

WORLD TRADE ORGANIZATION

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(04-3896)

Committee on Anti-Dumping Practices

MINUTES OF THE REGULAR MEETING HELD ON 22-23 APRIL 2004

Chairman: Mr. David Evans (New Zealand)

1. The Committee on Anti-Dumping Practices (the "Committee") held a regular meeting on 22-23 April 2004.

2. The Committee adopted the following agenda:

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A. AUSTRALIA – REVIEW OF NEW LEGISLATIVE NOTIFICATION

3. The Chairman noted that the first six items on the agenda were the review of notifications of anti-dumping legislation and/or regulations, in accordance with the procedures adopted by the Committee at its special meeting in April 1996 (document G/ADP/W/284, 12 February 1996).

4. The Chairman recalled that questions concerning new notifications of legislation were to have been submitted to the Member concerned and the Secretariat no later than three weeks before the meeting, that is, by 1 April 2004. As provided for in the agreed procedures, Members which had received written questions in time were asked to respond orally to those questions in the meeting, and subsequently to respond in writing to all questions received in written form. The Chairman reminded Members that follow-up questions could be asked in the meeting. Such follow-up questions were to be submitted in writing no later than 13 May 2004 if the Member posing the question wished to receive a written answer. He reminded Members to submit the written answers to all written questions by the deadline of 13 May 2004 to the Secretariat no later than 1 July 2004.

5. The Committee then turned to the notification of Australia.

6. The questions regarding the notification of Australia can be found in the following document:

G/ADP/Q1/AUS/3 Submitted by the United States

Answers to these questions can be found in the following document:

G/ADP/Q1/AUS/4 Replies to the United States

B. JORDAN – REVIEW OF NEW LEGISLATIVE NOTIFICATION

7. The questions regarding the notification of Jordan can be found in the following documents:

G/ADP/Q1/JOR/1 Submitted by the European Communities
G/ADP/Q1/JOR/2 Submitted by the United States

Answers to these questions can be found in the following document:

G/ADP/Q1/JOR/3 Replies to the European Communities and the United States

C. SOUTH AFRICA – REVIEW OF NEW LEGISLATIVE NOTIFICATION

8. The questions regarding the notification of South Africa can be found in the following documents:

G/ADP/Q1/ZAF/1 Submitted by the European Communities
G/ADP/Q1/ZAF/1 Submitted by the United States
G/ADP/Q1/ZAF/6 Submitted by the United States (follow up)

Answers to these questions can be found in the following documents:

G/ADP/Q1/ZAF/4 Replies to the European Communities
G/ADP/Q1/ZAF/5 Replies to the United States

**NO WRITTEN REPLIES TO THE QUESTIONS IN DOCUMENT G/ADP/Q1/ZAF/6
HAVE BEEN RECEIVED TO DATE.**

9. The delegate of the United States stated the view that it was fair to characterize South Africa as a major user of the anti-dumping instrument. Nevertheless, he noted, South Africa had not provided any description of its anti-circumvention practices to the Informal Group on Anti-Circumvention, and an initial review of the history of the Working Group on Implementation indicated that South Africa had not provided a description of its practices with respect to any of the topics taken up in that Group. The United States encouraged South Africa and all other Members to do so.

10. The United States noted that in response to several of its questions, for example, question 8, question 11, question 18 and question 19, South Africa had referred to "internal policies". The United States asked South Africa when it intended to notify these internal policies, which appeared to govern a good deal of its practices, to the Committee.

11. The delegate of Turkey requested clarification from South Africa on several points. The first concerned Article 45.1 of the new Anti-dumping Regulations where it was stated that "the Commission will only initiate an interim review if the party requesting such interim review can prove significantly changed circumstances". Could examples be given of the factors that would be considered to establish significantly changed circumstances and would lead to initiation of an interim review?

12. The second was whether the provisions of the new Anti-dumping Regulation would apply to anti-dumping or anti-subsidy investigations or reviews which had not yet been concluded as of the date when the new Anti-dumping Regulation came into effect? The delegate of Turkey requested that his questions remarks be reflected in the record of the meeting.

13. The delegate of South Africa, in response to the US question regarding notification of internal policy, asserted that this was *internal* policy, and as such would not be notified to the Committee. However, Members were welcome to scrutinize its reports to see that South Africa conformed to the requirements of the AD Agreement.

14. Regarding the questions posed by Turkey, on AD Regulation Article 45.1 on interim reviews and changed circumstances, the delegate of South Africa clarified that these were circumstances that would indicate a change in the market conditions, which meant, for instance, where there were related parties that were no longer related or where parties had not previously been related and were now related, which meant it was a circumstance that did not only address the particular investigation but actually had an effect on what the normal value and the export price would be, not only during the period of investigation but also in the future.

15. Regarding the second question on investigations and reviews not concluded by the time the Anti-dumping Regulations came into force. The South African delegate clarified that in terms of South African jurisprudence it had to apply whatever would place the least obligations on parties and would be the least cumbersome. Therefore, wherever it was possible, South Africa would apply the Anti-dumping Regulations. However where a party enjoyed certain rights under pre-regulation conditions South Africa would have to apply whatever measures and procedures were enforced prior to the promulgation of the regulations.

16. The delegate of the United States sought some clarification from South Africa if by internal policies they were referring to policies governing their anti-dumping procedures which were not available to any other WTO Member nor to any other interested party who may be appearing before them?

17. The delegate of South Africa noted that she was referring to issues that were already covered by the WTO Agreement. South Africa clarified that if something was not covered in the regulations, but was covered in the WTO Agreement, the latter would prevail. The delegate of South Africa offered to submit its internal policies at a later stage, but noted that these were just the same as the WTO Agreement. As previously noted Members, were welcome to look at South Africa's reports to review their conformity.

18. The delegate of the United States invited South Africa to submit these internal policies, as the United States believed this was required by the AD Agreement.

