

**Committee on Subsidies
and Countervailing Measures**

MINUTES OF THE MEETING HELD
ON 23-24 OCTOBER 1997

Chairman: Mr. Gilles Gauthier (Canada)

1. The Committee on Subsidies and Countervailing Measures ("the Committee") held its regular meeting on 23-24 October 1997.

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A. OBSERVERS - INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS

3. The Chairman recalled that, at its meeting of 1-2 May 1997, the Committee had granted regular observer status to a number of international intergovernmental organizations. It had not, however, granted observer status to the ACP Group and the OECD, for which requests had also been made. Regarding observer status for the OECD, a number of Members had raised questions at the meeting regarding reciprocity and, in particular, the issue of observer status for the WTO in the Group of Participants to the Arrangement on Officially-Supported Export Credits and Export Credit Guarantees. The Committee had thus decided to defer action on the OECD's request to allow time for consultations. Meanwhile, the OECD continued to be invited to attend Committee meetings on an ad hoc basis. The Chairman informed the Committee that he had undertaken informal consultations on this matter, both with delegations and with the Chairman of the OECD Participants' Group. He had highlighted to the latter that reciprocity was a key consideration in deciding whether to grant observer status in WTO bodies, and had learned from his contacts that the issue of observer status for the WTO was on the agenda of a meeting of the Participants' Group in early November. The Chairman indicated that although he was not yet prepared to make precise suggestions to resolve this question, he considered that his contacts had been useful and intended to continue his efforts in this regard.

4. The Chairman proposed that the Committee again defer action on the OECD's request and continue to invite the OECD to attend Committee meetings on an ad hoc basis.

5. The Committee so decided.

6. Turning to the ACP Group's request, the Chairman recalled that, at its last meeting, the Committee had asked him to conduct consultations on this request and report back to the Committee. Since the last meeting, the ACP Group had been granted regular observer status in a number of WTO bodies. There was a horizontal process underway at the Council level regarding the requests by the ACP Group and other international intergovernmental organizations that had not requested observership in this Committee. On the basis of informal consultations, it appeared that the Committee was not in a position to grant regular observership at this point. The Chairman proposed that the Committee invite the ACP Group to attend its meetings on an ad hoc basis pending the outcome of the ongoing horizontal process.

7. The Committee so decided.

B. NATIONAL LEGISLATIONS

(i) Review of countervailing duty legislation and/or regulations (Article 32.6) -
New or amended texts

(ii) Continuing review of previously reviewed notifications (Article 32.6):

8. The Committee agreed that since all legislations and related questions on the agenda were also on the agenda of the Committee on Anti-Dumping Practices for its meeting of 30-31 October 1997, there was no need to duplicate that discussion. However, since question no. 3 posed by Canada regarding the notification of Singapore (G/SCM/Q1/SGP/9) and Singapore's response (G/SCM/Q2/SGP/11) thereto focused specifically on countervail issues, they would be addressed in this Committee.

9. The representative of Canada indicated that his delegation had not yet been able to review Singapore's response, but would do so and report back to the Committee.

10. The Chairman reminded Members that, for a previously reviewed notification of legislation to appear on the agenda of the Committee's regular meeting in April 1998, questions must be submitted to the Secretariat and to the concerned Member no later than six weeks before the meeting, i.e., 9 March 1998.

C. 1995 NEW AND FULL NOTIFICATIONS (Article 25.1 of the SCM Agreement and Article XVI:1 of GATT 1994)

11. The Chairman indicated that there were seven new and full notifications for review before the Committee as well as follow-up questions from the EC and Korea regarding the new and full notification of Australia.

