MINUTES OF THE MEETING HELD
ON 1-2 NOVEMBER 1984

Chairman: Mr. H.S. Puri (India)


2. At the beginning of the meeting the Committee paid tribute to the memory
of the late Mrs. Indira Gandhi, Prime Minister of India, by observing one
minute of silence.

3. The Committee adopted the following agenda:

A. Adherence of further countries to the Agreement

B. Examination of national legislation and implementing regulations (SCM/1
and addenda)
   (a) Legislation of Uruguay (SCM/1/Add.19)
   (b) Legislation of Australia (SCM/1/Add.18/Rev.1, SCM/W/75, 78, 79 and
       81)
   (c) Legislation of New Zealand (SCM/1/Add.15/Rev.1)
   (d) Legislation of the EEC (SCM/1/Add.1/Suppl.3)
   (e) Other legislations

C. Notification of subsidies (SCM/W/76)

D. Semi-annual reports of countervailing duty actions taken within the
period 1 January-30 June 1984 (SCM/50 and addenda)

E. Reports on all preliminary or final countervailing duty actions
   (SCM/W/72, 73 and 77)

F. Report of the Group of Experts on the calculation of the amount of a
subsidy (SCM/W/71 and 74)

G. Annual review and report to the CONTRACTING PARTIES

H. Other business
   (a) Reservation by Spain (SCM/25)
   (b) The United States Trade and Tariff Act of 1984
   (c) Canada-EEC consultations on imports of beef
A. Adherence of further countries to the Agreement

4. The Chairman informed the Committee that since the last regular session on 10-11 May 1984, no further country had adhered to the Agreement.

5. The Chairman also recalled that at the November 1983 meeting the observer for Colombia had raised some problems relating to the difficulties his and other developing countries were facing in their efforts to accede to the Code. Following a suggestion made by the representative of India, the Committee had requested the Chairman to hold informal consultations with a view to examining these problems in detail. Some progress had been made in the consultations and the Chairman hoped to propose to the Committee, in the very near future, some procedures which may help to resolve these difficulties. For the time being he suggested that the Committee take note that consultations were going on and that the chair would make a full and comprehensive report to the Committee at its next meeting in December 1984.

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

(a) Legislation of Uruguay (SCM/1/Add.19)

6. The Chairman recalled that following the discussion and the explanations given by the representative of Uruguay at the last meeting, the Committee had decided to revert to this legislation at its present meeting (SCM/M/20, paragraphs 7-11).

7. The representative of the EEC referred to the replies of the representative of Uruguay, which in his view were very helpful. Nevertheless, he was still concerned with the forty-one day delay to conduct and conclude a countervailing duty investigation. This period was too short to reach a definitive determination, particularly as only twenty-one days were given to the exporter to reply, ten more days to reach a preliminary determination, and another ten days for the final determination. He also insisted that contrary to what was said in the reply by Uruguay, Article 22 of the Decree which stipulates refusal of an undertaking could be taken as material indication of subsidization if contrary to Article 4:5 of the Code, as Article 22 of the Decree suggested. Although the reply by Uruguay had denied this by referring to Article 4:5 of the Code, the legislation of Uruguay indicated the opposite. He finally requested the delegation of Uruguay to reconsider these two points.

8. The representative of Uruguay replied that Article 22 of the Decree only implied that threat of injury was more likely if exports continued. The non-acceptance of an undertaking could in no way prejudice an examination of the matter. As to the delays cited by the EEC, he asked whether this period was not in conformity with the Code or simply too short as compared with the equivalent EEC regulations. The representative of the EEC recalled the extensive discussions of the Committee on the question of delays; experience indicated that in view of the large number of factors to be examined in an investigation, it was practically impossible to reach a well-founded definitive determination in such a short period of time. Although the Code did not contain provisions on delays, his argument was backed by the current practice. The representative of Uruguay took note of the points raised by the EEC for transmittal to his capital.
9. The representative of Canada indicated that although there were still a number of areas of discretion that caused concern in the replies of Uruguay, his delegation would rather wait and see the results of actual implementation and revert to the legislation of Uruguay, if necessary.