D. CHINA – FURTHER REVIEW OF PREVIOUSLY REVIEWED LEGISLATIVE NOTIFICATION

19. Questions regarding the previously reviewed notification of China were received from Argentina and Mexico and can be found in the following documents:

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|-----------------|----------------------------------------|
| G/ADP/Q1/CHN/38 | Submitted by Argentina |
| G/ADP/Q1/CHN/28 | Submitted by Mexico |
| G/ADP/Q1/CHN/44 | Submitted by United States (follow up) |

Answers to these questions can be found in the following document:

| | |
|--------------------------|----------------------|
| G/ADP/Q1/CHN/39 | Replies to Argentina |
| G/ADP/Q1/CHN/43 & corr.1 | Replies to Mexico |

**NO WRITTEN REPLIES TO THE QUESTIONS IN DOCUMENT
G/ADP/Q1/CHN/44 HAVE BEEN RECEIVED TO DATE.**

E. MEXICO – FURTHER REVIEW OF PREVIOUSLY REVIEWED LEGISLATIVE NOTIFICATION

20. Questions regarding the previously reviewed notification of Mexico were received from Argentina and can be found in the following document:

| | |
|-----------------|--------------------------------------------|
| G/ADP/Q1/MEX/6 | Submitted by Argentina |
| G/ADP/Q1/MEX/12 | Submitted by the United States (follow up) |

Answers to these questions can be found in the following document:

| | |
|-----------------|----------------------|
| G/ADP/Q1/MEX/11 | Replies to Argentina |
|-----------------|----------------------|

**NO WRITTEN REPLIES TO THE QUESTIONS IN DOCUMENT G/ADP/Q1/MEX/12
HAVE BEEN RECEIVED TO DATE.**

F. PERU – FURTHER REVIEW OF PREVIOUSLY REVIEWED LEGISLATIVE NOTIFICATION

21. Questions regarding the previously reviewed of Peru were received from the United States and can be found in the following document:

| | |
|-----------------|--------------------------------------------|
| G/ADP/Q1/PER/26 | Submitted by the United States |
| G/ADP/Q1/PER/28 | Submitted by the United States (follow up) |

Answers to these questions can be found in the following document:

| | |
|------------------|------------------------------------------|
| G/ADP/Q1/PER/ 27 | Replies to the United States |
| G/ADP/Q1/PER/ 29 | Replies to the United States (follow up) |

22. The Chairman thanked all delegations for their replies to the questions posed, as well as the Members who had formulated questions. The process of reviewing notifications continued to be a positive one, of benefit to all Members. He reminded Members to submit follow-up questions in writing to the Member whose legislation was concerned, and to the Secretariat, no later than 13 May 2004 if the Member posing the follow-up question wished to receive a written response. Members were requested to submit written answers to all questions received in writing by that date. Members were requested to submit such answers to the Secretariat no later than 1 July 2004.

23. The Chairman reminded Members that, pursuant to the adopted procedures for review of notifications of legislation contained in document G/ADP/W/284, in order for a new notification of legislation to appear on the agenda of the October 2004 meeting of the Committee, it had to be circulated in three languages no later than 16 September 2004. As a practical matter, in light of the

translation requirements, the Chairman informed the Committee that notifications of legislative text received after 30 June 2004 were unlikely to be translated in time to meet the above agreed deadline.

24. As was its practice, the Secretariat would inform Members of any additional new notifications to be considered at that meeting. The deadline for submission of questions regarding new notifications of legislation for next autumn's meeting would be 7 October 2004. The Chairman encouraged Members to submit questions as early as possible, and Members receiving questions were encouraged to submit written answers in advance of the spring meeting to the extent possible.

25. The Chairman informed Members that the new legislative notifications of Canada, document G/ADP/N/1/CAN/4, and of Japan, document G/ADP/N/1/JPN/2/Supplement 4, were expected to be on the agenda for the next regular meeting of the Committee in October 2004.

26. The Chairman informed Members that in order for a previously reviewed notification of legislation or regulations to appear on the agenda of the Committee's regular meeting in October 2004, questions regarding such notification must be submitted to the Secretariat, and to the Member whose notification was in question, no later than 16 September 2004.

27. Finally, the Chairman expressed continuing concern over the failure of some Members to submit any notification at all concerning legislation or regulations relevant to anti-dumping. He noted that for many, if not most, of these Members, it was likely that a single nil notification, indicating that there was no such legislation or regulation currently in effect, would be all that was required. He further remarked that for those Members who conducted anti-dumping investigations but had not yet notified their legislation, it was obviously important, from the point of view of all Members, that such legislation be notified, in the interest of transparency and better understanding. He thus encouraged Members who had not yet done so to make their notification of legislation promptly.

G. SEMI-ANNUAL REPORTS OF ANTI-DUMPING ACTIONS

28. The Chairman recalled that a request for the semi-annual report for the second half of 2003, to be submitted by 5 March 2004, had been circulated to Members in document G/ADP/N/112, dated 6 January 2004. He reported that it appeared that most Members taking actions had submitted semi-annual reports, although not all reports were submitted in a timely fashion. He expressed the hope that there would be continued improvement in this respect. He noted that particularly for Members making a nil notification, reporting consisted simply of submitting a letter reporting that no actions had been taken, once before the end of February and again before the end of August.

29. He reported that although there continued to be some problems in the form of reports, Members had clearly made an effort to submit reports in the format established by the Committee. He reminded Members that guidelines for the format of semi-annual reports were set out in document G/ADP/1, and noted that the Secretariat was always available to assist Members with questions about the format of reports.

30. The Chairman stated that Members who had submitted semi-annual reports were identified in paragraph 1 of document G/ADP/N/112 Addendum 1, dated 13 April 2004. To the extent possible, the semi-annual reports had been translated and circulated to the Committee, and were included in the documents made available for the meeting. In addition to those Members listed, Bulgaria and Indonesia had submitted a semi-annual reports that had been inadvertently omitted from the document.

31. In addition to the Members who submitted semi-annual reports, a number of Members, listed in paragraph 2 of document G/ADP/N/112 Addendum 1, had notified the Committee that they had not

taken any anti-dumping actions during the period in question. In addition, Ghana had submitted such a notification too late to be included in that document.

32. The Chairman noted that while there appeared to be a degree of general compliance with the obligation to submit semi-annual reports, or reports of no actions taken, there remained a significant number of Members who had not submitted either type of report and thus failed to comply with this aspect of the requirements set out in Article 16.4 of the Agreement. These Members were identified in document G/ADP/N/112 Addendum 1 at paragraph 3.

33. The Chairman strongly urged all Members to comply with the requirement to submit semi-annual reports in a timely fashion in the future.

34. The delegate of Romania pointed out that Romania did notify that it did not take any anti-dumping action during the period. Romania was identified in both paragraph 2 and paragraph 3. She requested the Secretariat to delete Romania from paragraph 3.

35. The Committee then turned to the review of the semi-annual reports submitted.

36. With respect to the semi-annual report of **Brazil**, the delegate of the United States noted that the report indicated that expiry reviews were pending on the measures on polyvinyl chloride and polycarbonate resins against the United States. However, on the tables on pages 2 & 3, there was no indication of these reviews during the period 1 July and 31 December 2003. The United States asked Brazil to explain this inconsistency, and if these reviews were ongoing, to describe their status.

