1. The Committee on Subsidies and Countervailing Measures held its eighth meeting on 27 October 1981. The participation in the meeting was limited to the Signatories only.

2. The purpose of this meeting was to discuss a statement made by Australia on its acceptance of the Agreement (SCM/9).

3. The Chairman referred to the statement made by Australia (SCM/9) and asked the representative of Australia whether he wished to comment on this statement.

4. The representative of Australia said that his reply in a sense was completely in the dark because he did not know the present position of the members of the Committee. However, in reply to the Chairman's question, and in fact in reply to an invitation from the Committee, he was instructed to make a formal statement for the record that Australia's statement on acceptance of the Agreement on Interpretation and Application of Article VI, XVI and XXIII of the General Agreement on Tariffs and Trade as circulated in SCM/9, did not constitute a reservation under the code and that it would not be claimed as such by Australia. Australia saw that statement as having the same status and conferring the same benefits as the relevant footnotes to the Annex to the Code which covered practices of certain other Signatories.

5. The Chairman read the text of a draft decision by the Committee with respect to the acceptance of the Agreement by Australia. The Committee adopted this decision (SCM/14).

6. The representative of Australia said that he was not quite sure of his status. He certainly took it that Australia had not been a member of the Committee when this decision had been made and therefore he was commenting from a somewhat odd situation. He considered it was not normal GATT practice to take a formal decision when somebody signed an Agreement. Secondly, he was not sure that the Committee had been acting within its rights and powers in making such a decision as set out in the second paragraph of the text just adopted. He had made it clear that Australia was not making a reservation and Australia would not claim the statement as a reservation in the future. That was a simple legal fact. It hardly seemed to him fit for the Committee to take a decision in this respect and even less proper to take a decision as set out in the second part of the second paragraph, namely that the statement could not be claimed as a reservation by Australia. That was a legal finding...
which he thought the Committee was not entitled to make. It seemed to him, therefore, that for the Committee to go ahead and take such a decision was gratuitous and almost insulting. If a country had said it would not claim a statement as a reservation, it did appear completely gratuitous for the Committee to purport to decide that such a country would not claim it as a reservation. If Australia wished to exercise its legal rights under the Agreement, - both the Agreement on Subsidies and the General Agreement - it would proceed to do so and it would not be for the Committee to say that Australia could not do it. Furthermore, in relation to the third paragraph of the Decision he said that he found it gratuitous too. If Australia had signed and accepted an Agreement, then that Agreement would apply to Australia and Australia would apply that Agreement. It was equally, therefore, gratuitous and again insulting for somebody to say that the Agreement would fully apply as if there was a question of it not being fully applied. He also said that it seemed gratuitous to say that Australia would fully apply the Agreement including the Annex and footnotes, when by definition under Article 19:10 of the Agreement itself those were an integral part of the Agreement. For those reasons he wished to register a very grave concern at the procedure which had been followed by the Committee.

7. The representative of the European Communities noted that the decision had been taken by the Committee and expressed his full agreement with it. He had been surprised to hear the representative of Australia use such words as "gratuitous" and "insulting". On his part there was also disappointment; he observed that the situation derived from the ambiguous attitude of Australia, which had never been satisfactorily clarified. He recalled that in another case of acceptance recently examined, the situation was perfectly clear. He noted that the representative of Australia regarded his statement of 28 September as having the same status and conferring the same benefits as the relevant footnotes to the Annex to the Agreement, which covered practices of certain other Signatories. He wished it to be stated in the record that a unilateral statement could not have the same status or confer the same benefits as the footnotes to the Agreement. This followed directly from Australia's full and unconditional acceptance of the Agreement. That being so Australia could, of course, resort to the footnotes in question like any other Signatory could - no more, no less.

8. The representative of Sweden speaking on behalf of the Nordic countries said that the Nordic countries welcomed the acceptance by Australia of the Agreement on Subsidies and Countervailing Measures as it strengthened disciplines in this important area of international trade. This being said he wished to point out that by accepting the Agreement without reservations the Government of Australia had also accepted the Annexes of the Agreement which constituted an integral part thereof. The Nordic countries therefore considered that the interpretation given by Australia in the second part of its formal statement at the meeting was a unilateral interpretation of the Agreement in which the Governments of the Nordic countries did not concur.

9. The representative of Chile welcomed very much the acceptance of the Agreement by Australia and fully shared the views of the representative of Sweden in that this went a long way to strengthen the multilateral disciplines envisaged in the Agreement. He thought that as in the case of New Zealand the Committee should be grateful to the double standards applied by the United States which had in many ways helped to encourage some countries to
join the Agreement. Otherwise he did not think that the policies of the United States Government in this respect were commendable. He wished to state, for the record, that he agreed with other delegations in the sense that unilateral interpretations of particular provisions of the Agreement were not valid since it was only the Committee which was empowered to interpret in an authentic way the provisions of the Agreement.

10. The representative of Brazil welcomed the acceptance by Australia of the Agreement. He also shared the views expressed by Chile and Sweden that any interpretation that Australia might have in respect of the Agreement was unilateral because it was up to the Committee to decide, at the appropriate time, whether Australian subsidies or any other measures in that area fell within the Agreement, including its Annex and footnotes.

11. The representative of Austria welcomed Australia as a new Signatory to the Agreement. He hoped this would strengthen the international discipline but as there had not yet been any experience as far as the practical implication's of Australia's acceptance was concerned he wished to reserve all rights covered by the Agreement whenever Australian measures would adversely affect his country's exports to Australia.

12. The representative of Switzerland welcomed Australia among the members of this Committee and recalled that his delegation had always underlined the importance of having as wide a membership as possible in the Agreements negotiated in the Tokyo Round. He wished to put on record that the second part of the declaration made at this meeting by Australia was a unilateral interpretation of a particular provision of the Agreement and had no legal effects.

13. The representative of the United Kingdom speaking for Hong Kong welcomed the acceptance of the Agreement by Australia. Referring to the statement by Australia set out in SCM/9 he noted that this statement was without prejudice to the rights of other Signatories under the General Agreement or the Agreement on Subsidies and Countervailing Duties. He agreed with the statement made by the representative of Chile on the question of unilateral interpretation of the Code.

14. The Chairman said that all statements made would be recorded in the minutes of the meeting. He also noted that Signatories had welcomed the acceptance of the Agreement by Australia as an important step towards strengthening the international discipline in this field and he wished to associate himself with these feelings. He said that statements made by Signatories had underlined the fact that unilateral interpretations of the provisions of an Agreement could not be authoritative, nor could they bind Signatories. The only authoritative interpretations were those made by the Committee which was entrusted with the implementation of the Agreement.