12. The questions regarding Argentina's notification can be found in the following documents:

G/SCM/Q2/ARG/11	(Submitted by Japan)
G/SCM/Q2/ARG/12	(Submitted by Poland)

13. The answers provided by Argentina to these questions can be found in the following documents:

G/SCM/Q2/ARG/13	(To questions submitted by Japan and Poland)
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14. The questions regarding Bahrain's notification can be found in the following documents:

G/SCM/Q2/BHR/1	(Submitted by Japan)
G/SCM/Q2/BHR/2	(Submitted by the EC)

15. The answers provided by Bahrain to these questions can be found in the following document:

G/SCM/Q2/BHR/3	(To questions submitted by Japan and the EC)
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16. The questions regarding Bulgaria's notification can be found in the following documents:

G/SCM/Q2/BGR/1	(Submitted by Japan)
G/SCM/Q2/BGR/3	(Submitted by Poland)

17. The answers provided by Bulgaria to these questions can be found in the following documents:

[NO ANSWERS HAVE YET BEEN PROVIDED BY BULGARIA]

18. The questions regarding South Africa's notification can be found in the following documents:

G/SCM/Q2/ZAF/3	(Submitted by the EC)
G/SCM/Q2/ZAF/4	(Submitted by Japan)
G/SCM/Q2/ZAF/5	(Submitted by the US)

19. The answers provided by South Africa can be found in the following documents:

[NO ANSWERS HAVE YET BEEN PROVIDED BY SOUTH AFRICA]

20. No questions were posed regarding the notifications of Antigua and Barbuda, Cuba, and the United Arab Emirates.

21. The Chairman reminded Members that would like a written response to their oral questions or would like to pose follow-up questions that these questions were to be submitted in writing to the notifying Member and to the Secretariat within two weeks, i.e., by 6 November 1997, and that **written answers were due within six weeks, i.e. by 4 December 1997.**

22. The Chairman noted that some Members had not yet submitted written answers to questions regarding their new and full notifications. In particular, answers had been due by 18 October 1996 from **Brazil**, and were now more a year overdue. Further, answers had been due by 13 June 1997 from **Brunei Darusalaam, Cameroon, Côte d'Ivoire, and Ghana**. Finally, **Poland** still owed a response to follow-up questions posed by the United States. The Chairman encouraged Members which had not yet submitted responses to re-double their efforts.

23. As regarded the status of 1995 new and full notifications, the Chairman noted that the Committee had reviewed 79 notifications to date. One further notification - Burkina Faso - had been received, but could not be circulated before the deadline of 15 September 1997. While the review of 79 notifications was quite an achievement, more than 50 Members had yet to submit 1995 new and full notifications, which had been due on 30 June 1995.

24. The Chairman proposed that the notification of Burkina Faso, as well as any other notifications which could be circulated to the Committee by 9 March 1998, be reviewed at the next regular meeting in April 1998. Questions regarding those notifications were to be submitted both to the notifying Member and to the Secretariat no later than **30 March 1998.**

25. The Committee so decided.

26. The Chairman reminded Members that the Committee had at its last meeting begun to discuss whether the review of 1998 new and full notifications could be conducted more efficiently than the review of 1995 new and full notifications. Specifically, it had been suggested that both questions and answers be submitted before the meeting. The Committee could thus focus on those areas where issues had been identified. The Chairman had prepared draft procedures along those lines, and asked delegations to examine his proposal and offer their reactions. He hoped that the Committee would be in a position to adopt a procedure at its next regular meeting in April 1998.

27. The representative of Norway indicated that his delegation's comments on the Chairman's draft procedures would be submitted in writing shortly.

28. The representative of Slovenia expressed concern that the review of 1998 notifications in April and October 1999 was perhaps too late.

29. The Chairman explained that there was an issue of ensuring the circulation of notifications in the three WTO languages sufficiently in advance to enable Members to submit questions and answers. However, if notifications could be circulated around the target date of 30 June 1998, the Committee might be in a position to begin the review of those notifications in October 1998. The effort was directed at streamlining the review process, and the Committee should certainly aim to ensure that the review began as soon as possible after a notification was made.