37. The delegate of Brazil indicated that he would check with his authorities in capital and would provide responses.

38. The United States requested Brazil, if appropriate, to file a corrigendum to their semi-annual report.

39. With respect to the semi-annual report of **China**, the delegate of the United States noted that on the current semi-annual report, the anti-dumping investigations on phenol, ethanolamine and chloroform were absent from the notification. However, these cases did appear in the previous semi-annual report that covered the first half of 2003. The United States delegate reminded China of the instruction to include in semi-annual reports all the investigations even if no activity took place during the reporting period. This was important to allow Members to use the semi-annual reports to get a full picture of a Member's use of the anti-dumping remedy.

40. Second, the United States noted its understanding that China had initiated an anti-dumping investigation into MDI on 20 September 2002, that was extended on 25 August 2003 and eventually withdrawn on 28 November 2003. The United States asked China to explain why this investigation was not listed on its most recent semi-annual report with a notation under column 9, indicating that there were no final measures imposed as a result of the case being withdrawn.

41. As a last issue the United States noted that, according to China's report for this period, there were two investigations regarding imports of hydrazine hydrate from the United States. The United States asked whether the fact that there were two listings was a clerical error on the semi-annual report, and if not, to explain why the action appeared twice.

42. The delegate of China indicated that he would check with his authorities in capital and would provide responses.

43. The United States requested China to file a corrigendum to their semi-annual report, if warranted.

44. With respect to the semi-annual report of **Indonesia**, the delegate of the United States noted that in its semi-annual report, Indonesia reported no definitive measures in place, but of the nine investigations initiated none appeared to have proceeded beyond the stage of proposing provisional measures. All of these proceedings appeared to have taken much longer than the eighteen month maximum provided for in Article 7 of the Agreement. The United States asked Indonesia to explain why this was the case.

45. The delegate of Indonesia indicated that he would check with his authorities in capital and would provide responses.

46. With respect to the semi-annual report of **Korea**, the delegate of the United States first reminded Korea of the instruction to include in semi-annual reports all open investigations even if no activity took place during the reporting period. This was important to allow Members to use semi-annual reports to get a full picture of a Member's use of anti-dumping remedies. The United States noted, that Korea reported initiating several cases on particle board for the first half of 2003 but none of these cases were reflected in the report for the second half of 2003.

47. Second, the United States observed that it seemed that Korea omitted information pertaining to the anti-dumping case it initiated against imports of lithium manganese dioxide batteries from the United States. This case was initiated on 4 September 2003. The United States requested Korea to clarify and provide full information regarding this proceeding.

48. Third, the United States observed that information about Korea's initiation of an anti-dumping investigation concerning imports of choline chloride and salt of choline chloride from the United States also appeared to have been omitted. This investigation was initiated in December 2003. The United States requested Korea to clarify and provide full information regarding this proceeding.

49. Fourth and finally, the United States noted that according to Korea's semi-annual report, none of the determinations made during the second half of 2003 appeared to have involved an examination of home market prices. Rather Korea reported that all the determinations were made on the basis of facts available. The United States asked Korea whether there was an explanation for such wide-spread use of facts available during this reporting period.

50. The delegate of Korea, on the fourth issue regarding the use of facts available, noted that this came to his attention a couple of days ago. He had checked with capital on all nine cases on page two of the report. He clarified that the cases where a determination had been based on facts available were only two, and that there had been a clerical error involved in submitting Korea's notification. The two cases where the determination had been based on facts available were the fourth, on disposable lighters, and the last one on that page, on alkali manganese batteries. Out of the remaining seven cases, four cases had been based upon home market prices, these were: the second and the sixth on alkali manganese batteries, the seventh on aluminium hydroxide, and the eighth on polyvinyl alcohol. In the remaining four cases, the determinations were based in part on facts available, since some exporters did not provide the information requested in the questionnaires.

51. Regarding the US requests for information in the investigations on dioxide batteries and choline chloride from the United States, the delegate of Korea offered to check with capital and submit a revised version as soon as possible.

52. With respect to the semi-annual report of **Malaysia**, the delegate of Malaysia drew the attention of the Committee to some corrections in page 3 of its semi-annual report regarding the

definitive anti-dumping duties in force for the period 1 July to 31 December 2003. Malaysia noted that the reference to corrugated medium paper in rolls from the European Union should be deleted as this measure had been terminated. Also, there were two additional anti-dumping duties in force for China, on bicycles and for Hong Kong, China, also on bicycles. These amendments would be reflected in a corrigendum to be forwarded to the WTO Secretariat.

53. With respect to the semi-annual report of **Mexico**, the delegate of Chinese Taipei expressed concern with regard to Mexico's anti-dumping sunset investigation on baby carriages, which had been initiated seven months after the end of the five year period of imposition of the duty. Chinese Taipei reported that it was working constructively with Mexico on this issue and looked forward to a mutually satisfactory solution. Chinese Taipei would also be monitoring closely the results of the investigation, due to be completed next month.

54. The delegate of the United States raised three issues with respect to Mexico's semi-annual report. First, the United States noted that page 3 listed a proceeding initiated against newsprint from the United States. It was the US understanding that this was an expiry review, however, it had not been listed as such on the notification. The United States asked Mexico to confirm that this was an expiry review.

55. Second, with regard to the list of anti-dumping measures in force, the United States noted that Mexico did not list newsprint among products for which it had measures in force. The United States asked Mexico to explain why this investigation did not appear on the list.

56. Third, the United States exhorted Mexico, consistent with the reporting by other Members and consistent with the requirements of the Committee, to also report all the reviews in Annex 4 of Mexico's report in the table that lists ongoing proceedings on pages 2 to 4 of the report.

57. The delegate of Mexico noted that regarding the expiry review on baby carriages raised by Chinese Taipei, Mexico was working with Chinese Taipei on that issue and believed that the procedure would be concluded shortly. Regarding the issue raised by the United States on newsprint the delegate of Mexico clarified that it had not reported any measures in force on this product and that that what was reported was a new investigation. Mexico noted that they did have a measure in force on bond paper which was undergoing an expiry review as indicated in Annex 4 of Mexico's report.

58. The delegate of the United States expressed that they had a different understanding on the newsprint investigation and that this would be pursued in writing.

59. With respect to the semi-annual report of **South Africa**, the delegate of India noted that in column 3 relating to initiation date, there were a large number of entries indicating that notice had been given of the sunset review, but not yet initiated. India asked for clarification from the Secretariat on whether there was an obligation to include notices requesting initiation of a sunset review, but where the sunset review had not yet been initiated, in the semi-annual report.

60. The delegate of South Africa stated that on page 9 of South Africa's report, on the revocation of anti-dumping measures, a measure that had been revoked was omitted. This measure related to blanketing in roll form from Turkey, which had been revoked in October. South Africa would be making a supplemental notification to ensure that the report was correct.

61. The Chairman noted, with regard to India's question, that the only guidance that Members had agreed to regarding what was to be included in the semi-annual reports was contained in document G/ADP/1. This document did not make and specific reference to the inclusion of sunset reviews.

