

WORLD TRADE ORGANIZATION

RESTRICTED

G/ADP/M/10

24 September 1997

(97-3952)

Committee on Anti-Dumping Practices

MINUTES OF THE REGULAR MEETING HELD ON 28-29 APRIL 1997

Chairman: Mr Ole Lundby (Norway)

1. The Committee on Anti-Dumping Practices (the "Committee") held its regular meeting on 28-29 April 1997.

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A. Observers: International Intergovernmental Organizations

3. The Chairman recalled that, under the procedures adopted by the General Council for observer status for international intergovernmental organizations (WT/L/161, Annex 3), requests for observer status were to be considered on a case-by-case basis by each WTO body to which a request had been addressed, taking into account such criteria as the nature of the work of the organization concerned, the nature of its membership, the number of WTO Members in the organization, reciprocity with respect to access to proceedings, documents and other aspects of observership, and whether the organization had been involved in the past with the work of the GATT. At its meeting on 7 February, the General Council had noted that the IMF and the World Bank had been given observer status in WTO bodies pursuant to the Agreements between the WTO and these two institutions. With regard to other international intergovernmental organizations, the General Council had agreed: (a) that the organizations which already had observer status in the General Council on an ad hoc basis be granted observer status immediately; (b) that for international intergovernmental organizations whose requests had not yet been considered the Chairman would conduct consultations; (c) to invite the other WTO bodies to proceed in a similar way. As indicated in document G/ADP/W/402, the ACP Group, IMF, OECD, UNCTAD, and World Bank had requested observer status in this Committee.

4. The Committee took note of the observer status of the IMF and the World Bank. The Committee further decided to grant regular observer status to UNCTAD, on the basis that there would be reciprocity with respect to documents, proceedings and other aspects of observership.

5. With respect to the request by the OECD, the representative of Brazil indicated that further analysis was required before the Committee could decide on observer status for the OECD.

6. The delegate of Thailand, speaking on behalf of the ASEAN countries, noted that the request for observer status by the Committee on Subsidies and Countervailing Measures, which also operated in the Rules area had not been decided by the OECD. He suggested that the Committee delay its decision until the related SCM Committee had reviewed the matter.

7. The representatives of India, Pakistan, and Sri Lanka expressed similar concerns, and supported the suggestion that the Committee delay its decision on the request of the OECD pending further discussions.

8. The Chairman proposed that the Committee defer action on the OECD's request for observer status until a later date, but continue to allow the OECD observer status on an ad hoc basis.

9. The Committee so decided.

10. Turning to the ACP Group's request, the Chairman indicated that the ACP Group had requested observer status in several WTO bodies and that the Chairmen of those bodies were consulting with Members regarding the request. The Chairman proposed to conduct similar consultations with respect to the ACP Group's request for observer status in this Committee.

11. The Committee so decided.

B. National Legislations

- Review of New or Amended Notifications not previously reviewed by the Committee

12. The Chairman recalled that questions concerning newly notified legislations were to have been submitted to the Member concerned and to the Secretariat by 7 April 1997. While most questions were received by the Secretariat after that date, overall the situation of late submissions was not as bad as it has been in the past. The Chairman urged Members to continue to improve in this regard as review of legislation remained an important aspect of the Committee's work, and would remain a regular item on the Committee's agenda.

13. The Chairman reminded Members that, if written answers to questions asked orally at the meeting were desired, those questions were to be submitted in writing to the Member whose legislation was concerned, and to the Secretariat, no later than 26 May 1997. Written answers to all questions were to have been submitted to the Secretariat no later than 30 June 1997.

14. The questions regarding the notification of Brunei Darussalam can be found in the following document:

G/ADP/Q1/BRN/1 submitted by Hong Kong

NO WRITTEN ANSWERS HAVE YET BEEN PROVIDED BY BRUNEI DARUSSALAM.

15. The questions regarding the notification of Fiji can be found in the following document:

G/ADP/Q1/FJI/1 submitted by Hong Kong

The Committee took note of the fact that Fiji was not represented at the meeting.

NO WRITTEN ANSWERS HAVE YET BEEN PROVIDED BY FIJI.

16. The questions regarding the notification of Guatemala can be found in the following documents:

G/ADP/Q1/GTM/1	submitted by Mexico
G/ADP/Q1/GTM/2	submitted by Canada
G/ADP/Q1/GTM/3	submitted by the United States
G/ADP/Q1/GTM/4	submitted by Hong Kong
G/ADP/Q1/GTM/5	follow up questions submitted by Hong Kong
G/ADP/Q1/GTM/6	submitted by Korea

NO WRITTEN ANSWERS HAVE YET BEEN PROVIDED BY GUATEMALA.

17. The questions regarding the notification of India can be found in the following documents:

G/ADP/Q1/IND/3	submitted by Canada
G/ADP/Q1/IND/4	submitted by the United States

The answers provided by India to these questions can be found in the following document:

G/ADP/Q1/IND/5 to Canada and the United States.

18. The questions regarding the notification of Indonesia can be found in the following documents:

G/ADP/Q1/IDN/1	submitted by the European Community
G/ADP/Q1/IDN/2	submitted by Turkey
G/ADP/Q1/IDN/3	submitted by the United States
G/ADP/Q1/IDN/4	submitted by Hong Kong
G/ADP/Q1/IDN/5	submitted by Korea
G/ADP/Q1/IDN/7	supplementary question submitted by the European Community

The answers provided by Indonesia to these questions can be found in the following document:

G/ADP/Q1/IDN/6 to the EC, Turkey, the United States, Hong Kong, and Korea

NO WRITTEN ANSWERS HAVE YET BEEN PROVIDED TO THE SUPPLEMENTARY QUESTION SUBMITTED BY THE EUROPEAN COMMUNITY.

19. No questions were asked concerning the notification of Japan.

20. The questions regarding the notification of Korea can be found in the following documents:

G/ADP/Q1/KOR/1	submitted by Canada
G/ADP/Q1/KOR/2	submitted by the European Community
G/ADP/Q1/KOR/3	submitted by Turkey
G/ADP/Q1/KOR/4	submitted by the United States
G/ADP/Q1/KOR/5	submitted by Mexico
G/ADP/Q1/KOR/6	submitted by Chile
G/ADP/Q1/KOR/7	follow up questions submitted by the European Community
G/ADP/Q1/KOR/8	follow up questions submitted by Chile

The answers provided by Korea can be found in the following document:

G/ADP/Q1/KOR/9 to ALL

21. The questions regarding the notification of Liechtenstein can be found in the following document:

G/ADP/Q1/LIE/1 submitted by Hong Kong

The answers provided by Liechtenstein can be found in the following document:

G/ADP/Q1/LIE/2 to Hong Kong

22. The questions regarding the notification of Singapore can be found in the following documents:

G/ADP/Q1/SGP/2 submitted by Canada

G/ADP/Q1/SGP/3 submitted by Turkey

G/ADP/Q1/SGP/4 submitted by the United States

G/ADP/Q1/SGP/5 submitted by Hong Kong

G/ADP/Q1/SGP/6 submitted by Canada

G/ADP/Q1/SGP/7 submitted by Korea

The answers provided by Singapore can be found in the following document:

G/ADP/Q1/SGP/8 to ALL

23. The questions regarding the notification of Thailand can be found in the following documents:

G/ADP/Q1/THA/1 submitted by Poland

G/ADP/Q1/THA/2 submitted by Canada

G/ADP/Q1/THA/3 submitted by the European Community

G/ADP/Q1/THA/4 submitted by Turkey

G/ADP/Q1/THA/5 submitted by the United States

G/ADP/Q1/THA/6 submitted by Hong Kong

G/ADP/Q1/THA/7 submitted by Korea

G/ADP/Q1/THA/8 follow up questions submitted by the European Community

NO WRITTEN ANSWERS HAVE YET BEEN PROVIDED BY THAILAND.