(b) Legislation of Australia (SCM/1/Add.18/Rev.1, SCM/W/75, 78, 79 and 81)

10. The Chairman recalled that following his suggestion (SCM/M/20, paragraph 16), several delegations had submitted, through the secretariat, written questions concerning the countervailing duty legislation of Australia (SCM/W/75 and 79), and that Australia had replied to these questions (SCM/W/78 and 81).

11. The representative of the EEC referred to the extensive discussion of Australia's new legislation in the Committee on Anti-Dumping Practices and said that the replies offered by Australia had brought clarity to a number of questions and consequently removed many of the concerns of his delegation. However, he invited the Australian authorities to reflect further on the following additional points: (i) possibility to countervail imports benefiting from prescribed assistance, a concept containing a wider definition of subsidies than Article 6:3 of the GATT; (ii) the possibility of levying countervailing duties without injury test if an exporting country did not itself apply a proper injury test to Australian goods; (iii) countervailing action in favour of an industry in a third country exporting to Australia. He finally reserved his right to come back to these questions if the need arose.

12. The representative of Australia told the Committee that at this stage he had not much to add, but he would take note of the concerns expressed by the EEC. For the Committee’s information he indicated that his Government had extended the delay for reaching a preliminary determination in a countervailing enquiry to sixty-five days; practice had shown that, unlike the dumping enquiries, forty-five days was too short a period for a countervailing case.

13. The representative of the United States stated that both sixty-five days and forty-five days were a very short period to enable the administrative authority to undertake the proper investigations and come to an accurate result. The representative of Canada, while sharing the views expressed by the United States representative indicated that his delegation would rather wait and see the application of these provisions by the Australian authorities.

(c) Legislation of New Zealand (SCM/1/Add.15/Rev.1)

14. The Chairman recalled that on 22 June 1984 the delegation of New Zealand had circulated an amended legislation pertaining to countervailing duties (SCM/1/Add.15/Rev.1) and that interested members of the Committee had been invited to submit, through the secretariat, written questions concerning this legislation (SCM/M/20, paragraph 20). No questions had so far been received. In this respect some delegations had indicated that they would like to peruse the relevant customs instruction before taking a definitive view on the New Zealand legislation. It should also be recalled that at the last meeting the representative of New Zealand had promised to circulate these instructions as soon as they became available.
15. The representative of New Zealand explained that he had recently received the Draft Customs Instructions which he expected to propose for circulation as soon as possible, preferably for discussion at the next meeting. He encouraged delegations to comment on the draft instructions in writing and to bear in mind that while the possibility for some drafting amendments was still open, the text had been substantially agreed by the competent authorities in Wellington.

16. The representative of the EEC requested clarification concerning a decision of the Committee whereby New Zealand would bring its legislation into line with the obligations under the Code by 31 March 1985. A press statement by the Minister of Trade and Industry had suggested that performance-based export incentives would be extended until 1 April 1987. He expressed his wish to reserve his right to come back to this question subsequently.

17. The representative of New Zealand informed the Committee that a new Government was in office in New Zealand and that the first budget would not be available until November 1984. This could have a bearing on his Government’s notifications pursuant to Article XVI:1 recently sent to the secretariat. He nevertheless stressed that New Zealand was prepared to meet its notification obligations in full and that his Government had embarked on a liberalization exercise aimed at avoiding artificial support measures. Referring to the notifications he indicated that four out of the nine schemes notified previously had been terminated altogether; of the remaining schemes that were listed in the reservation made upon acceptance of the Code, the Export Suspensory Loan was to be terminated on 31 March 1985; two other schemes were currently under review and announcements would be made in the budget. The Export Performance Taxation Incentive which was to terminate on 31 March 1987 was not in New Zealand’s reservation as it fell within item (e) of the Illustrative List. The impact of this scheme would be reduced by 50 per cent as of 31 March 1985. His authorities regarded this as a major step given the current circumstances. The Chairman said that the Committee might come back to this question at its December 1984 meeting.

(d) Legislation of the EEC (SCM/1/Add.1/Suppl.3)

18. The Chairman recalled that the EEC had submitted an amended version of its countervailing duty legislation which had been circulated as SCM/1/Add.1/Suppl.3.

19. The representative of Australia indicated his delegation’s intention to review this legislation and raise questions at a later date.

