiate an investigation. Article 2 provided that basic prices were established on the basis of the lowest non-dumped prices offered by suppliers. He made it clear that provisions in Article 1 were not mandatory because an investigation was not to be initiated automatically; moreover, the provisions had been in force for more than nine months without having been utilized.

26. The representative of Canada said that the reply of the delegate of Spain suggested that something equivalent to a basic price mechanism was in
force in Spain. Furthermore, the mechanism had been introduced in July 1983, i.e. after the date when the Committee had arrived at an understanding that basic price mechanisms should not be used. The Spanish Government might wish to examine the consistency of the referred provisions with the understanding of the Committee (ADP/M/6, Annex I). The representative of Spain reiterated that the provision referred to an indicative list of prices which the Government might draw upon and not a basic price system. He would transmit the Canadian concern to his Government.

27. The Chairman reminded those parties who had not yet done so to formally notify the Committee of their actions under Article 16:6 of the Agreement in respect of national legislation. It was his understanding that there were some members who had not yet notified their national legislation.

28. The representative of Canada said that anti-dumping draft legislation had been submitted to the House of Commons which he would present to the Committee as soon as it was adopted. The representative of the United States asked whether members of the Committee would have an opportunity to review the Canadian draft legislation before it became final. The representative of Canada recalled that the Committee had had ample chance to make comments at the "white paper stage" and that the Parliamentary Sub-Committee which had examined the legislation, had been to many capitals and to Geneva to get further comments.

29. The representative of the EEC recognized that his delegation had already had the opportunity to discuss on a bilateral basis the proposed Canadian legislation. He wished to have the chance to discuss again certain points before the legislation was adopted. The representative of Canada suggested a bilateral discussion with the EEC while his delegation was in Geneva.

30. The representative of the United States asked the delegate from Japan if, as indicated by the press, a more comprehensive or implementing legislation was under consideration in Japan, and, if so, whether it was intended to share it with the Committee. The representative of Japan explained that the Ministry of International Trade and Industry, one of the investigating authorities in Japan, had decided to set up a Committee to facilitate matters for the Ministry regarding both subsidy and anti-dumping cases. He promised to provide further information at a later stage. The representative of Canada also requested the Japanese delegate to elaborate on the role of the above-mentioned Committee, as it appeared to be involved in the imposition of duties. The representative of Japan reiterated that he would provide more information at a later stage.

31. The Chairman invited the representative of Japan to provide a written answer before the October meeting. He further said that the Committee should maintain the item dealing with national legislations on the agenda in order to allow parties to revert to particular aspects of some legislations at a later stage or in the light of actual implementation of a legislation. It was so decided.

C. Semi-annual reports of anti-dumping actions taken within the period 1 July 1983-31 December 1983 (ADP/20 and addenda)

32. The Chairman recalled that an invitation to submit semi-annual reports under Article 14:4 of the Agreement had been circulated in ADP/20 of
11 November 1983. Responses to this request had been issued in addenda to this document. The following parties had notified the Committee that they had not taken any anti-dumping action during the period 1 July 1983 - 31 December 1983: Brazil, Czechoslovakia, Egypt, Finland, Hungary, India, Japan, Norway, Pakistan, Poland, Romania, Spain, Sweden, Switzerland, United Kingdom on behalf of Hong Kong and Yugoslavia. Anti-dumping actions had been notified by Australia, Austria, Canada, the EEC and the United States.

Austria (ADP/20/Add.2)

No comments.

Canada (ADP/20/Add.3)

33. The representative of the EEC wondered why on page 3 of the Canadian report, under the country heading "Italy" there was a definitive duty on Hydro-Electric Generators. The representative of Canada recognized it was an error since no definitive duties had been assessed, the date mentioned referred to the tribunal finding of injury.