30. The representative of Norway pointed out that, in the Proposed Procedure for Review of 1998 New and Full Notifications, the Chairman had indicated two deadlines, 30 June 1998 and 31 December 1998, for the submission of 1998 new and full notifications, and that it should not invite Members in a manifest manner to delay notification by six months.

31. The Chairman clarified that 30 June 1998 was indeed the deadline for Members to make their new and full notifications, and that 31 December 1998 was the date by which the Secretariat would aim to circulate those notifications in the three WTO languages.

D. 1996 UPDATING NOTIFICATIONS (Article 25.1 of the SCM Agreement and Article XVI:1 of GATT 1994)

32. The Chairman indicated that 13 updating notifications appeared on the agenda. However, four of those were double-symbolled documents that were identical to the new and full notifications that had just been reviewed. It would thus be assumed that any questions regarding those notifications had already been posed. Written questions had been posed with respect to two of the remaining nine updating notifications, those of the EC and the Czech Republic.

33. The questions regarding the EC's notification can be found in the following document:

G/SCM/Q2/EEC/11 (Submitted by Japan)

34. The answers provided by the EC can be found in the following document:

G/SCM/Q2/EEC/12 (To questions submitted by Japan)

35. The questions regarding the Czech Republic's notification can be found in the following document:

G/SCM/Q2/CZE/14 (Submitted by Poland)

36. The answers provided by the Czech Republic can be found in the following document:

G/SCM/Q2/CZE/15 (To questions submitted by Poland)

37. The Chairman pointed out that, while 1996 updating notifications had been due on 30 June last year, only 55 Members had submitted such notifications to date. The situation with respect to 1997 updating notifications was even worse than that of 1996 updating notifications, with only 19 Members having submitted such notifications to date. The Chairman urged all Members to make a concerted effort to bring themselves up to date regarding these notifications.

38. The representative of the EC indicated that his authorities had submitted their 1995 new and full notification as well as their 1996 and 1997 updating notifications, which had involved a great deal of work, and that it was becoming increasingly difficult to accept this total imbalance of transparency. The question arose as to how long this situation could go on and what could be done about it. The EC would continue to take a pro-active approach in this area by reminding Members of their notification obligations.

39. The representative of the United States expressed support for the EC's comments and indicated that his government had also made efforts to improve upon its compliance record. He noted that the United States' 1997 updating notification was still outstanding, in part because his authorities were endeavouring to further amplify the scope of the measures included in the 1996 updating notification. He also emphasized their efforts to expand their notification to include measures at a sub-central level, and hoped to finalize that information as well as information regarding sub-central programmes maintained by other Members shortly. The United States might initiate bilateral contacts with other Members in order to seek a more comprehensive improvement in reporting those subsidy programmes.

40. The representative of Norway indicated that his government had submitted its 1995 new and full notification as well as its 1996 and 1997 updating notifications and that it was also concerned by the imbalance in transparency. If Members could not steadily improve their notification record, it might in fact begin to deteriorate as the Members who had fulfilled their notification obligations would

have less incentive to do so in the future. He noted that the Notifications Handbook might provide assistance to Members in this context. With regard to the United States' comments, he found it encouraging that its future notifications would include information on sub-federal subsidies and hoped that that signal would persuade other Members to also consider expanding their notifications.

E. REQUESTS PURSUANT TO ARTICLES 25.8 AND 25.10

41. The Chairman stated that three requests for information had been received pursuant to Articles 25.8 and 25.10 of the Agreement.

(i) G/SCM/Q2/EEC/13

42. The representative of the United States indicated that his delegation would need some time to examine the EC's response (G/SCM/Q2/EEC/14). The United States' request for information had included some specific questions which did not appear, at first glance, to have been answered by the EC, although his delegation understood the care that must be taken in consulting with authorities below the level of the notifying Member. The United States might have follow-up questions to pose.

43. The representative of the EC stated that his delegation would be prepared to respond to any follow-up questions that the United States might pose. The Committee's attention should be drawn to Paragraph 4 of the EC's response and note should be taken of the points made therein.