20. The representative of Brazil said that the amended legislation introduced by the EEC incorporated substantial modifications, some of them at complete variance with the provisions of the Code. He specifically referred to provisions 7.1(c) and 12 whereby countervailing duties could be imposed on products that had benefited from subsidization, no matter how long ago. The regulations therefore established the right to punish an old action that no longer existed at the moment of preliminary or final determination. Based on the new regulation, the EEC authorities were inclined to impose countervailing duties, with the suspension of the collection of duties when no subsidies presently existed. There was already a case concerning
Brazilian soya bean products, and he challenged the legality of this procedure. In his view the Code was clear concerning situations in which countervailing duties should not be imposed; Articles 2:12, 4:3 and 4:4 attested to this effect. He also noted that the word "shall" in Article 12 of the EEC legislation precluded the flexibility provided for in Article 4:4 of the Code where the term "may" was used. He finally reserved his delegation's right to come back to this matter in the future.

21. The representative of the EEC explained that the remarks of the representative of Brazil were partly based on a misunderstanding. Most of the provisions in SCM/1/Add.1/Suppl.3 were not new. Article 7:1(c) obviously referred to a period before the initiation of the investigation, and the fact that there was not a ceiling date before the six month period does not necessarily mean that the EEC would examine the existence of subsidization many years previous to the initiation. Moreover, the existence of injury had to be proved at the moment of initiation of the proceedings, and findings were always subject to review. With regard to the comments on Article 12 of the legislation he made it clear that the terms "shall be imposed" did not imply automaticity nor did this provision violate the Code. He finally stressed that it was not possible to apply countervailing duties when the subsidy had been withdrawn. The representative of Brazil sustained that innovations had been introduced to Articles 12 and 7:1(c) of the EEC legislation which were not in conformity with Articles 2:12 and 4:4 of the Code. He agreed with the EEC delegation that when subsidies no longer existed or had been withdrawn, no action was possible but in real practice countervailing duties had been imposed upon certain Brazilian exports on the basis of the amended Articles 12 and 7:1(c), see also paragraph 39 below. The representative of the EEC said that the new regulations dated 23 July 1984 and that since then no countervailing duty had been imposed on Brazilian soya products.

(e) Legislation of Chile (SCM/1/Add.16/Corr.2)

22. The Chairman drew the Committee's attention to a document circulated by Chile (SCM/1/Add.16/Corr.2) where certain modifications had been introduced to its legislation. No requests for the floor were made.

(f) Other legislations

23. The Chairman reminded signatories who had not yet notified the Committee of their actions under Article 19:5 of the Code to do so without further delay.

24. The representative of the United States informed the Committee that on 30 October 1984 the President of the United States had signed the Trade and Tariff Act of 1984. Copies of the legislation would be circulated for the examination of delegations. His delegation would also be prepared to discuss any matters of interest, related to the legislation, either bilaterally or in the Committee.

25. The representative of Canada informed the Committee that the special Import Measures Act of Canada had been passed by Parliament in July 1984; the regulations were being approved by the Council and he expected the Act to be in force by mid-November.
26. The Chairman said that the Committee should maintain this item on the agenda in order to allow signatories to revert to particular aspects of some legislations at a later stage, or in the light of the actual implementation of legislations.

C. Notification of subsidies (SCM/W/76, SCM/W/49 and addenda)

27. The Chairman reminded the Committee that in 1984, in accordance with the Decision of the CONTRACTING PARTIES at their twentieth session, contacting parties should submit new and full notifications on their subsidies presently granted or maintained. Given the importance the Committee attaches to the question of transparency, signatories were expected to make their best efforts to notify promptly and in as comprehensive a manner as possible their subsidies on agricultural and industrial products. Unfortunately, not all signatories had fulfilled their obligation under Article XVI:1 and therefore he had had to postpone the special meeting on notifications until 4 December 1984. He strongly appealed to those signatories which had not submitted their notifications to do so without further delay. These notifications were indeed very important, particularly in view of the strains the multilateral trading system was subjected to and the distortions resulting from the non-fulfilment of obligations. No further work could be commenced until notifications were made. The Chairman made it clear that notifications under Article XVI:1 were not Code-specific as they were required under the General Agreement, however, signatories of the Code should feel especially obliged to notify. Referring to the present status of notifications, a summary table could be found in Annex II to document SCM/W/80. Apart from the countries listed therein, Spain had recently submitted its notification. The Committee agreed to postpone its special meeting on notifications until 4 December 1984.