Australia (ADP/20/Add.4)

34. The representative of the EEC, referring to the lengthy semi-annual report of Australia, expressed his concern about the concept of transparency in a case involving special steel bar products from the Federal Republic of Germany. His delegation was unaware of how normal value had been calculated, how margins had been established, and how injury and causality had been determined. There was only a general statement regarding dumping and injury in the Commonwealth of Australia Gazette and despite a lengthy report transmitted by Australia to the Government of the Federal Republic of Germany it was not clear to his delegation how these issues had been addressed by the Australian authorities. The representative of Australia explained that his Government's semi-annual report was lengthy because it included a comprehensive list of all cases before his authorities and not only those where action had been taken in the last six months. Referring to the transparency problem he indicated that as the investigating authorities were not asked to provide the necessary information, it was difficult for his delegation to know that specific information was wanted. The representative of the EEC reiterated that a publication of a definitive anti-dumping finding should include detailed information about normal value, margins of dumping, injury and causality. He insisted that in the above-mentioned report the calculation of normal value was not satisfactorily explained and that it was indicated that these calculations had been discussed with importers who had not disagreed. Such practice was totally inappropriate. He recalled the recommendation on transparency adopted in November 1983 and invited Australia to follow this recommendation.

35. The representative of India associated himself with the views of the previous speaker; in his opinion it was very strange that some parties accepted a recommendation in the Committee and then ignored it in actual practice.
36. The representative of the United States referred to the large number of outstanding anti-dumping orders in the Australian report, a total of 182 cases, compared to only 80 for Canada, 95 for the United States and an unspecified number for the EEC. She applauded the eight revocations including the hydraulic cranes case from the United States. She also regretted that Australia continued to take provisional measures at the time of initiation of investigation, although the number of cases had decreased. The representative of the EEC referred to the point raised by the United States representative concerning the EEC’s unspecified number of outstanding anti-dumping orders and indicated that his delegation was working on the subject and expected to come to a satisfactory conclusion before the end of the year.

37. The representative of Australia took note of the comments made by the United States delegate and recalled that the problem of the preliminary measures taken at the time of initiation had been addressed at length under another agenda item. He insisted that this procedure was the result of the old legislation.

38. The representative of Canada was pleased to note that his country had taken action on 19 items while the EEC on 26 items. He looked forward to seeing the communication from the EEC on the issue of the outstanding anti-dumping orders.

39. The representative of Yugoslavia requested some clarification from the EEC on the determination of normal prices in an anti-dumping investigation on copper sulphate against Czechoslovakia. Prices in Yugoslavia had been used in the investigation against Czechoslovakia and one month later another investigation had been opened against Yugoslavia concerning the same product.

40. The representative of Czechoslovakia referred to a case concerning artificial corundum from Czechoslovakia, Spain, Yugoslavia and the People's Republic of China. In his view the reason for the initiation of the investigation was a considerable increase in imports from one particular country. He hoped this factor would be considered in the investigation and that the cumulative approach would be avoided in determining the existence of injury and causality. Since both the Yugoslavian and the Czechoslovakian questions required further examination, the representative of the EEC proposed to revert to them at the next meeting.

41. The representative of Hungary requested confirmation from the EEC that the figure for domestic consumption in column 12 referred to the overall consumption in the EEC and not in one particular member State. The representative of the EEC responded affirmatively. The representative of Hungary expressed his wish to discuss a problem regarding one of these figures on a bilateral basis.

42. The representative of the United States indicated that provisional measures had been taken on the date of initiation of investigation of a hardboard case involving Poland, Sweden and Czechoslovakia. She recalled that unlike Australia, this practise was on the increase for the EEC. The representative of the EEC denied that this practise was on the increase and
explained that the case under review was a very special one. The three countries had offered price undertakings and the EEC subsequently had reasons to believe that these undertakings had been violated. Legislation in the EEC permitted, in such cases, the imposition of provisional measures at the time of initiation, and this was consistent with the Code.