62. The Committee **took note** of the statements made.

H. NOTIFICATIONS OF PRELIMINARY AND FINAL ANTI-DUMPING ACTIONS

63. The Chairman noted that lists of the notifications of preliminary and final anti-dumping actions received by the Committee were circulated to the Committee in documents G/ADP/N/110 and 111 and G/ADP/N/113-116. Since the last meeting of the Committee, preliminary and final anti-dumping actions had been notified by Argentina, Australia, Brazil, Canada, China, Egypt, the European Communities, Korea, Mexico, New Zealand, Pakistan, Poland, South Africa, Turkey and the United States.

64. The Chairman stated that there continued to be a lack of full compliance in this area. Some Members who had submitted semi-annual reports indicating actions in progress had not submitted reports of preliminary or final actions taken. Some Members had submitted reports which did not contain the minimum information called for, as set out in document G/ADP/2. He noted that if the Committee was to carry out its role in monitoring and discussion actions taken by Members, it was extremely important that Members notify their measures as required by the Agreement. The Chairman strongly urged all Members to comply with their notification requirements.

65. The Committee **took note** of the Chairman's statement.

I. CHAIRPERSON'S REPORT ON MEETING OF INFORMAL GROUP ON ANTI-CIRCUMVENTION

66. The Chairman reported that the Informal Group on Anti-Circumvention met on 22 April 2003. The Chairman reported that there were no new papers submitted for the meeting, but Members nonetheless had engaged in an interesting discussion, especially in relation to the paper submitted by the United States at the last meeting, as well as more generally on the question of how to tackle this complex issue.

67. Given the fact that there were no papers submitted to the meeting of the Informal Group, the Chairman at that meeting had raised, under other business, the issue of the further work of this Group. It was apparent from earlier discussions that Members wished to continue to address the issue of anti-circumvention in the setting of the Informal Group, pursuant to the Ministerial mandate. The Chairman urged all Members to make the best use of this Group by submitting papers and participating actively in the discussions.

68. The next Meeting of the Informal Group was scheduled for the afternoon of 26 October 2004. The deadline for submissions for that meeting was 14 September 2004. The Chairman urged Members to make maximum efforts to respect this deadline, in order to allow the Secretariat to translate and circulate your submissions in time. This would allow delegations and capital-based experts to study the submissions in their preferred WTO language and prepare considered responses, which would enhance the discussions.

69. The Committee **took note** of the Chairman's statement.

J. CHAIRPERSON'S REPORT ON THE MEETING OF THE WORKING GROUP ON IMPLEMENTATION.

70. The Chairman reported that the Working Group on Implementation met on 20 April 2004. He reported that the Group continued the discussions on the new topics that were referred to it by the Committee at its Spring 2003 meeting. Although only four Members had submitted papers, on three of the new topics, the discussion were nonetheless interesting and useful in enabling Members to better understand the issues involved and the practices of various Members.

71. The Chairman strongly encouraged those Members who had not submitted any papers on these topics to do so, as the more information on the table about the approaches of different national authorities on these issues, the better. Additional information concerning national practices and different Members' views would add to the value of the discussions. In that regard, he noted that several Members made statements about their practices during the meeting. While such oral statements were of course useful and appreciated, it would be very helpful if Members could reproduce such oral statements of information concerning their practice in written form, so that other Members could consider them in more depth. Similarly, a number of questions were posed during the course of the meeting, which Members responded to, and it might be useful to put those questions in writing as well.

72. While the Group had made good progress since 2001 in developing the text of a draft recommendation concerning conditions of competition that may be relevant to a decision whether a cumulative assessment of the effects of imports is appropriate, it became apparent during the meeting last October that significant differences remained between Members concerning some fundamental elements of the draft text. Following informal consultations with some Members prior to Tuesday's meeting, and as discussed further during the meeting, it seemed unlikely that further progress in developing consensus on the revised draft text was possible. Therefore, the Group decided to set the draft recommendation aside, at least for the time being.

73. The fact that the draft had been set aside did not mean that it could not be reconsidered, merely that it would not automatically appear on the agenda of the next meeting of the Group. Any Member may ask that it be put on the agenda for discussion, if they wish. Similarly, if any Member submitted a paper relating to the draft recommendation, or indeed, to any of the other topics that had been set aside, that issue would reappear on the agenda of the Group for its next meeting.

74. In light of the fact that the Group had only four topics before it for discussion, the small number of papers submitted for this meeting and the previous meeting, and the fact that the Group was able to conclude the meeting in only half a day, it had been decided to shorten the time allocated for the Group's meetings to one day. Thus, the next meeting of the Group was scheduled to begin on Wednesday, 27 October 2004. The deadline for submissions for that meeting was 15 September 2004.

75. As usual, the Secretariat would circulate a reminder of the deadlines for all the Anti-Dumping meetings in the autumn. The Chairman urged Members to respect these deadlines, in order to allow the Secretariat to translate and circulate Members' submissions before the meetings, which would allow delegations and capital-based experts to study the submissions in their preferred WTO language and prepare considered responses, which would enhance the discussions next autumn.

76. The Committee **took note** of the Chairman's statement.

K. EFFECT OF MEMBERSHIP ENLARGEMENT ON TRADE REMEDIES CURRENTLY IN FORCE IN THE EUROPEAN COMMUNITIES – ITEM REQUESTED BY INDIA, JAPAN, KOREA AND THE UNITED STATES

77. The Chairman noted that this item had been requested by India, Japan, Korea and the United States to be on the agenda for this meeting and the meeting of the Committee on Subsidies and Countervailing Measures.

78. The delegate of India voiced concerns on the impact of EU enlargement on anti-dumping actions currently in force in the EC. Article VI of the GATT and the AD Agreement required that an anti-dumping measure in force in the territory of a country or a separate customs territory shall only be applied pursuant to an investigation initiated and conducted in accordance with these provisions.

No anti-dumping measure was applicable on imports from India into the territory of the new member states for the moment. India was not aware of any anti-dumping investigation having been initiated on allegedly dumped imports from India into the territory of the new member states with the exclusion of one product. In the absence of such an investigation, application of anti-dumping duty on imports of India into the territory of the new member states from May 2004 would not be in conformity with provisions of Article VI of GATT 1994 and the AD Agreement including: Article 2 on determination of dumping; Article 3 on determination of injury; and Article 5 on initiation and subsequent investigation. Article 18.1 of the ADP Agreement describes that no specific action against dumping can be taken except in accordance with the provisions of GATT 1994, as interpreted by the AD Agreement. There was no provision in GATT 1994 or the AD Agreement which permitted a Member to geographically stretch the applicability of AD measures to cover imports into the territory of countries which were not subjected to an AD investigation. India was therefore of the view that, if trade remedy measures which were currently applicable in the EC-15 were extended to cover imports into the territory of the EC-25, then such action would be without basis in GATT 1994 and the AD Agreement.