24. The questions regarding the notification of Uganda can be found in the following documents:

G/ADP/Q1/UGA/1 submitted by the United States

G/ADP/Q1/UGA/2 submitted by Hong Kong

G/ADP/Q1/UGA/3 submitted by Korea

The Committee took note of the fact that Uganda was not represented at the meeting.

The answers provided by Uganda can be found in the following document:

G/ADP/Q1/UGA/4 to ALL

25. The questions regarding the notification of Uruguay can be found in the following documents:

G/ADP/Q1/URY/2 submitted by the United States

G/ADP/Q1/URY/3 submitted by Hong Kong

G/ADP/Q1/URY/4 submitted by Mexico

G/ADP/Q1/URY/5 submitted by Chile

G/ADP/Q1/URY/6 submitted by Korea
G/ADP/Q1/URY/7 submitted by Canada

The answers provided by Uruguay can be found in the following document:

G/ADP/Q1/URY/8 to ALL

- Review of Notifications that have already been reviewed by the Committee

26. The Chairman recalled that follow-up questions concerning a number of legislations that had already been reviewed by the Committee were received too late to place the notifications on the agenda of the Committee's meeting last October in accordance with the procedures agreed on by the Committee. Those notifications, and the questions and answers concerning them, were thus included on the agenda for the present meeting. In addition, the delegate of Israel had been unable to be present at the October meeting, and the Committee had agreed to put the review of Israel's legislation on the agenda of this meeting.

27. The follow up questions regarding the notification of Canada can be found in the following documents:

G/ADP/Q1/CAN/1 submitted by Hong Kong
G/ADP/Q1/CAN/4 submitted by Hong Kong.

The answers provided by Canada can be found in the following documents:

G/ADP/Q1/CAN/3 to Hong Kong
G/ADP/Q1/CAN/5 to Hong Kong

28. The follow up questions to the European Community can be found in the following documents:

G/ADP/Q1/EEC/1 submitted by Hong Kong
G/ADP/Q1/EEC/4 submitted by Hong Kong.

The answers provided by the European Community to the questions found in document G/ADP/Q1/EEC/1 can be found in the following document:

G/ADP/Q1/EEC/3

NO WRITTEN ANSWERS HAVE YET BEEN PROVIDED BY THE EUROPEAN COMMUNITY TO THE QUESTIONS FOUND IN DOCUMENT G/ADP/Q1/EEC/4.

29. The Chairman informed the Committee that Israel was not represented at the meeting because of a national holiday in Israel. The Chairman stated that the representative of Israel had undertaken to address the questions regarding its notification at the meeting of the Committee on Subsidies and Countervailing Measures later in the week. The Committee took note of Israel's absence.¹

¹Israel responded to questions at the meeting of the Committee on Subsidies and Countervailing Measures held on 1-2 May 1997. See document G/SCM/M/14 at ¶¶ 20-21.

30. The questions regarding the notification of Israel can be found in the following documents:

G/ADP/Q1/ISR/1 submitted by the United States
G/ADP/Q1/ISR/2 submitted by the European Community
G/ADP/Q1/ISR/3 submitted by Japan

The answers provided by Israel can be found in the following document:

G/ADP/Q1/ISR/4 to ALL

31. The follow up questions to New Zealand can be found in the following document:

G/ADP/Q1/NZL/1 submitted by Hong Kong

The answers provided by New Zealand can be found in the following document:

G/ADP/Q1/NZL/2 to Hong Kong

32. The follow up questions to the United States can be found in the following document:

G/ADP/Q1/USA/1 submitted by Hong Kong

The answers provided by the United States can be found in the following document:

G/ADP/Q1/USA/2 to Hong Kong

33. The Chairman reminded Members that, in the Ministerial Declaration adopted at Singapore last December, Ministers had noted that Members were "mindful of their obligations to complete their domestic legislative process without further delay," and had reminded Members that "[e]ach Member should carefully review all its existing or proposed legislation ... to ensure ... full compatibility with the WTO obligations, and should carefully consider points made during review in the relevant WTO bodies regarding the WTO consistency of legislation, ... and make appropriate changes where necessary." He suggested that the Committee might need to consider whether and how it could report on what Members were doing in order to comply with these aspects of the Ministerial Declaration. The Chairman suggested that Members take this matter under consideration, and consult with each other and the Chairman as to how this could be accomplished, with a view to discussing the issue before the issuance of the Committee's Annual Report in October.

34. The Chairman noted that, in order for a previously reviewed notification of legislation to appear on the agenda of the Committee's next regular meeting in October 1997, questions were to be submitted to the Member whose notification is in question, and to the Secretariat, no later than 12 September 1997.

C. Application of the European Community's amended Regulation of anti-dumping

35. The Chairman explained that the European Community's notification of its amended regulation (G/ADP/N/1/EEC/2/Suppl.1) had not been included on the agenda under the review of national legislation because it had not circulated to Members in all three WTO languages six weeks before the meeting, as provided for in the procedures for review of legislations adopted by the Committee. However, this notification would be included as a new notification on the agenda for the October 1997 Committee meeting, and all Members would have the opportunity to pose questions.

36. Japan had nonetheless submitted questions with respect to the European Community's notification, which can be found in document G/ADP/Q1/EEC/2. The delegation of Japan had asked that this item, and its questions, be included on the agenda of this meeting.

37. The delegate of Japan noted that the principal issue addressed by the Panel, in the 1995 panel report on European Community - Anti-Dumping Duties on Audio Tapes in Cassettes Originating in Japan (ADP/136), concerned asymmetrical adjustments made by the European Community when a constructed normal value is compared with a constructed export price. Although the Panel's report had not been adopted, Japan had pressed the European Community to modify its legislation concerning adjustments in the above-mentioned circumstances all the same.

