QUESTIONS CONCERNING IMPLEMENTATING LEGISLATION OF AUSTRALIA

The following questions have been submitted by the Delegation of Japan.

1. (a) The status of the Anti-Dumping Code and the Subsidies Code under Australia's legal system.
   (b) It seems that the Australian implementing legislation does not fully cover the contents of the two Codes. (For example, see points 2 through 5 below). What measures have been taken to ensure the full implementation?
   (c) Are the two Codes enforceable as a part of national legislation?

2. Under Section 5(2)d of the Customs Tariff Act 1975 amended by Section 4(b) of the Customs Tariff Act 1981, it is stipulated that the highest price for export to a third country is used as the normal value. Is this method of calculation consistent with the provision of Article 2:4 *of the Anti-Dumping Code?
   *"It may be the highest export price but should be a representative price"."
3. (a) Does the "security" provided for under Section 8(1)(b)(ii) and 10(1)(b)(ii) of the Customs Tariff Act 1975 correspond to the "provisional measures" provided for in the two Codes?

(b) Does Section 42 of the Customs Act, which has not been submitted, stipulate the details of application of "security" such as the requirement for invocation, the contents of measures?

(c) In many previous dumping investigations in Australia, provisional measures have been applied at the time of the initiation of the investigation. Is such application consistent with the provision of Article 10.1 of the Anti-Dumping Code?

4. Section 13(5) of the Customs Tariff Act 1975 amended by Section 11 of the Customs Tariff Act 1981 seems to correspond to the provision of Article 5.9 of the Subsidies Code. Under the Code the cases where countervailing duties are assessed retroactively are limited to those of export subsidies paid or bestowed inconsistently with the provisions of the General Agreement and of the Code. Does the implementing legislation contain the limitation of the same effect?

5. While both the Anti-Dumping Code and the Subsidies Code provide detailed procedures to be followed in Anti-Dumping and Subsidies process, such as the right of the interested parties to present evidence in writing and orally, to meet those parties with adverse interests (Anti-Dumping procedures), to present their view (subsidies procedure), the submitted legislation contains no corresponding provisions.

Under the implementing legislation, are the interested parties ensured the rights stipulated by the two Codes?