79. India was further of the view that it was not possible to bring such action into conformity with Article VI of GATT 1994 and the AD Agreement through the mechanism of reviews. Extending the AD measures of one of the constituent members of the customs union, in this case the EC-15, to the territory of the new customs union EC-25, may result in conferring rights on certain WTO Members, when no such rights had been provided for in the WTO Agreements to the adverse interest of countries not party to the customs union. This could also result in the application of a more restrictive regulation of commerce in respect of imports from India into the territory of the new member states from 1 May 2004. India therefore requested that the EC do not extend the trade remedy measures of the constituent members of EC-15 automatically to the territory of the new member states.

80. The delegate of Japan also expressed concerns about the EC's automatic expansion of AD measures. He noted that these concerns had also been expressed through a letter from the Japanese Government inquiring about the legal justification of the EC's automatic expansion of the current AD measures to the newly acceding members. Japan had not obtained any satisfactory explanation from the EC. As expressed at the last Committee meeting, in accordance with Article 1 of the AD Agreement, anti-dumping measures shall be applied only pursuant to an investigation initiated and conducted in accordance with the provisions in the AD Agreement. The EC however, intended to expand the current anti-dumping measures to acceding countries without investigation pursuant to the Agreement. It was obvious to Japan that the previous investigation for the 15 member states was not a valid basis for the imposition of AD duties on the 25 member states because the basis of the standing requirements and the injury determination were completely different.

81. Japan did not believe that the proposed task force review was the investigation under the Agreement which could be a basis for the imposition of AD duties. The proposed task force review presumed the continuation of the measures and transferred the burden of proof from the investigating authorities to individual exporters. Japan had obtained the explanation from the EC that the general economic weight of the newly acceding countries represented only 5 to 7 per cent industry output of the current 15 member states. What Japan was concerned about was not the size of the economy but the legal obedience of the EC's treatment of the AD measures from the view point of the WTO. Japan believed that the EC should comply with the WTO rules and should not automatically expand the current AD measures to the acceding countries without satisfying its accountability with respect to the legal basis of the automatic expansion of the measures.

82. The delegate of Korea also expressed concerns with the issue of the automatic and immediate application of all the existing EU-15 AD and CVD measures in the new member states as of 1 May 2004. It was regrettable that despite the objections, the EC had failed to address the concerns of several Members including Korea. The EC had pointed out that as of the date of enlargement, the

existing trade measures in the individual new member states would lapse. There were possibilities for interested parties to request the reviews of AD and CVD measures in force in the EU-25. The EC considered this review to be a changed circumstances review under Article 11.2 of the AD Agreement. However, as Korea had pointed out at the last meeting, the previous injury determinations which were resolved as a basis of outstanding AD measures cannot constitute a valid basis to extend those measures to the new member states. The outstanding measures to be extended geographically after the enlargement cannot possibly be considered to have met the standing requirements or the initiation requirements as provided for in Article 5 of the AD Agreement.

83. He noted that concerning the possibility for interested parties to request reviews of AD measures in force, as Japan pointed out, this was problematic, in the sense that by establishing a threshold requirement that such request be accompanied by sufficient evidence that enlargement had substantially changed the circumstances of the measures, the EC thus shifted the burden of proof from investigating authorities to the exporters concerned.

84. In the view of Korea the right way to overcome the problem relating to parallelism between the scope of the investigation and the application of the measure was to conduct a reinvestigation on the basis of a broader geographical scope.

85. As this was the last meeting before the enlargement of the EU, Korea wished to reiterate its concern about the implication of enlargement of the current outstanding trade remedy measures of the EC and encouraged the EC to reconsider its position.

86. The delegate of the United States stated that this was a very serious systemic issue. Upon expansion the fundamental nature of the remedies imposed by the EC would change. Nevertheless, all signs were that the EC would not conduct simple reviews of injury on its own initiative. The United States agreed with the EC on the relative economic size of new and old member states. However, for that reason it should be a straight forward matter to reevaluate material injury. The United States asked the EC to remove the taint on these trade remedies by examining this issue.

87. The United States recalled that it was said that "there is no new thing under the sun". This was particularly true in anti-dumping. The United States had made available to Members in the meeting relevant pages from the minutes of the Committee from 1995, the last time the EC expanded its membership. The United States pointed out that in those minutes, this very issue had been discussed before. What was now being heard from the EC was virtually the same position as the last time around. In light of these concerns the United States requested from the EC an update on its plans with respect to this issue.

88. The delegate of China noted that the EC had issued a memo on 27 March 2003 explaining that upon expansion, any measures which currently applied to the EC-15 would simply stretch geographically to cover imports into the territory of the enlarged EC-25. China pointed out that the EC was one of the WTO's most active users of trade remedy measures. The fact that the EC would rashly extend the scope of those measures was of critical concern to China.

89. He noted that a basic principle of the AD Agreement was that any measure must be supported by a determination material injury or threat thereof to the domestic industry. China was of the view that the problem the EC's proposed policy raised was that the dumping duty being imposed in those new member states, and the protection offered to the domestic industry in those states, was not based on a determination that those domestic industries were suffering material injury. Article 5.4 of the AD Agreement provided that an investigation shall not be initiated unless the authority had determined that the application had been made by or on behalf of the domestic industry. No investigation should be initiated when domestic producers supporting an application account for less than 25 per cent of total production of the like products produced by the domestic industry. Upon

expansion, absent a new investigation, it could not be determined whether an EC trade measure had support to be extended to the new member states. China believed that the scope of an existing anti-dumping measure could not be automatically extended to include application of this measure in the newly acceding member states. The EC's automatic imposition of anti-dumping measures to the new member states without proving dumping, injury and causal link was inconsistent with the EC's obligations under WTO rules. There was a need for the principle underlying GATT Article VI and the Anti-Dumping Agreement to be respected.

90. The Chinese delegate remarked that the EC memo stated that after enlargement the EC would conduct reviews, but only upon exporter requests. This meant that the burden of establishing the need for a review would be on the exporter. An exporter had difficulty to access detailed information on the present condition of the domestic industry in any new acceding states. How could an exporter apply for a review without the relevant information? China was of the view that this would impose a burden on an exporter in requesting a review. The review should not be on the basis of the information provided by the exporter but should be a total review and should be initiated by the EC itself rather than upon request by a Member affected by the anti-dumping measure.

91. He asked if a WTO Member had an outstanding measure against one of the EC-15 countries, could that Member apply the measure against the imports from EC-25? How did the EC view the extension of existing anti-dumping measures to all 25 member states?