38. The delegate of Japan stated that in December 1996, 18 months after the Panel report had issued, and at the last possible moment for comments, the European Community had introduced the relevant amendments. Japan was not impressed with the changes introduced by the European Community. Although Japan accepted that it might not be possible to include detailed guidelines concerning adjustments in domestic legislation, a description of basic principles governing allowances should be possible. The representative of Japan suggested that the amendments made by the European Community were unsatisfactory, and could even allow for continued asymmetric allowances in certain circumstances. He indicated that the European Community should clarify its new legislation, to ensure that there is no conflict with the findings of the panel.

39. The delegate of the European Community stated that the Committee was not the appropriate forum for discussing the Panel report referred to by Japan, which had been discussed extensively in the Tokyo Round Committee on Anti-Dumping Practices. Nevertheless, he indicated that parts of the Panel report were acceptable to the European Community. This was the case, for example, regarding the Panel's statement that domestic legislation should contain a non-exhaustive list of allowances. The European Community had included such a non-exhaustive list of allowances in its recent amendments. The delegate of the European Community stressed the importance of avoiding a closed list of allowances. The delegate of the European Community then replied orally to Japan's written questions.

40. The representative of Mexico noted that, even though the Panel report remained unadopted, the decision of that Panel still stands. The fact that a Panel report is not adopted does not mean that a measure condemned by a Panel is GATT-consistent.

41. The delegate of Hong Kong stated that, as a matter of principle, a fair comparison should be made between the normal value and export price. He suggested that the central question was how to make due allowances if price comparability is affected when using a constructed export price. According to Hong Kong, there are two sources of guidance in this regard. First, the report of the Panel on European Community - Anti-Dumping Duties on Audio Tapes in Cassettes Originating in Japan. Second, the generic principle of fair comparison contained in Article 2.4 of the Anti-Dumping Agreement, which provides a permanent yardstick against which anti-dumping measures should be measured.

42. The Chairman noted that, because of the timing element referred to earlier, written answers would not technically be required from the European Community until after the Committee's meeting in October, when this notification would appear on the agenda as a regular item. However, he suggested that early submission of the written answers would be welcomed.

43. The representative of the European Community indicated that it would endeavour to provide its responses in writing to the Secretariat for circulation to Members before that time.

44. The Committee took note of the statements made.

D. Semi-annual reports of anti-dumping actions

45. The Chairman noted that semi-annual reports for the second half of 1996 were to have been submitted by 28 February 1997. Unfortunately, as seemed to be habitual for many Members, almost all semi-annual reports were received late. Argentina, Australia, Brazil, Canada, Chile, Colombia, European Communities, India, Israel, Japan, Korea, Mexico, New Zealand, Peru, Singapore, South Africa, Thailand, Turkey, the United States, and Venezuela, had submitted semi-annual reports. In addition 22 Members, identified in document G/ADP/N/22/Add/1, had notified the Committee that they did not take any anti-dumping actions during the period in question, and Ecuador, Sri Lanka and Tanzania had recently notified the Committee of the same.

46. While there had been some improvement in compliance, particularly in the use of the agreed format, as in the past, most notifications were submitted well after the applicable deadlines, and sixty-nine Members had not filed semi-annual reports. The Chairman acknowledged that he was repeating remarks that Members had heard many times before, and was to some extent speaking to the wrong audience, as a significant proportion of the Members who have failed to make their notifications were not present. However, he felt it necessary to repeat that the continuing failure of Members to submit complete semi-annual reports in a timely fashion limited the Committee's ability to consider the substance of those notifications. Transparency was thus reduced, and the Committee's ability to conduct the important tasks of surveillance and monitoring was limited.

47. The delegate of the European Community noted that the semi-annual report of Australia omitted a number of reviews initiated during the last reporting period.

48. The representative of Australia explained that the cases referred to by the European Community concerned five-year sunset reviews. She explained that a page was missing from the Australian semi-annual report, and that a revised semi-annual report correcting this error would be submitted.

49. The representative of Chile requested information concerning the status of a Brazilian investigation into imports of magnesium phosphate from Chile.

50. The delegate of Brazil informed the Committee that questionnaires were sent to Chilean exporters in October 1996, and that the investigation was still underway. He indicated that a final hearing with interested parties was provisionally scheduled for August 1997.

51. The delegate of Canada sought clarification concerning the European Community investigation concerning magnetic disks from Canada. He stated that Annex I of the European Community's semi-annual report indicated that the investigation had been terminated in July 1996, whereas Annex VI indicated that the case had not yet been concluded.

52. The representative of the European Community explained that Annexes I and VI referred to different investigations. Annex I referred to an anti-circumvention investigation concerning goods from Canada that was terminated on 25 July 1997, while Annex VI referred to a proceeding concerning goods originating in Canada that was still underway.

53. The delegate of Egypt asked the European Community for information on two investigations concerning bed linen and unbleached cotton fabric, initiated in September 1996 and February 1996 respectively.

54. The representative of the European Community informed the Committee that the investigation into bed linen was about to be finalised, and that preliminary measures had already been levied. Subject

to confirmation, he stated that the investigation into unbleached cotton fabric was still underway, and that no measures had been imposed.

55. The representative of Korea commented on the United States anti-circumvention investigation concerning colour televisions from, *inter alia*, Korea. He stated that an anti-circumvention investigation was only appropriate if there was an anti-dumping order to be circumvented. The justification for continued anti-dumping measures should be investigated before allegations of circumvention, especially as the application for the interim review of the anti-dumping measures had been filed before the application for anti-circumvention measures. Attempts to link the results of the anti-circumvention investigation with the determination to revoke the anti-dumping measures would be equivalent to placing the cart before the horse. Given that one year had elapsed since the application for the review was accepted, Korea urged the United States to conclude the review by 11 June 1997, in accordance with Article 11.4 of the Anti-Dumping Agreement. Furthermore, Korea strongly urged the United States to immediately make a determination in its anti-circumvention investigation. Even though the Anti-Dumping Agreement contains no provision on anti-circumvention, it does require all investigations and reviews to be concluded within one year. In addition, the United States Tariff Act stipulates that authorities shall, to the maximum extent practicable, make a determination within 300 days of the date of initiation of anti-circumvention investigations. He expressed Korea's concern that excessive burdens had been placed on respondents as a result of five months passing without any determination.

56. The delegate of the United States regretted that she was not well informed on this case, since the United States had only received notice of Korea's questions the preceding day. She stated that the United States would revert to the Committee on this matter when the necessary facts had been procured.

57. The delegate of Hong Kong stated his country's principled objections to the imposition of anti-dumping measures outside the circumstances provided for by GATT 1994 Article VI and the Anti-Dumping Agreement. He stated that the provisions of United States legislation providing for anti-circumvention measures were incompatible with the Anti-Dumping Agreement. He expressed his country's support for the previous intervention by Korea.

58. The delegate of Japan stated that, as a matter of general principle, anti-circumvention measures are contrary to Articles 1 and 18 of the Anti-Dumping Agreement, and Article VI of GATT 1994.