United States (ADP/20/Add.6)

43. The representative of Canada drew the attention of the Committee to two cases concerning steel jacks, and steel bars and structural shapes, where measures had been in force for eighteen and twenty years, respectively. The representative of the United States explained that in accordance with his country's legislation, reviews were conducted every year, and that in the most recent review of both of these orders, shipments at dumped prices had been detected.

44. The Chairman, in summarizing the discussions, said that although the number of actions in the five reports before the Committee were quite significant, very few criticisms had been made with respect to them. One could therefore state that there was an improvement in the manner in which signatories were observing their obligations under the Code and that in most cases anti-dumping actions were consistent with the Code.

D. Reports on all preliminary or final anti-dumping actions
   (ADP/W/73 and Corr.1, 75, 77, 78 and 79)

45. The Chairman told the Committee that notifications under these procedures had been received from Australia, Austria, Canada, the EEC and the United States.

46. The representative of the United States referred to a soda ash case (not reported by Australia) which the Australian Government had initiated on the basis of allegations of sales at less than costs and of so-called freight dumping. According to allegations made, the United States producer had failed to claim a depletion allowance for the last two years which indicated that the firm was not making a profit, so that subsequently its sales were below cost. It was his view that a producer's profitability for tax purposes bore no relation to whether a particular product was sold at less than normal value; many extraneous events could give rise to extraordinary tax losses. Likewise, he was unaware that the freight rate charged by a private railroad unrelated to the manufacturer investigated was in any way relevant to the Anti-Dumping Code. In his opinion all freight costs should be removed from any calculation of both normal value and export price in an anti-dumping investigation. He voiced his delegation's deep concern about these practices and expressed the hope that his comments would be taken into account before any final action was taken on this matter. He reserved his right to revert to this issue at the October meeting.

47. The representative of the EEC referred to a procedure of Australia against influenza vaccine from France. He regretted to say that this was another case where there were problems of transparency and of imposition of provisional measures at the time of initiation of the investigation. He was of the view that very little information had been given as to how the export price was determined, how the normal value was calculated and how the margin of dumping was established. There was the same lack of information concerning the material injury determination.
48. The representative of Czechoslovakia referred to a procedure by Canada against camping tents from Czechoslovakia, which in his opinion was inconsistent with the Committee's recommendation on transparency. Exporters had not received a copy of the complaint on the ground that it was confidential. Their suggestion to use Korean prices, instead of United States' prices, had been rejected; likewise, allowances for differences in labour costs between the United States and Czechoslovakia had not been accepted nor did any mention of it appear in the official finding. He therefore expressed his concern on these issues. The representative of Canada recognized that the information concerning the complaint had been withheld for confidentiality reasons which, however, was consistent with the Code, but that the new legislation would permit access to confidential information. Tents from Taiwan and Korea were not chosen because they were not comparable as they were smaller in size and made out of nylon. The United States was used as the surrogate, due account being taken of factors such as differences in materials, sizes, construction, hardware.

E. Anti-dumping action by Canada against certain electric generators from Italy

49. The Chairman recalled that this matter had been discussed by the Committee on several occasions. At the last meeting, the representative of the EEC said that the conciliation process had failed to produce any results and that the EEC would consider whether it wished to take any further steps. He invited the representative of the EEC to inform the Committee on the present position of this matter.

50. The representative of the EEC reiterated the great concern his delegation attributed to this case. While stressing that the Community fully reserved its rights with regard to conciliation, he considered that the question under review was of general interest, all the more so because another tender regarding transformers and rectifiers was "en route". He considered that the Ad-Hoc Group should urgently examine the question of "Definition of sale". He proposed that the Committee mandate the Ad-Hoc Group to submit a draft recommendation on the definition of sale for the next meeting and at the latest by the end of the year.

51. Following a comment made by the representative of India, the Chairman said that it might not be possible for the Ad-Hoc Group to prepare a definitive paper within the time given to it, but the Group should expedite consideration of the paper on the "Definition of sale". It was so agreed.