28. The representative of Japan informed the Committee that his delegation would submit its notifications very soon. The Chairman welcomed this announcement and requested the representative of Japan to convey to his authorities that the Committee attached great importance to promptly receiving a detailed notification.

29. The Chairman also said that pursuant to the decision of the Committee taken at its meeting of 17 November 1983, signatories had been invited to submit written comments on points raised in document SCM/45 (reproduced in the annex to document SCM/49). So far only the EEC, the Nordic countries, Canada and the United States had responded to this request. The relevant documents (SCM/49 and addenda) had been circulated to the Committee. It was highly regrettable that other signatories, especially some of those who insisted on the importance of improving the quality of notifications, had not made their contributions. He would therefore strongly appeal to the signatories to submit their comments on points raised in SCM/45 without further delay so that the secretariat could circulate them to the Committee in order to have a substantial discussion of the matter at its December 1984 meeting.

30. The representative of Canada wondered whether the secretariat could put together points in the addenda to SCM/49 in a single analytical paper to facilitate discussions at the December meeting. The Chairman said that this had indeed been the original objective of the secretariat and again encouraged delegations to send their comments as promptly as possible.
31. The Chairman drew the Committee's attention to the fact that an invitation to submit semi-annual reports under Article 2:16 of the Agreement had been circulated in SCM/50 on 2 August 1984. Responses to this request had been issued in addenda to this document. The following signatories had notified the Committee that they had not taken any countervailing duty action during the period 1 January-30 June 1984: Austria, Brazil, Egypt, Finland, India, Korea, New Zealand, Norway, Pakistan, Spain, Sweden, Switzerland, United Kingdom on behalf of Hong Kong, Uruguay and Yugoslavia (SCM/50/Add.1). Countervailing duty actions had been notified by Australia, Canada, Chile the EEC, Japan and the United States. He proposed to discuss these reports in the order in which they had been submitted.

Chile (SCM/50/Add.2)

32. The representative of the United States referred to some cases concerning detonating fuses, flags and ceramic tiles, corn starch, glucose, copper sulphate, dynamite and blasting cords. The Central Bank of Chile had announced minimum landed import prices on these items in the "Diario Oficial" on 31 August and 22 September 1984. Her delegation was concerned about these recent developments and also about duty increases which had been made on an m.f.n. basis, i.e. not limited to the countries whose exports were found to be subsidized; unsubsidized exports from the United States had also been affected. If the effect of the minimum prices was to raise the duty above the GATT-bound rate, this was contrary to the General Agreement. She requested clarification on these questions.

33. The representative of Chile recalled that in a previous meeting of the Committee he had explained in detail the motives behind a temporary increase in the customs duty which was applied on a m.f.n. basis. He said that as of mid-September 1984, his Government had increased its tariff level to 35 per cent which was the maximum level permitted under the Chilean GATT schedule; a notification regarding the new tariff level had been made. This measure had brought along the elimination of all the temporary increases in certain custom duties. As to the point regarding the minimum import prices it was his understanding that this should not be interpreted as an increase in duties or an erosion of Chilean obligations; it was a customs valuation decision aimed at solving certain problems under- and over-invoicing between associated companies. He hoped these measures would not be prejudicial to other delegations and showed his willingness to hold consultations, clarify any outstanding doubts and solve any problems.

34. The representative of the United States insisted that in the notice of the Central Bank of Chile it was stated that the minimum import prices had been enacted to offset subsidized exports. She hoped that these minimum prices would be implemented in a manner consistent with the Valuation Code. Finally, she wondered whether the countervailing duties would in future be implemented without the imposition of measures on a global basis because the Chilean tariff level had reached the maximum permitted under the General Agreement.
35. The representative of Chile, referring to the Central Bank notice, indicated that he remembered one case where a reference to subsidized exports had been made, but that at any rate any such references had probably been aimed at shedding light on the case and not at justifying the measures. As to the second point raised, he said that the existing national tariff level in Chile would not permit the application of tariff surcharges. The Chairman, in summarizing the discussion, pointed out that contracting parties had obligations under Article VII of the GATT even if they were not members of the Customs Valuation Code. He invited the Chilean delegate to transmit to his capital the concerns of the United States representative. The representatives of the EEC requested clarification as to whether Chile would, in fact, notify these measures. The representative of Australia wished to express his concern with the explanations of the Chilean delegation which seemed to allow Chile to exercise its rights under Articles XXVIII, VI and VII while not observing the concomitant obligations. If he had correctly understood the Chilean view, it would be possible to apply an unconditional m.f.n. solution under Articles VII and XXVIII whereas the solution to injurious subsidized imports must be a conditional m.f.n. one as provided for under Article VI of the General Agreement and the Code.