59. The Committee took note of the comments and statements made.

E. Notifications of preliminary and final anti-dumping actions

60. The Chairman noted that, since the last regular meeting of the Committee, Argentina, Australia, Canada, the European Community, Israel, Korea, Malaysia, Mexico, New Zealand, Peru, South Africa, and Thailand had notified preliminary and final actions taken, as identified in documents G/ADP/N/20, G/ADP/N/21, G/ADP/N/23, G/ADP/N/24, and G/ADP/N/25.

61. As with other notification requirements, there appeared to be a lack of full compliance in this area, as some Members who had submitted semi-annual reports indicating actions in progress had not submitted any reports of preliminary or final actions taken. He reminded Members that an important aspect of the Committee's task was its role in monitoring and discussing actions taken by Members. If Members did not take their obligations to notify seriously and comply, the Committee would be prevented from accomplishing its goal of considering Members' compliance with the requirements of the Agreement.

62. The delegate of Canada sought clarification from India concerning its anti-dumping investigation of newsprint from Canada.

63. The representative of India informed the Committee that the investigation was in progress, and that further details would be provided to Canada bilaterally.

64. The Committee took note of the questions and comments.

F. European Community - Investigations concerning the anti-circumvention measures on imports of retail electronic weighing scales or the parts thereof from Japan, Singapore and Indonesia

65. The representative of Japan recalled that the European Community had initiated two anti-circumvention investigations in August 1996. One investigation concerned certain retail electronic weighing scales originating in Japan but assembled in or transhipped through Indonesia. The second investigation concerned imports of parts of certain electronic weighing scales originating in Japan and Singapore but assembled in the European Community. The basis for both investigations was Article 13 of the European Community's Anti-Dumping Regulation, even though no such provision is contained in the Anti-Dumping Agreement. According to Article 1 of the Anti-Dumping Agreement, anti-dumping measures may only be applied under the circumstances provided for in Article VI of the GATT, and pursuant to investigations initiated and concluded in accordance with the Anti-Dumping Agreement. He concluded therefore that the Article 13 of the European Community Regulation, and the two investigations initiated on the basis thereof, were inconsistent with the European Community's obligations under the Anti-Dumping Agreement. To ensure consistency with the Anti-Dumping Agreement, he suggested that the investigation against imports from Indonesia should follow normal procedures in analysing dumping and injury. He stated that the European Community would be justified in applying appropriate measures against imports of parts and components originating in Japan and Singapore if the latter are deemed to be dumped and causing injury. He repeated that the Anti-Dumping Agreement did not authorise anti-circumvention investigations. He noted that, despite the serious concerns expressed by Japan on earlier occasions, the European Community had continued with the two investigations. He requested the immediate termination of both investigations. He stated that Japan reserved its right to take all appropriate action under the WTO Agreements.

66. The representative of the European Community explained that two investigations concerning alleged circumvention were opened following complaints by the European Community industry containing proof of changes in the structure of trade. The only explanation for such changes appeared to be the circumvention of anti-dumping measures. He stated that Article 13 of the European Community Regulation is in conformity with both Article VI of GATT 1994 and the Anti-Dumping Agreement, as the Community had explained on earlier occasions. He noted in particular that Article 13 includes an examination of both dumping and injury. He indicated to the Committee that the investigations would be concluded shortly.

67. The delegate of Indonesia expressed his country's support for the position taken by Japan on anti-circumvention, noting that there was no provision in the Anti-Dumping Agreement authorising the application of anti-circumvention measures. He urged the European Community to reconsider its position, or violate Article 1 and 18 of the Anti-Dumping Agreement.

68. The representative of Singapore shared the views expressed by Japan on this matter, noting that neither Article VI of GATT 1994 nor the Anti-Dumping Agreement provide for anti-circumvention measures. She stated that the Anti-Dumping Agreement only allows the application of anti-dumping measures after an investigation of dumping, injury and causality. In the present case, there was no basis for extending existing anti-dumping duties to imports of parts and components of the relevant product. Instead, a new investigation should be initiated to determine whether imports of such parts

and components are dumped and causing injury. She requested the European Community to terminate these two anti-circumvention investigations.

69. The delegate of Hong Kong stated his country's principled objections to anti-circumvention measures, which are not provided for in either Article VI of GATT 1994 or the Anti-Dumping Agreement. He expressed his country's support for the positions of Indonesia, Japan and Singapore, adding that nothing in the Anti-Dumping Agreement allows the application of anti-circumvention measures. He affirmed that Article 13 of the European Community's Anti-Dumping Regulation is inconsistent with the Anti-Dumping Agreement, and urged the European Community to terminate proceedings initiated pursuant to that provision.

70. The delegate of Korea expressed his country's agreement with the position taken by Japan, since anti-circumvention measures are inconsistent with Article 1 of the Anti-Dumping Agreement. He stated that, as an exception to the most-favoured-nation principle, anti-dumping measures should be narrowly implemented.

71. The representative of the United States noted that, given that it was acknowledged that valid anti-dumping measures may exist, it was a curious position that circumvention of valid measures was also *per se* valid. This was not a reasonable or tenable position. Rather, valid issues for discussion included what anti-circumvention measures are valid, and under what conditions. These were subjects properly taken up in discussions pursuant to the Ministerial Decision on Anti-Circumvention.

72. The delegate of Japan indicated that his country's serious concerns were justified by the above discussion. He acknowledged the European Community's statement that the investigations would be concluded shortly. However, he stated that the investigations had already imposed a burden on interested parties, and had had a negative effect on trade. He therefore requested their immediate termination.

73. The delegate of the European Community reiterated that the investigations had been initiated following complaints containing sufficient evidence of circumvention, and that initiation was therefore fully justified. He suggested that discussions concerning anti-circumvention should be accelerated, and indicated the willingness of the European Community to engage in such discussions in any forum that was agreed upon.

74. The Committee took note of all the statements made.

G. Follow up to Singapore ministerial declaration

75. The Chairman recalled that Ministers had made a number of statements in the Singapore Ministerial Declaration concerning implementation of the WTO Agreements, notifications and legislation, and the particular situation of developing country Members. These statements recognized that implementation and compliance with notification and legislation obligations would require further effort on the part of Members, suggested that the relevant bodies, such as the Committee, should take steps to promote full compliance while considering practical proposals for simplifying the notification process, and noted the agreement of Ministers to improve the availability of technical assistance to developing countries.

76. The Chairman asked the Committee to consider what appropriate steps could be taken to promote full compliance with notification requirements, whether there were any aspects of notification that could be simplified, and review technical assistance and training efforts in the anti-dumping area in particular, and with respect to contingent trade remedies in general.