92. He also requested the EC to update the Committee concerning its plans regarding the issue of enlargement and outstanding trade remedy measures and provide the planned future work on this issue for the benefit of all other Members.

93. The delegate of Pakistan shared the concerns expressed by India, Japan, Korea, the United States and China. Pakistan asserted that Members could only impose anti-dumping measures after conducting an investigation. Pakistan reported that there were no anti-dumping duties on goods imported from Pakistan into the new member states of the EC. When these countries joined the EC, duties applied in the EC-15 would automatically be applied in these new member states. Pakistan not only had systemic concerns but also had practical concerns. Pakistan urged the EC not to extend anti-dumping measures to the newly acceding member states. If they were to do it, the EC should follow the due process of law.

94. The delegate of Chinese Taipei shared the same concerns raised by the previous speakers. Chinese Taipei emphasized that the enlarged EC may contribute to multilateral trade liberalization only if it obeyed by the basic principle that the extension did not create a higher barrier to trade in the new members, as set out in Article XXIV of GATT and Article V of GATT. Chinese Taipei had substantial interest in these matters as had measures imposed by the EC on its exports. These measures would apply automatically without any further investigation or review for each of the 10 new member states. Chinese Taipei had requested consultations with the EC to find a solution and would continue to remind the EC of its due obligations under the WTO Agreement.

95. The delegate of Brazil joined in the concerns expressed by previous speakers and reserved the right to challenge the legality of any measure it deemed necessary in order to preserve, not only its rights as a Member, but as also the integrity of the WTO system.

96. The delegate of the European Communities noted that as the United States had said, there was nothing new under the sun. This could be seen from the minutes of the meeting of this Committee in 1995, which the United States had made available to the Committee.

97. The EC intervention consisted of three parts. First, it recalled for those not present at the last meetings the principles with regard to EU enlargement in the area of anti-dumping. Secondly, it provided an update on the latest developments. Thirdly, it dealt with the legal considerations.

98. The EC delegate recalled that on 1 May 2004 the EU would enlarge with 10 new member states. What did this mean in terms of AD measures?

- The measures currently in force in the EU-15 would apply for the enlarged EU-25.
- All AD and other trade defence measures in the 10 new member states would disappear.
- From 1 May 2004 there would be no trade defence measures between the current 15 and the new 10 member states.

99. The application of the AD measures currently in force in the EU to the 10 new member states would be automatic. There would be no systematic reviews, but if there was sufficient *prima facie* evidence justifying such review, the EC was happy to initiate reviews in order to look whether the level of measures, based on 15 member states, should be adapted for the enlarged EU. As the EC had already stated, for initiating such reviews, it would not ask the impossible in terms of *prima facie* evidence. This approach was the same as in the previous enlargement. The EC was convinced that the approach was correct, all the more since the economic weight of the 10 new member states was less than 10 per cent of the economic weight of the current EU-15.

100. Secondly, the EC had taken a number of steps in preparation for enlargement. The delegate noted that the whole approach as just described had been widely communicated, in particular via the following measures:

- The EC had launched an enlargement website.
- Seminars with all economic operators in the new member states (producers, importers, users which will potentially be affected by EU AD measures) were organised. In brief, everybody had been informed, so that they could react and ask for a review if they thought this was necessary.
- Recently the EC had also published a notice in the Official Journal, OJ C 91/2 of 15.4.2004. This notice again set out the principles and contained an invitation to interested parties to request reviews.
- The enlargement approach had been already twice discussed in the Committee.
- In addition, a further step had been taken to ensure that enlargement ran smoothly in terms of anti-dumping. The EC had set up an enlargement taskforce, to which Japan had already made reference. This taskforce had contacted all countries with which the EC had significant measures in force. "Significant" had been interpreted in a very broad sense: 32 delegations were contacted, out of a total of 33 against which the EC had measures in force. The taskforce looked at all measures in force on the basis of a number of parameters: the level of the duty, the significance of the level of imports into the acceding states, the level of production and the level of prices in the acceding states. As a result of this exercise the EC had received 50 communications. On 20 March 2004 the EC initiated on its own initiative eight Article 11.2 of the AD Agreement reviews (Official Journal C 70/15), which would be concluded soon.

101. Regarding the legal analysis, the EC delegate recalled that the United States had said that enlargement was a serious systemic issue. China had voiced great concern, referring *inter alia* to Article 5.4 of the AD Agreement and to difficulties for exporters to obtain the relevant information on the 10 new member states, which would be needed for a review. Chinese Taipei had mentioned a risk of increasing trade barriers. Brazil even saw a danger for the integrity of the WTO system. Several Members had argued that there was no legal justification for the EC approach.

102. The EC disagreed and strongly disputed such legal analysis. The EC could not accept the request not to extend automatically the measures currently in force. The EC asserted that its approach was perfectly in line with the EC's legal obligations.

103. The EC delegate noted that the statements from several Members were strong words. They were perhaps so strong because they had to compensate for the lack of legal justification. Indeed, the EC considered that all these statements seemed to be a desperate and unsuccessful attempt to argue that enlargement was an event that did not fall under a provision to which it naturally belongs, i.e. Article 11.2 of the AD Agreement, instead of accepting the natural and sensible reality: that enlargement was an event which could be appropriately addressed under Article 11.2. Some Members who had taken the floor tried to base their case on provisions whose application to enlargement seemed very far-fetched.

104. The EC delegate recalled that, as he had previously explained, many things may change during the life-time of an AD measure. New operators may enter the market, existing operators might leave the market; exchange rates can considerably vary, etc. The EC assumed that there was wide agreement by Members that these events did not automatically trigger a review.

105. Enlargement was, from a political point of view one of the most important events, if not the single most important event, in Europe these years. This political importance or the number of 10 countries, should, however, not blur the assessment of enlargement in terms of AD action. From the purely technical AD perspective, enlargement was not much more than one of the many circumstances that may and would change during the lifetime of a measure, but that would not necessarily lead to a change of an AD measure. The EC assessment was that, in most cases, enlargement would not constitute such change warranting a change in the level of measures, and thus a review.

106. The delegate of the EC illustrated this with an example concerning the United States. The EC, being a moderate user of trade defence instruments in the bilateral EU-US trade relations, had only one AD measure in force concerning the United States, i.e. definitive AD measures on imports of ethanolamines. In response to the concerns expressed by the United States, the EC had looked at the statistics on the US exports of the product concerned (ethanolamines) to the EC and to the ten new member states. Statistics revealed that imports into the EU-15 amounted to 10,991 tons in 2001 and 29,392 tons in 2003. The level of imports into the 10 new member states was 580 tons in 2001 and 524 tons in 2003, i.e., hardly any imports. There were also no producers of the like product in the new member states.