36. The representative of Chile said that the information on the minimum import prices was public as it appeared in the "Diario Oficial" and that it was not intended to be notified. He also disagreed with the representative of Australia, as in his view the right to increase duties was not in contradiction with the Code. The Chairman invited the Committee to take note of the discussion and to revert to this item at the next meeting.

United States (SCM/50/Add.3)

37. The representative of the EEC referred to two cases concerning float glass products from the United Kingdom and the Federal Republic of Germany where no injury determination had been reached despite the fact that the cases dated back to mid-1976. He recalled that he had raised this issue at the previous meeting the written reply received from the United States administration had not satisfied his delegation which still considered it very serious that the ITC had not yet made an injury determination. He was aware of the internal constraints faced by the United States administration but this was no excuse for not carrying out an injury test. He reserved his right to revert to this matter and indicated that he would pursue this matter on a bilateral basis.

38. The representative of the United States informed the Committee that injury determinations were made by the ITC in the order in which the cases were received and that the EEC cases would be considered in May 1985. The representative of the EEC reiterated his concern and stressed that this situation constituted a serious breach of the international obligations.

Australia (SCM/50/Add.)

No comments.

Japan (SCM/50/Add.5)

No comments
39. The representative of Brazil said that in his previous intervention relating to soya products he had referred to a pending investigation and not to a final determination. The Chairman added that the Brazilian intervention related to column 3 of the semi-annual report; the initiation dated back to 17 March 1984 and during the period under review, it had come under the purview of the amended EEC legislation which went into effect in August.

Canada (SCM/50/Add.7)

No comments.

E. Reports on all preliminary or final countervailing duty actions (SCM/W/72, 73 and 77)

40. The Chairman said that notifications under these procedures had been received from Canada, the EEC and the United States.

F. Report of the Group of Experts on the Calculation of the Amount of a Subsidy

41. The Chairman recalled that the Group had submitted to the Committee two draft guidelines:

(a) Determination of Substitution Drawback Systems as Export Subsidies (SCM/W/71)

(b) Physical Incorporation (SCM/W/74)

He invited comments from the floor on the first document (SCM/W/71).

42. The representative of Canada expressed his hope that the Group of Experts would continue to examine related subjects, such as time periods and export incentive effects, as they were important for all participants. He was in favour of adopting the document. The Chairman associated himself with the views of the Canadian delegation and indicated that issues not covered in the document would continue to be discussed; the adoption of SCM/W/71 did not preclude the examination of similar subjects at subsequent stages.

43. The representative of Austria stated that he had transmitted the drafts to his capital; as no reply had been received, he considered the matter settled and consequently was in favour of adoption. Nevertheless, he wished to reserve his right to come back to this issue if the need arose.

44. The representative of Chile, while finding the two documents before the Committee very useful, noted that none of them dealt with the mandate of the Group, namely, to work on the calculation of the amount of a subsidy. He urged the Group to expedite its work on the latter so that the Committee could have before it the pertinent draft recommendation. On the possibility of setting up verification systems as suggested in both documents, he foresaw some difficulties of a technical and practical nature for developing countries which applied drawback and physical incorporation systems. Consequently, he considered that the application of verification systems in some developing countries would probably be very limited, at least during the initial stages.
45. The Chairman referred to the first point raised by the Chilean delegation and noted that the Group of Experts had been working very hard and had made sincere attempts to discharge its duties; because of the complexity of the matters, the efforts made had not resulted in a larger number of recommendations. Nevertheless, his concern would be transmitted to the Group of Experts and note would be taken of his second point regarding verification systems in Chile. The Committee adopted the draft guidelines on Determination of Substitution Drawback Systems as Export Subsidies (SCM/W/71).