52. The Chairman informed the Committee that the Group had completed its discussion on the question of "Best information available in terms of Article 6:8" and had agreed to submit to the Committee an appropriate draft recommendation (ADP/W/59/Rev.5) for possible adoption. The Committee might wish to adopt this recommendation which constituted an understanding on the manner in which Parties intended to implement certain provisions of the Code. The recommendation did not add new obligations nor did it detract from the existing obligations under the Code. The Committee would also note that the Chairman of the Ad Hoc Group had made the following statement: "The adoption
of this recommendation is without prejudice to the position of any party with respect to the structure or form of information submitted to the investigating authority. These issues would be considered by the Ad Hoc Group in the context of its work on recommendations concerning scope of the anti-dumping questionnaire.

53. The Committee adopted the Recommendation concerning "Best information available in terms of Article 6:8".

G. Other Business

(a) A suggestion concerning semi-annual reports

54. The representative of Romania explained that in column 12 (labelled "Dumped imports as percentage of domestic consumption") of the standard form for semi-annual reports, most signatories calculated this ratio taking only the dumped imports of the country in column one. The EEC, however, for injury purposes, cumulated dumped imports of all countries causing injury and not only of the country in column one. He suggested uniformity should be attained and invited members of the Committee to utilize the first formulation. He emphasized he was not proposing a change in the format but a certain degree of uniformity.

55. The representative of the EEC said that the information requested by the representative of Romania was already available in the EEC ad-hoc reports submitted to the secretariat under Article 14:4. In presenting the information as requested by the representative of Romania there would be a confidentiality problem when imports were coming from only one or two firms. However, his delegation would consider the proposal and may revert to it at a subsequent meeting of the Committee.

(b) The Trade Remedies Reform Bill in the United States

56. The representative of Sweden, speaking on behalf of the Nordic countries, referred to a legislative proposal called the Trade Remedies Reform Bill and sought information and comments from the United States delegation about its status. He explained the main points in the proposal as follows: an investigation and injury finding might be based on the likelihood of sales for importation or on leasing arrangements; the inclusion of "government export targeting subsidies" in the list of subsidies actionable under present countervailing duty legislation; new criteria for determining threat of material injury; extension of the concept of subsidies to upstream subsidies; and the inclusion of downstream dumping in the definition of dumping.

57. The representative of the United States said that although the proposed legislation had already been examined in a committee of the House of Representatives, it was uncertain whether it would be considered by the appropriate Senate committee or passed by both Houses. The Administration had nevertheless expressed its concerns with various provisions of the bill for their consistency with both the Anti-Dumping and Subsidies Codes. The Administration had also taken a very firm position that it would not support any legislation that was in any way inconsistent with the United States international obligations, and some members of Congress had expressed similar
feelings. While welcoming questions from other delegations either directly to the members of Congress in Washington or to the U.S. Trade Representative, he offered bilateral assistance on any remaining issues. He finally invited delegations to express their comments to the Congress, preferably through the Office of the USTR.

58. The representative of Canada reassured the delegation of Sweden that his country was also following this bill very closely and had already made representations. He expressed his concern about the bill, saying that even if its provisions were modified, they may still be very harmful to international trade. The representative of Sweden reiterated his delegation's concerns. The representative of the EEC joined the previous speakers in expressing the deep concern of his delegation.

59. The representative of Switzerland drew the attention of the Committee to a certain tendency in Congressional circles to find a solution to the various problems in a unilateral way. Since these matters had a bearing on the work of all signatories, he invited delegations to endeavour to find multilateral solutions and to convey this message to the United States Congress. The representative of Japan echoed the comments of other delegations while also expressing his concern about the bill.

60. The Chairman noted that the proposed legislation was a matter of substantial concern to the Committee. He also welcomed the invitation from the representative of the United States to signatories to present oral and/or written comments directly to the Congress or through the office of the USTR.

**Date of the next meeting of the Committee**

According to the decision taken by the Committee at its meeting in April 1981 (ADP/M/5, paragraph 51) the next regular session of the Committee will take place in the week commencing 22 October 1984.