77. The Chairman recalled that the Ad Hoc Group on Implementation was scheduled to hold its first substantive meeting on 30 April 1997. While the Ad Hoc Group did not provide technical assistance to any specific Member, the Chairman expressed his belief that its work could be of significant benefit to Members, and particularly developing country Members and new users of anti-dumping measures, in understanding some of the practical questions involved in anti-dumping investigations, and how different Members have addressed those issues. Moreover, in the Ad Hoc Group, the Committee had created a forum for discussion in which issues of implementation and possible simplification of notification procedures could fruitfully be discussed.

78. In the area of technical assistance, the Secretariat, and specifically the Rules Division, had a multi-faceted programme of assistance and training available to developing country Members, new users of anti-dumping measures, and countries in the process of accession.

79. One aspect of this programme concerned training workshops on the use of contingent trade remedies. The Workshop Programme had began under the Tokyo Round Anti-Dumping Committee, which had decided in April 1993 to support a programme of workshops for developing countries and former State-trading countries, and had requested members of the Committee to support the programme and participate in its financing.

80. Between February 1993 and mid-April 1997, the Rules Division had organized and conducted twelve anti-dumping workshops. Two hundred and fifty-four individuals from fifty-seven countries had participated. The workshops were financed primarily through grants and assistance in kind, such as instructors and conference facilities, provided by governments and institutions, including the Asian Development Bank, the Inter-American Development Bank, the Commission of the European Community, the Japan Fair Trade Centre, and the Governments of Australia, Finland, Mexico, New Zealand, Norway, Switzerland, and the United States.

81. In connection with the Workshop Programme, the Secretariat also organized specialized seminars to explain exporters' rights and obligations in anti-dumping and countervailing investigations. Four such seminars involving 58 individuals from 25 countries had been conducted to date.

82. The programme was continuing, with at least two more anti-dumping training workshops planned before the end of 1997, with financing from the Asian Development Bank and the Dutch Fund. In addition, two general seminars covering Agreements in the Rules area were scheduled to take place during 1997, with financing provided by the Norwegian Fund. It was estimated that at least 65 government officials from 20 countries would participate in these training efforts during 1997. The Secretariat would also provide staff for a forthcoming training programme organized and financed by the Government of Korea.

83. The Chairman informed the Committee that the Secretariat also provides country specific training programmes, which include detailed technical instruction focused on problematic issues in the administration of contingent trade remedies legislation. Eleven such programmes, focusing on different aspects of WTO Agreements in the Rules area, had been conducted to date, and two more were planned before the end of 1997, with financing from the European Commission.

84. The delegate of Brazil noted that, on several occasions, members of the Secretariat participated in an ongoing training programme of Brazilian trade officials involved in anti-dumping, subsidies, countervailing measures and safeguards. He expressed his gratitude for the Secretariat's contribution to this programme.

85. The delegate of Argentina expressed his country's gratitude for assistance from the Secretariat in technical assistance programmes. He stressed the importance of all technical cooperation efforts

in allowing a more effective implementation of WTO Agreements in the rules area. He also thanked Members whose financial contributions had funded the relevant technical assistance programmes.

86. The delegate of Korea provided a brief description of the technical assistance programme to be held in Korea during May/June 1997.

87. The delegate of Thailand stressed the importance of technical assistance programmes for certain Members, since they generate understanding of the relevant rules and obligations, and broaden the knowledge of the WTO obligations of Members. The work of the Committee, Secretariat and Members had proven essential to the system. Therefore, Thailand lent its full support to the continuation of technical assistance programmes by the Committee.

88. The representative of Peru expressed his country's gratitude for the efforts of those involved in the technical assistance programmes from which it had benefited. He suggested that such programmes should be continued, both for the benefit of developing countries directly, and for the benefit of the WTO system as a whole. He suggested that, after each Workshop, the Members concerned should provide a brief report of the event.

89. The delegate of Hong Kong stated that, as a matter of principle, technical assistance programmes should assist Members in implementing the results of the Uruguay Round, and in complying with their WTO obligations. He stressed that there is no WTO obligation to adopt anti-dumping legislation or take anti-dumping actions. He noted that the most effective way to avoid inconsistencies with the Anti-Dumping Agreement was not to adopt anti-dumping legislation, and not to apply anti-dumping measures. While acknowledging that it was a matter of policy for each Member to decide whether to adopt anti-dumping legislation and take anti-dumping actions, he stated that the fundamental question in each case should be whether or not it was necessary to take anti-dumping actions. Only then should a Member consider how best to comply with the relevant WTO obligations.

90. The delegate of India expressed his country's gratitude for the various technical assistance programmes from which India had benefited, and suggested that the Secretariat continue with such efforts for the benefit of other developing countries.

91. The representative of Chile expressed gratitude for the technical assistance provided by the Secretariat to his country, and referred to the advantages of technical assistance programmes for the WTO system as a whole.

92. The representative of Singapore also expressed her country's gratitude for the technical assistance provided by the Secretariat. However, she emphasised the need for effective follow up to the Ministerial Decision at the Singapore Ministerial Conference. She observed that, in substance, the Ministers attached very high priority to full and effective implementation of the WTO Agreements, consistent with the goal of trade liberalization. Anti-dumping action does not fulfil the goal of trade liberalization. Singapore fully shared the view expressed by the Committee in its 1996 Annual Report, that much remained to be done in order to achieve full implementation of the Anti-Dumping Agreement. Singapore was concerned not only with inconsistencies in the legislation of certain Members, but also the way such legislation was applied. In addition, Singapore referred to the increasing use of anti-dumping measures, which would negate efforts towards trade liberalization. It was therefore necessary to determine how the substance of the Ministerial Decision could be pursued. In this regard, it was necessary for the Committee to have more teeth in the oversight of full and effective implementation of the Anti-Dumping Agreement by each Member. The review carried out by the Committee should not stop short at questions and answers. Singapore suggested the inclusion of follow up reviews in the agenda of regular Committee meetings, with the Secretariat compiling lists of outstanding issues and questions. Concerning the simplification of notifications, Singapore looked forward to substantive

input from Members. Singapore suggested that such considerations could balance the content of technical assistance programmes, whose objective should not only be to assist developing countries in the application of anti-dumping measures.

93. The Chairman reminded Members that technical assistance was intended to enable Members to properly implement the WTO Agreements, and was carried out in response to needs expressed by Members. It did not reflect any view on the part of the Secretariat as to whether or not anti-dumping actions should be taken. The role of the Secretariat is to instruct Members in understanding the Anti-Dumping Agreement, so that it might be properly implemented. Implementation is helped both through technical assistance, and through the transparency resulting from the review and notification process.

94. The Chairman then asked whether Members could report to the Committee on their own activities in the area of technical assistance.