46. On the second draft guideline (SCM/W/74), the representative of the EEC stated that his delegation had consulted EEC customs experts who had pointed out that in the Kyoto Convention of the CCC a different treatment of catalysts was provided for. In the draft guidelines on Physical Incorporation (SCM/W/74), catalysts which were used in the manufacturing process but which were not present in the final product were not to be considered as being physically incorporated. He suggested that a footnote be added to paragraph 3 on page 2 of the document, as follows: "However, those inputs such as catalysts which are consumed in the course of their use to obtain the exported product and which are not mere aids to manufacture should be considered as incorporated in the final product". This wording was based on the language used in the Kyoto Convention (Annexes E4 and E6).

47. The Chairman said it was unclear how many signatories were members of the Kyoto Convention. He wondered whether delegations needed to reflect on the suggested footnote.

48. The representative of the United States shared the view expressed by the Chairman as to the need to consider the additional footnote; he suggested to send the document back to the Group of Experts. It was so agreed.

49. The representative of Canada reiterated his view that adopted guidelines constituted agreed interpretations of the obligations and rights under the Code. While these interpretations did not add nor detract from those rights, they did constitute an agreement as to the way in which signatories would exercise apply those rights; if signatories did not abide by these interpretations, there could be reason for subsequent action under the Code. The Chairman recalled that there was an understanding on the status of these guidelines and that in the Anti-Dumping Committee the issue of non-compliance with the guidelines had been raised. In his view, during the course of implementation of the guidelines, they would be given the appropriate status and weight they deserved.

G. Annual review and the report to the CONTRACTING PARTIES

50. The Committee adopted the final report, the full text of which appears in document L/5719.

51. The following statements were made with respect to certain paragraphs of the report:

(a) The representative of the United States reiterated his sincere hope that countries who had not yet notified their subsidies would do so without delay. He deeply regretted that one month before the special meeting of the Committee, three countries had not yet fulfilled their obligations
under the Code. As Japan would be notifying shortly, he hoped the same would be true for Brazil and Egypt. Referring to Annex I of the report he invited other delegations to submit the figures corresponding to the last column "outstanding countervailing duty actions" as it was not equitable that only the figures for his country appeared thereon.

(b) The observer for Colombia indicated that his delegation would have wished to see a more specific reference in the report to the problems of accession of developing countries but that in view of the fact that consultations were in progress, he would not insist on this.

H. Other business

(a) Reservation by Spain (SCM/25)

52. The Chairman recalled that at its meeting of 29 April 1982 the Committee had decided to consent to the entering of a reservation by Spain, the text of which could be found in L/5517, subject to the condition that this reservation should be withdrawn not later than 31 December 1984. As this date was approaching he asked the representative of Spain to explain the position of his Government.

53. The representative of Spain explained to the Committee the reasons for entering of the reservation by his Government and the Decision of the Committee (SCM/25). He further explained that the Spanish Government, in pursuance of its acquired obligations, had submitted to the Cortes in June 1982 draft legislation aimed at substituting in the Spanish fiscal system the cumulative indirect taxes by the value added taxes. However, in view of the fact that the Cortes had been dissolved, the new Government had to withdraw the draft legislation. Thereafter, the new Government had intensified its efforts to adapt the legislation to the Code; a reduction of 15 per cent in the export tax exemption rate had been enforced on 20 June 1984, a bill on the tax on sales of firms was to be passed shortly and, finally, the Government would submit, before the end of the year, a second bill on the introduction of the VAT. These actions were concrete steps paving the way for the entry into force of the VAT on 1 January 1986 and to ensure full conformity of the legislation with the Code. His delegation consequently found it appropriate to request an extension of the reservation until 31 December 1985.

54. The representative of the United States expressed his concern with the importance of compliance with obligations under the Code and the serious questions raised by Spain's request for an extension of its reservation. She proposed to postpone the examination of this matter until the December meeting of the Committee as her Government needed further time to consider the basic policy issues raised by this request. The representative of Australia, shared the views of the previous speaker regarding the need for further time although he explained that his position should not be understood at this stage as implying a rejection of the request.