107. The EC considered it obvious that if in such circumstances a review were initiated *ex officio*, it would create a lot of useless work, without serving any other purpose than creating a couple of billable hours for some law firms. The EC did not pretend that the example of ethanolamines was representative for all cases, but it was for many of them. The EC was confident that many cases would fall into this category. For the other cases, the EC was committed to initiate reviews if evidence showed that this was warranted, and would not ask the impossible for initiating such reviews.

108. The delegate of Chinese Taipei noted that the EC maintained 10 measures against Chinese Taipei's exports while Poland was the only new member state that maintained measures against its exports, with only one measure being in force. The fact that one measure would disappear while 10 others would be extended seemed to create an imbalance. Chinese Taipei was still not clear on the legal justification for the extension. The mechanism proposed by the EC for review of the extension of the measures also increased the burden on exporters, as no reviews would be initiated if the exporter did not apply for a review.

109. The representative of the United States observed that the procedures adopted on 15 April clearly stated that enlargement *per se*, in the absence of evidence of its effect on the measure, would not be sufficient to warrant review of the measure. The United States asked whether the 50 communications received by the EC were requests for reviews, and whether it was correct in understanding that only 8 requests for review were granted. The United States also requested the EC to provide an update to the Committee on the results of the hardship reviews, and noted that the hardship standard should not be necessary to warrant a review. The United States questioned other Members on whether they believed that automatic reviews under Article 11.2 would be sufficient to allow extension of the measure or whether a new investigation was necessary. The United States also requested more information from the EC on the level of imports to the EU-15 and to the 10 new member states and as to the levels of transshipment in the new member states.

110. The delegate of India was of the view that an article 11.2 review was not sufficient to "cure" the violations generated by extension of the measures. India believed that measures could only be imposed as a result of an investigation in accordance with the rules of the AD Agreement and questioned where and when was this investigation conducted with respect to imports entering the 10 new member states. Regarding the example given by the EC on imports from the United States, India believed that although imports into the 10 new member states were minuscule this was not the point. India also questioned the need to extend the measures to the new member states where there were no producers of the like product.

111. The delegate of Korea expressed the view that enlargement was not just a change in circumstances, but a change in the market itself that is subject to the remedy. Therefore, a new investigation was necessary. Korea also believed that the trade impact of the extension of the measure was unimportant as this was a systemic issue.

112. The delegate of Colombia noted that Colombia had a systemic interest on this issue. Colombia noted that compliance with the disciplines set out in the AD Agreement was not based on the economic impact of the measure. Colombia was of the view that a new investigation was necessary if the measures were to be applied in the new member states.

113. The delegate of Japan was also of the view that a new investigation was necessary. Japan noted that the standing of the applicants from the EC-15 changed with expansion to the EC-25. Japan also believed that even if expansion was considered a change of circumstances, automatic extension of the measures was not within the ambit of Article 11.2.

114. The delegate of the European Communities recalled that Chinese Taipei mentioned that the EC had currently 10 measures against them, while with regard to the acceding countries, there was only one measure from Poland against Chinese Taipei. Since only this latter measure would disappear there would allegedly be an imbalance. This was not, in the EC's view, the approach to take. What mattered was whether there were significant imports into the 10 acceding countries, or any other facts which impacted on the level of the measure. If that was the case, then, if there were indeed changed circumstances a review may be warranted. But it was important to make this analysis first.

115. Regarding the US request that the Committee be updated on the hardship reviews, the EC would, in line with its usual practice, provide the results of these reviews, in accordance with Article 16.4 of the AD Agreement. The United States also asked for more information on other aspects of imports into the 10 acceding countries, in particular the level of transshipment. On this the EC noted that transshipment would not enter into the trade statistics, as it would not be considered as imports.

116. Concerning the comments made by India, the EC delegate pointed out that, contrary to what India suggested, every single AD measure of the EC was based on an investigation carried out in compliance with the AD Agreement. The extension of AD measures did not change this fact.

117. The EC delegate recalled that Japan argued that enlargement had completely changed the measures and that new investigations would be necessary. The EC believed this was not the case. As the US example would suggest, there was in many cases not even a change at all.

118. The delegate of the United States was of the view that analysis of past trade flows was not as relevant as the impact on potential exports. The United States asked whether there was a deadline for requesting review of the extension.

119. The delegate of the European Communities confirmed that there was no deadline for reviews based on enlargement. This followed from the notice of 15 April 2004 (Official Journal C 91/2).

120. The Committee took note of the statements made.

L. OTHER BUSINESS

(i) *European Communities - Recent amendment to EC anti-dumping law*

121. The delegate of the United States noted that on 8 March 2004 he had received a press release from the EC which described changes made to its anti-dumping and countervailing duty rules as "introducing greater transparency, efficiency and predictability" to their trade remedy measures. The United States was a strong proponent of all of these. Further, in light of widespread worldwide dumping, the United States was not surprised at the statement by EU Trade Commissioner Pascal Lamy that "[w]e are responding to demands of EU companies suffering from unfair trading practices as well as to those raised [by] exporters in third countries. One thing is clear: strengthening rules on trade defence is in the overall interests of an open trading system". The United States agreed, and commended the EC for improving obsolete practices which were ineffective in addressing unfair trade.

122. In reviewing the new rules the United States found that the changes were forward-leaning, and would allow the EC to act more swiftly and firmly against unfair trade practices, including in ways which were not highlighted in the press release.

123. Although the regulations apparently were not published in time to be included on the agenda of this meeting, presumably the EC would submit them in time for discussion in the fall. To assist Members in preparing for that discussion, the United States highlighted certain questions which Members may want to keep in mind as they review this legislation. These questions were:

- Why has the input of member states been reduced?

Previously no measures were adopted unless the member states approved. Under the new rules, a Commission decision to impose measures will be automatically adopted

unless explicitly rejected. Why has the EC shifted its presumptions? Does this reduce the role of public interest considerations in EC trade remedy practice?

- Why has the EC lengthened its reviews?

The press release promises that longer deadlines will actually produce faster investigations. According to the EC, under current practice it has often missed its own internal deadlines for completion of reviews. Presumably this was not true in every case. Further, the press release does not explain by how long the Commission has been missing its deadlines. Although the press release promises "faster investigations," will the true effect of these longer deadlines be slower investigations in many cases?

- Will some exporters be disadvantaged if the Commission misses its deadlines?

If an exporter requests a review of its assertions that, due to changed circumstances, a measure is no longer necessary, or requests a review as a new shipper, but the Commission misses the deadline for completing the review, the new rules seem to require the assertions be rejected and the reviews cancelled. Why should an exporter be deprived of its right to a review because the Commission cannot meet its own deadlines?

- Why are EU producers and non-EU producers treated differently in circumvention cases?