95. The United States reported on its own technical assistance activities conducted at the specific request of Members and acceding Members. The two primary programmes involve the Commercial Law Development Programme ("CLDP"), and the International Trade Commission ("ITC") and the Commerce Department's Import Administration. The CLDP provided assistance in the development and implementation of developing legal systems, primarily in Central and Eastern Europe, the Baltic countries and the Commonwealth of Independent States. Programmes focused on laws, regulations and administrative practices affecting domestic and foreign trade. Assistance was provided in the form of expert advisers, placed in the country concerned, and short-term training through workshops and seminars. Seminars on anti-dumping and countervailing duty laws and regulations were also provided by the ITC and the Commerce Department's Import Administration for foreign delegations visiting Washington. At least 16 seminars had been held over the last 18 months. Seminars had also been held in a number of foreign countries. In addition, ITC and Import Administration officials made presentations on United States anti-dumping and countervailing duty procedures in countries which were unfamiliar with these procedures and were subject to investigation. Furthermore, the United States Agency for International Development ("AID") had provided assistance in Latin America to help governments establish policies that would put them in compliance with their WTO obligations. AID was also preparing a paper on trade openness, policy reform, economic growth and poverty reduction, which would address governments' obligations under the WTO Agreements.

96. The representative of the European Community expressed support for the technical assistance programmes of the Secretariat, for which the European Community had provided funding. He reported on the European Community's own technical assistance activities, carried out either in conjunction with the WTO Secretariat, or independently by the European Commission. In particular, the European Commission had carried out seminars in countries that were new or future users of the Anti-Dumping Agreement, and in countries that had applied for membership in the WTO. These seminars were very similar to those provided by the WTO Secretariat, and comprise two types. First, there were seminars for civil servants in administrations that had not in the past applied anti-dumping measures. The objective of such seminars was to examine the procedural and substantive norms to be respected in domestic anti-dumping legislation. Second, there were seminars for managers, exporters, and government officials in countries subject to investigation by the European Community. The purpose of these seminars was to familiarise exporters and government officials with the European Community procedures. Finally, the European Community also carried out technical assistance pursuant to specific requests, including advice on the drafting of legislation, administrative organization, etc.

97. The Chairman proposed that the Committee express its thanks and support for the efforts of Members involved in technical assistance programmes, and express its support for the technical assistance programmes carried out by the Secretariat in the area of contingent trade remedies.

98. The Committee so decided.

99. The Chairman requested comments from Members on Singapore's suggestion that the Secretariat should compile a list of implementation issues that might be discussed at subsequent meetings.

100. The delegate of the United States expressed concern regarding the compilation of any such list for discussion by the Committee, in light of the decision to address issues of implementation in the Ad Hoc Group on Implementation.

101. The representative of Singapore clarified that her proposal did not involve discussion of new issues, or raising new areas for further negotiation, but was restricted to issues and questions concerning implementation raised during the Committee's review of legislation. Singapore suggested that these issues should form part of the Committee's agenda, separate from the activity of the Ad Hoc Working Group.

102. The delegate of the European Community noted that Singapore's proposal seemed useful, as questions concerning implementation of the Anti-Dumping Agreement may require some clarification. However, the European Community expressed concern regarding possible duplication of tasks by the Ad Hoc Group and the Committee. The European Community requested more time to consider Singapore's proposal.

103. The Chairman proposed that he conduct informal consultations on the Singapore proposal.

104. The delegate of Hong Kong expressed his country's gratitude for Singapore's proposal, since the Committee's review of national legislation should not be limited to questions and answers. Issues identified by the Committee during the review process should be compiled in a list, to focus future discussion in the Committee. Hong Kong expressed support for the Chairman's proposal.

105. The representative of Argentina queried the purpose and scope of the informal consultations proposed by the Chairman, since the activities of both the Committee and the Ad Hoc Group were already clearly defined. The delegate queried whether the topics on which the Chairman proposed to consult were not already covered by the activities of the Committee and Ad Hoc Group.

106. The representative of the United States expressed some uncertainty as to the substance of Singapore's proposal. She suggested that the type of work envisaged by Singapore would ultimately be performed by the Ad Hoc Group, subject to the agreement of the Committee. It was unclear, therefore, why any new process was needed. Whereas the United States could discuss the possibility of including additional tasks for the Ad Hoc Group, it was uncomfortable with the creation of a new, separate process.

107. The Chairman stressed the need for the Committee to follow up on the Singapore Ministerial Declaration. There was some uncertainty concerning how the Committee could add to the work already done, and concerning the dividing line between the work of the Committee and the Ad Hoc Group respectively. These issues could be addressed in consultations, without prejudgments. The consultations could examine the Singapore proposal, to determine whether, or how, the Committee could do more concerning implementation of and follow up to the Singapore Ministerial Declaration. The consultations would constitute a clarification process.

108. The Committee agreed that the Chairman should conduct such consultations.

H. Anti-circumvention

109. The Chairman recalled that the Committee had decided at its special meeting in December 1995 that the Chairman would consult informally on the task set for the Committee by the Ministerial Decision on Anti-Circumvention, and would inform the Committee periodically on developments in those informal consultations. The most recent informal consultations in this regard were held in March 1997. As a result of those consultations, Members had agreed upon a framework for continued discussions of the issue of anti-circumvention, as set forth in document G/ADP/W/404, dated 20 March 1997.

110. The Committee took note of the agreed framework for continued discussion of the issue of anti-circumvention.

111. The Chairman proposed that, in order to best accomplish the work set out in the framework, the Committee establish an Informal Working Group on Anti-Circumvention. The Chairman noted that, as with the informal consultations held to date, participation in the Informal Working Group would be open to all Members. In addition, as an Informal Working Group, this body could not make any decisions on the issues discussed, but would make recommendations for consideration by the Committee as a whole.

112. The representative of the European Community seconded the Chairman's proposal. He explained that the work to be carried out results from a Ministerial Decision, and should therefore be effected in the Committee itself. However, for operational reasons it would be beneficial to establish a separate Working Group. As the mandate comes from a Ministerial Decision, the reply should be given at the highest possible level.

113. The delegate of Hong Kong stressed the importance of maintaining the discussions of the Working Group on an informal basis, even if the creation of a Working Group could raise the profile of the Group's work. In this regard, he therefore supported the informal status to be maintained by the Chairman's proposal. However, he queried whether the term "Informal Working Group" was appropriate terminology, given the formality possibly implied by this term.

114. The delegate of the United States stated that, in principle, the work should be undertaken by the Committee, since the matter had been referred to the Committee by the Ministers. However, the United States indicated that the most important consideration was the creation of a transparent framework for this work, within which all Members may participate fully. Recognizing that the proposed Informal Working Group would meet these criteria, and acknowledging the difficulties of performing this work in the Committee, the United States supported the Chairman's proposal.

115. The representative of Canada expressed her country's support for the Chairman's proposal.

116. The delegate of Japan stated that caution was needed when creating a new mechanism in the WTO, especially one dealing with a sensitive issue. It was necessary to clarify the mandate and purpose of the new body, and the relationship of the proposed Informal Working Group with the current informal consultations and with the Committee itself. If the purpose and mandate of the new body was the same as that of the current informal consultations, its creation might not be necessary or productive in terms of allowing the Committee to examine anti-circumvention further.