55. The representative of Spain expressed his hope that the matter would be settled at the December meeting for it would otherwise be very difficult for his Government if it had to leave the Code, to resist the pressure of those sectors which claimed that the Government should disregard the provisions of
the Code and pursue a more active countervailing policy. The Chairman concluded that the request by Spain would be included in the agenda of the December 1984 meeting and offered his good offices in the event that informal consultations proved necessary.

(b) The United States Trade and Tariff Act of 1984

56. The representative of the EEC referred to the Trade and Tariff Act of 1984 a provision of which gave particular rise to concern, namely the definition of "industry" which in respect of wine and grape products included producers of the main agricultural input, i.e. grape growers. This was an unprecedented piece of legislation for it implied an ex post facto correction of an ITC decision which had been taken in full conformity with the US international obligations, it constituted a manifest violation of international rules about which there were no disagreements, namely the definition of industry included in the Code, and it was a deliberate breach of international law. Moreover it was an important violation since not only did it directly concern the wine exporting interests of the Community and of other signatories, but it also set a dangerous precedent in respect of other industries and for other provisions of the Code. The EEC requested the Chairman to convene a special meeting under Article 16 not later than 16 November 1984. Failing a mutually agreed solution, which he nevertheless hoped to achieve, his delegation would expect this matter to be referred to the Committee for conciliation under Article 17 in early December.

57. The representative of the United States was surprised to hear a request for consultation on a law which had been enacted only two days ago and which had not yet been notified to the Committee. A number of provisions in the amended legislation, if read in the presently available form of a conference report, were very confusing. He consequently proposed to notify all provisions which have an impact on the Code, leaving some time for delegations to examine the question and then revert to it again under the standard agenda item "Examination of national legislations". Moreover, no countervailing duty investigation was pending at the moment under the new law.

58. The Chairman distinguished between the right of any signatory of the Code to seek consultations as envisaged in Article 16:1, and the practical difficulty emanating from the lack of availability of relevant documentation. As to whether it was necessary to hold special consultations or to follow the standard procedure, he noted that in the normal course the standard procedure could certainly be followed but perhaps there was a different situation now as one delegation had specifically requested consultations by the Committee under Article 16:1. It appeared that the request for consultations should be granted; he invited delegations to comment on this point.

59. The representative of Australia agreed entirely with the Chairman's summation on the legal issues but wondered whether in the time-frame suggested by the EEC the Committee could adequately address the matter. He added that if as a result of undue haste the Committee was inadequately prepared to effectively discharge its responsibilities under Articles 16 and 17 the effectiveness of the Code would be put under additional and possibly unnecessary strain. It would be preferable, he suggested, to be less ambitious regarding the time frame while still achieving the objectives that the EEC and other signatories including his own wished to achieve.
60. The representative of the United States made it clear that he had never denied the EEC's right for consultations; the question was whether the Committee should depart from the standard procedure. Since the general feeling was that consultations should be held, he simply wanted to underline that it was unprecedented to request consultations within two weeks. His delegation would not be ready for consultations on 16 November.

61. The representative of the United States recalled that other consultation articles in the Code provided for delays of thirty and sixty days, and yet the EEC was requesting only two weeks for a measure which had just been introduced, without any practical application, and where no countervailing action had been taken. He expressed his concern about setting a precedent of having a two week delay between the time for request and the Committee meeting.

62. The Chairman invited the Committee to agree to the EEC request to convene a meeting to afford signatories the opportunity of consulting as envisaged in Article 16:1, and to authorize the chair to expeditiously hold informal consultations with interested delegations with a view to determining the precise timing and other related issues. It was so decided.

63. The representative of Brazil reserved his right to come back to the new United States legislation when it would be examined under the standard agenda item of the Committee. The Chairman confirmed that this was true for all delegations.

(c) Canada-EEC consultations on imports of beef

64. The representative of Canada, referring to the notification contained in SCM/51, reported that his delegation had held consultations with the EEC, and that it was his intention to continue to pursue these consultations bilaterally with a view to resolving the problem. However, depending on subsequent developments, his delegation may invoke its right to conciliation and dispute settlement under Part IV of the Code.

Date of the next meeting

According to the decision taken by the Committee at its April 1981 meeting (SCM/M/6, paragraph 36), the next regular session of the Committee will take place in the week of 22 April 1985.