Under the new rules, if one producer outside the EU is found to be circumventing, all other non-EU producers are presumed to be circumventing in the same way until they can prove otherwise. However, if the circumvention is being done by an EU importer, the same presumption does not apply to other EU importers. Why is such a difference in treatment based on whether the company in question is located inside or outside the EU?

124. Finally, the United States took particular note of the EC's description of itself as a "moderate" user of trade remedies. The United States welcomed such moderation, and used trade remedies with the same moderation exercised by the EC. The United States noted that it did not expect the EC to respond to these issues at the meeting and looked forward to reviewing in an orderly fashion the notification of their amended regulations under Article 18.5, as well as the written questions and answers from Members. The United States made this statement to advise Members that press reports of the recent amendments of EC anti-dumping law may have substantially understated the significance and effect of those changes.

125. The delegate of the European Communities, as a point of procedure, suggested that Members should avoid using the agenda item Other Business as a means to circumvent the normal procedures and rules for dealing with notifications. The spring Committee meeting was clearly not the right place for discussing this amendment of the EC Anti-Dumping law. The amendment was published on 13 March 2004, after the cut-off date for notifications to be examined by this Committee. It had meanwhile been notified to the WTO and would be on the agenda of the autumn meeting. Obviously the text of the amendment had not yet been distributed to other Members. Consequently, many other Members had not yet had the possibility to look at the amendment.

126. The EC delegate explained that the aim of the recent amendment to the EC AD law was to improve transparency and predictability, as well as to speed up investigations. The following areas were covered by the amendment: improved decision-making; deadlines for review, which were immediately applicable to sunset reviews, for other reviews they would apply in two years time; clarified rules on anti-circumvention and anti-absorption; and finally some updated provisions on undertakings.

127. He recalled that the first issue raised by the United States not only concerned the “cuisine interne” of the EC, but the underlying assumption was actually wrong: the input of member states had not been reduced. Member states had the same input as before. The only matter which had changed was the value of abstentions, which would in future count as positive votes. This had no impact whatsoever on public interest considerations in EC AD investigations, but was a purely procedural matter.

128. According to the delegate of the EC, the second issue was equally wrong. The EC had not lengthened its reviews. The EC considered that reviews generally lasted too long. Therefore the introduction of deadlines seemed appropriate. The deadline for a review should be aimed at 12 months, with a mandatory maximum deadline of 15 months.

129. On the third question, the EC delegate confirmed that there would be no discrimination. Exporters would not necessarily be disadvantaged if the Commission missed deadlines, because Article 11.2 reviews could be at the request of any interested party, i.e. EC producers, exporters, etc. Indeed, if a deadline was missed in a sunset review, this was to the disadvantage of domestic producers, since measures would then simply expire.

130. Regarding the fourth question, the answer was that there was no such different treatment and no such presumption.

131. The delegate of the United States mentioned that it was not his intent to circumvent the notification review procedures and would take part faithfully in those procedures at the next meeting. The issue was raised as a public service and did not constitute a substantive review. Regarding the replies given by the EC on the deadlines to shorten reviews the United States needed some factual analysis of how much overrun there was. On the missing the deadlines for expiry reviews the United States understood that other parties may also be disadvantaged. The United States noted that in general they appreciated most of the changes that had been made.

132. The Committee **took note** of the statements made.

(ii) *Canada – Measures on corrugated steel bars*

133. The delegate of Cuba recalled that on 12 January 2000, as a result of the investigation undertaken by Canada against imports of corrugated steel bars from Korea, Turkey and Cuba, the Canadian International Trade Tribunal (CITT) determined that imports from Cuba had caused injury to the Canadian steel industry. As a consequence, the Cuban exporter had anti-dumping duties imposed which should expire, as stated in the record of the investigation, on 11 January 2005, unless it was decided to the contrary by the CITT. The ongoing review investigation on these measures should be concluded on 28 April 2004. Cuba expressed concern about the possibility that the Canadian authorities would decide to extend these duties, since, as stated by Cuba in 2000, the commercial interests of a developing country would be affected unjustifiably for a longer period. Cuba noted that it had argued, before and after imposition of the measure, that its level of exports to the Canadian market was small, indeed, almost non-existent, and that those imports were unduly cumulated with imports from other countries during the original investigation.

134. Cuba trusted that the Canadian authority would recognize in the ongoing review process the substantial changes that had taken place in the steel market from the year 2000 to date. Cuba noted that the price of steel bars had doubled and considered that there would be no justification to extend the duties beyond the expected expiry date, which would eliminate the injury caused to the Cuban exporter. With this statement Cuba wanted to make clear its opposition to the extension of the duties, which it considered had not been justified originally, and much less now, and which would be another example of non-compliance with Article 15 of the AD Agreement establishing special and differential treatment for developing countries. Cuba reserved the right to come back to this issue once the results of the review had been notified.

135. The delegate of Canada noted that the CITT would decide on 28 April 2004 whether to conduct an expiry review, if no review was initiated the measure would expire. If the CITT initiated a review it would do an analysis of the likelihood of continuation or recurrence of injury. Canada encouraged Cuba, if a review was initiated, to participate and make its views known to the Canadian authorities. Canada asserted that during the original investigation, the CITT did consider Article 15 and whether the essential interests of Cuba were being affected.

136. The Committee **took note** of the statements made.

M. DATE OF NEXT REGULAR MEETING

137. 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. The SCM Committee had the same schedule, as did the Safeguards Committee. In order to accommodate all three bodies' meeting, the next regular meeting of the Committee was proposed for the week of 25 October 2004. In light of previously scheduled meetings of the Working Group on Implementation and the Informal Group on Anti-Circumvention, the Committee would therefore meet beginning in the morning on Thursday, 28 October 2004.

138. The Committee **decided** to meet on the date proposed by the Chair.

N. ELECTION OF OFFICERS

139. The Chairman noted that the Chairman of the Council for Trade in Goods had not yet completed informal consultations on the nomination of Chairpersons for the different bodies operating under the auspices of the Council for Trade in Goods. Thus, contrary to the usual practice, there were no proposed nominations before the Committee for consideration.

140. The Chairman recalled that the Committee's rules of procedure called for the election of officers to take place at the first regular meeting of the year. The rules of procedure called for the election to take effect at the end of that meeting. However, unless the Committee wished to proceed with the election of a Chairman without waiting for the results of the overall consultations, and in light of the circumstances, the Chairman proposed that the Committee, as an extraordinary measure, extend the term of the current Chairman and Vice Chairman, Mr. David Evans and Mr. Mateo Diego-Fernandez, until the next meeting of the Committee. The Chairman noted that this action would be consistent with the action of the Committee in the past, when this situation had arisen, in 2000.

141. The Committee **so decided**.

142. The meeting was adjourned.