117. The Chairman explained that the proposal would not change the substance, purpose or mandate of the current informal consultations. The creation of the Informal Working Group would merely place these informal consultations on the WTO map. Its creation would also alleviate the inconsistency between instructions in the form of a Ministerial Decision and activity in the form of informal consultations.

118. The delegate of Australia endorsed the proposal and clarifications made by the Chairman. She explained that Australia saw no particular connotations in the term Informal Working Group.

119. The representative of Singapore supported the fact that the Chairman's proposal would not change the substance or purpose of current informal consultations. However, she shared the concerns expressed by Japan and Hong Kong that the term "Working Group" might inject a certain element of formality into the process.

120. The delegate of New Zealand emphasised the need for the Committee to produce concrete results, given the content of the Ministerial Decision. Given the agreement of Members on the work to be performed, he noted that the main difficulty lay in the title of the body completing that work. For this reason, an alternative title might be appropriate.

121. The representative of the European Community emphasised that the work on anti-circumvention had been referred to the Committee by the Ministers. It was not referred to informal consultations outside the Committee. Given the instructions in the Ministerial Decision, the least the Committee could do was to inform the Ministers that it had created an Informal Working Group to examine the matter.

122. The representative of Venezuela emphasised the delicate nature of the issue, noting that it could not be resolved by informal consultations alone. For this reason, a mechanism that would permit adequate progress must be established. He therefore supported the Chairman's proposal, provided the main characteristics of the Working Group were explained in advance, and provided it was sufficiently transparent and allowed full participation by all Members.

123. The Chairman reaffirmed that the substance of the discussions would remain unchanged. The proposed Informal Working Group would, however, attach importance to the work carried out pursuant to the Ministerial Decision, and would accord it greater support from the Secretariat. The Chairman suggested that the title "Consultative Group" might be more acceptable to certain delegations.

124. The delegate of Hong Kong emphasised that the framework for discussions would never have been agreed on if discussions had taken place formally in the Committee. He noted agreement in the Committee on the fact that the work should continue, without any change in substance. He supported the Chairman's proposal concerning the term "Consultative Group".

125. The representative of the United States noted that the real issue at hand was transparency. He noted that many countries had not expressed their views on anti-circumvention, and that the Committee had not yet had the benefit of a full debate on the merits of the issue. The framework for discussions of the issues had been agreed on, although they had not yet been fully aired in a public debate. The United States would agree to any title for the new body, provided it allowed all delegations to benefit from a full debate of the issues.

126. The representative of the European Community expressed reservations concerning the attempts of certain delegations to maintain the informal nature of discussions on anti-circumvention. He called for delegations to turn to the substance of the debate, and not remain blocked on formalities.

127. The representative of Japan stated that, provided transparency was maintained, the creation of a Consultative Group would be acceptable.

128. The delegate of the United States suggested the term Informal Consultative Working Group, given the appeal of these different words to different delegations. She stressed the need for a forum in which all the views on this matter could be aired.

129. The delegate of Australia noted that the name of the body would not alter the substance of the discussion, given the framework agreed on by the Members. She noted that the Ministers had asked the Committee to do more than merely consult on anti-circumvention. For these reasons, she proposed the term "Informal Group on Anti-Circumvention".

130. The Chairman proposed that the Committee establish the Informal Group on Anti-Circumvention.

131. The Committee so decided.

132. The Chairman noted that he had informed the Committee last week of his intention to hold discussions on the matter of anti-circumvention, and that such discussions had been scheduled for that morning. However, since the Committee's meeting had run over, there was neither the time nor the need to reschedule those discussions. Instead, the Chairman raised certain practical matters regarding the Informal Group on Anti-Circumvention, and asked for comments concerning the timing of the first meeting of the Informal Group on Anti-Circumvention.

133. The representatives of the United States, Venezuela and Argentina suggested that the first meeting of the Informal Group on Anti-Circumvention should be held back-to-back with the October meeting of the Ad Hoc Group on Implementation.

134. The delegate of Hong Kong agreed, although he noted that such scheduling should not suggest any overlap in the substance of the issues addressed by the two Groups.

135. The delegate of New Zealand agreed that the first meeting could be held back-to-back, although he noted that the two Groups might move at different speeds thereafter. For this reason, the fact that the first meeting of the Informal Group on Anti-Circumvention was held back-to-back with the October meeting of the Ad Hoc Group on Implementation should not set a precedent.

136. The Chairman proposed that the date of the first meeting of the Informal Group on Anti-Circumvention, and the date for submission of papers, should be linked to the date of the October meeting of the Ad Hoc Group on Implementation.

137. The Committee so decided.

I. Other business

(i) Japan - United States investigation of supercomputers

138. The delegate of Japan expressed concern regarding the current United States anti-dumping investigation of Japanese supercomputers, and the intervention by the Department of Commerce ("DOC") prior to the initiation of that investigation.

139. He explained that, in May 1996, a Japanese manufacturer won the tender for supercomputer procurement made by the United States National Center for Atmospheric Research (NCAR). However, the procurement process was accompanied by some extraordinary and disturbing developments, including activity in the United States Congress. Serious consideration was given to a proposal by Congressman Obey that personnel who approved a contract for supercomputer equipment would have their salaries withheld if the DOC made a finding of dumping. As was pointed out by a member of the United States International Trade Commission, any such measure would be in contravention of Article 18 of the Anti-Dumping Agreement. The proposal was eventually rejected.

140. According to various news media reports, another odd feature in the procurement process was a letter sent by the National Science Foundation (NSF) to the University Corporation for Atmospheric Research (UCAR) on 17 May 1996. In the letter, NSF reminded UCAR that it was required to obtain NSF's approval for the procurement, and that NSF "remained concerned about the dumping issue". NSF required UCAR to give due consideration to this issue, and to eliminate the dumping concern before the procurement.

141. Another unusual development was the calculation of a dumping margin by the DOC prior to the initiation of an anti-dumping investigation. On 20 May 1996, three days after the letter of the pre-clearance requirement of NSF to UCAR, the DOC wrote to NSF estimating the successful bidder's dumping margin as 163.38%, and expressing significant concerns that importation of the supercomputer system would threaten the US supercomputer industry with material injury.

142. He added that on 29 July, some two months after those communications among the DOC, NSF and UCAR, Cray Research, which is the sole US producer of supercomputers and was one of the bidders for the procurement, filed a petition requesting an anti-dumping investigation into Japanese supercomputers. The NSF issued a statement that "it would be inappropriate for NSF to approve this procurement until the dumping issue has been resolved".

143. Japan considered the action taken by the DOC to be inappropriate and unfair from many viewpoints. The disclosure of the estimated dumping margin before initiation of investigation is without precedent, and the accuracy of the estimated margin is doubtful. In this context, Japan requested answers to the following questions: First, what was the legal basis for DOC intervention under United States law? Does the DOC have the competence to take such actions under United States anti-dumping legislation or regulations? Second, would the DOC take further action of this sort in the future? If not, what distinguishes the current case from potential future cases? Third, the action of the DOC accorded a Japanese product less favourable treatment than that accorded to a domestic product. What was the legal basis for that discrimination under the WTO Agreement? Fourth, why did the DOC not seek the views of the company that had won the bid before assessing that bid in the light of the US anti-dumping law? Given the fact that the Department's conclusions rested on an estimate of the number of computers that would be sold in the future, how could it reach any valid conclusions without any information from the successful bidder? Fifth, given the fact that the DOC has already made an assessment of the pricing of the bid by the Japanese company, can it now be expected to make an objective and unbiased assessment of that matter in the current anti-dumping proceedings? Finally, the US has repeatedly asserted that it is very sensitive to the impact on trade caused by disclosure of dumping-related information. How is the DOC's intervention explained in the light of the said principle? The representative of Japan requested a detailed explanation of why and how the intervention happened, and assurances that such interventions would not recur.

144. As to the anti-dumping investigation which was initiated on 19 August 1996, the delegate of Japan stated that the successful bidder has filed a case against the DOC in the US Court of International Trade, and has been refusing to cooperate with the DOC in providing the data for the anti-dumping investigation due to its concerns over the DOC's impartiality. In response, the dumping margin in the DOC's preliminary affirmative determination was at a very high level, on the basis of the best information available. Japan reserved its WTO rights in this matter, and requested an explanation and assurances from the US.

145. The representative of the United States offered a limited number of observations concerning this matter. He noted that the so-called Obey Amendment had not been re-introduced in Congress, and was therefore no longer an issue. He stated that the DOC had no choice but to use the best information available in respect of NEC, because that exporter had not cooperated in the investigation. Given ongoing litigation in the United States, he expressed reservations about making more detailed

replies to Japan's comments. He made a general observation that administering authorities are in an unusual situation with respect to bringing anti-dumping investigations, since they play a hybrid role: both investigative and judicial. For this reason, the DOC was very concerned to maintain due process and transparency in its proceedings and, after the investigation was complete, every piece of data involved would become a matter of public record. He added that it was routine for one branch of the United States Government to receive an enquiry or advice from another. There is no legal bar to one branch of the United States Government advising another branch, subject to certain limitations concerning proprietary information etc.

146. The Committee took note of the statements made.

(ii) Japan - EC delays in anti-dumping investigations

147. The delegate of Japan expressed concern regarding delays in European Community anti-dumping investigations, including both original investigations and review proceedings. He noted that Article 5.10 of the Anti-Dumping Agreement stipulates that "investigations shall, except in special circumstances, be concluded within one year, and in no case more than 18 months, after their initiation," and that Article 11.4 provides that "any such review shall be carried out expeditiously and shall normally be concluded within 12 months of the date of initiation of the review."

148. He noted that the European Community was currently engaged in nine anti-dumping proceedings - excluding anti-circumvention investigations - against exports from Japan. Of these, five (including four reviews) had already exceeded 18 months, and another one had been under way for 12 months. In the most extreme case, the investigation into advertising matches was begun 32 months ago. Furthermore, the two most recently concluded investigations (one of them a review) each lasted more than 18 months, and in neither case were measures imposed on the exporters. These statistics show that, even considering only proceedings involving Japanese exporters, the European Community was seriously falling down on its obligations under the Agreement. Japan believed that Members of the Committee were entitled to an explanation by the European Community as to the reason for these delays, and an account of how it intended to remedy the situation. In Japan's view, one of the main purposes of the WTO time limits was to protect exporters from harassment by investigating authorities. The European Community was presently guilty of a serious failure in its responsibilities.

149. He added that delay was also a feature in the current European Community anti-dumping investigation of DRAMs from Japan. However, there were other aspects of this case which were giving rise to concern, notably the method by which the European Community was purporting to determine the likelihood of recurrence of dumping and injury should the existing measures be terminated. Japan had serious reservations about the European Community's approach to these issues, and would be keeping the progress of the case under close review.

150. The representative of the European Community emphasised the significant changes resulting from the introduction of firm deadlines into the European Community legislation, in respect of both internal procedures and case-handling. He acknowledged that a small number of cases opened under pre-WTO legislation continued to cause problems, and assured Members that such situations would not recur. In respect of the advertising matches proceeding, he confirmed that provisional measures were recently imposed. Concerning all of the reviews mentioned by Japan, conclusions would be forthcoming in a matter of weeks.

151. The delegate of Korea shared the concerns expressed by Japan regarding delayed investigations by the European Community. His delegation therefore proposed to place the issue of delayed investigations on the agenda for the Committee's next meeting, in the context of reviews of semi-annual reports.

152. The Committee took note of Korea's proposal and of the statements made.

(iii) India - South Africa anti-dumping and countervailing duty actions

153. The representative of India sought clarification concerning an investigation allegedly initiated by South Africa. Whereas it was reported that an investigation had been initiated, no notice of initiation had been sent to either the Government of India or to Indian exporters.

154. The delegate of South Africa stated that it was not customary for his country to fail to comply with its WTO obligations, and stated that he would pass on India's comments to the relevant South African authorities. The delegate also explained to the Committee that any lapse by South Africa in this regard demonstrated the need for continued technical assistance to certain Members.

(iv) United States - Philippines investigations of float glass from Thailand

155. The delegate of the United States sought clarification on an investigation by the Philippines into imports of float glass from Thailand. She explained that an old order imposed by the Philippines had apparently been reviewed under domestic legislation after the entry into force of the Anti-Dumping Agreement, but that no information had been forthcoming from the Philippines. A United States company concerned had stated that a negative injury finding had been made, together with a negative recommendation for action.

156. The delegate of Philippines stated that he had only second-hand knowledge of this issue, since no information had been received from his capital. He explained that this investigation was initiated prior to the entry into force of the WTO, and that there had been no review of the measure in question, as the investigation had not been completed. Although the Tariff Commission recently recommended the termination of the investigation, the final decision rests with the Department of Finance. As soon as the Department reached its decision, it would be communicated to the United States.

157. The representative of the United States noted that preliminary measures had been in force for over two years, imposing an extreme burden on commercial operators.

158. The Committee took note of the statements made.

J. Election of officers

159. The Committee elected Mr. Kajit Sukhum of Thailand as Chairman, and Ms. Michelle Slade of New Zealand as Vice Chairperson, of the Committee.

K. Date of next regular meeting

160. The Chairman noted that the Committee had agreed at its meeting of 21 February 1995 that regular meetings normally would be held in the last week of April and the last week of October. Accordingly, the next regular meeting of the Committee would be held in the week of 27 October 1997.

161. The meeting was adjourned.