(ii) G/SCM/Q2/JPN/13

44. The representative of the EC indicated that his delegation had not yet had the time to examine Japan's response (G/SCM/Q2/JPN/15), and would return with comments or follow-up questions after studying the response.

45. The representative of Japan indicated that the subsidy in question was not predominantly used by enterprises in the leather industry, and his authorities had a different recognition of the programme from the EC's claim that it may constitute a subsidy within the notification requirement under Article 25 of the SCM Agreement.

(iii) G/SCM/Q2/USA/11

46. The representative of the EC indicated that, although the request in question had been sent to the US Mission and the WTO on 10 July 1997, his delegation had not yet received any response. Members had the obligation to notify all specific subsidies granted by any level of government and the EC had made a particular effort to notify subsidies granted both in the Community and in Member States, not only at the national level, but also at the regional and local level. A great deal of work and coordination had gone into the EC notification. Other Members had not been prepared to notify sub-federal subsidies, and this had led to a large imbalance in the area of transparency. The EC was aware that the United States, in particular, had large numbers of subsidies, granted at state, city, and possibly other levels, many of which were specific and should be notified under Article 25. While the United States' earlier indication that efforts were being made to decide on whether certain schemes should be notified was welcome, the fact remained that, as of October 1997, the United States had not notified a single sub-federal subsidy. No satisfactory explanation had been provided in the review process to date as to why such schemes had not been notified. That was the reason for the EC's request for information, in which the EC authorities had identified ten programmes in various US states, which the EC considered as being specific within the territory of that state. A much larger number of programmes was cited in the EC's questions on the United States' 1995 new and full notification. The EC would like, as an initial response, a reply on the ten programmes cited in its request for

information. Having put in a good amount of effort itself, the EC could not let the issue go, also linked as it was to that of timeliness and completeness of notifications in general.

47. The representative of the United States indicated that his delegation was not in a position to provide a specific response on the ten programmes cited in the EC's request, but it understood the EC's concern. The United States was undertaking every effort to provide information about measures at the sub-federal level, and had made use of the EC's request to maximize its ability to make a comprehensive notification. Further, any kind of political system involving governmental bodies below the level of the central government was presumably within the scope of an exercise to identify potentially notifiable measures. Federally organized Members should thus not be the only Members who perhaps needed to examine closely the measures that existed within their territory.

48. The representative of the EC expressed his disappointment at the United States' inability to provide a response at this point. While the EC took note of the United States' generally positive attitude and did not underestimate the difficulties involved in providing such information, the imbalance of transparency remained a problem. Progress had to be made. There should also be no confusion between the obligation Members had of notifying subsidies and the possibility of pointing out the existence of notifiable subsidies in other Members' territories.

49. The Chairman considered this matter very important and asked Members to reflect on the comments made.

F. PROCEDURES FOR ARBITRATION UNDER ARTICLE 8.5

50. The Chairman stated that, while draft procedures for arbitration under Article 8.5 had been developed more than two years ago and the issue discussed extensively, no final agreement had been reached. The disagreement was over draft language that foresaw the possibility for an arbitration body not to consider issues that were not raised during the Committee review of the original notification, if the arbitration body was not satisfied with the explanation regarding why the issues had not been raised at the time. At informal consultations on 4 February 1997, the previous Chairman had proposed to leave it to the arbitration body itself to determine whether or not issues not raised during Committee review could be omitted from the scope of an arbitration. Consultations had been held on that basis, and there appeared to be some willingness to re-focus the current text towards purely procedural and administrative aspects. Consultations would thus continue with a view to finding a solution, possibly in time for the next Committee meeting in April 1998.

G. FORMAT FOR ARTICLE 8.3 UPDATING NOTIFICATIONS (G/SCM/W/410)

51. The Chairman stated that the Working Party on Subsidy Notifications had at last agreed on an updating notification format, which had been forwarded to the Committee for adoption. He asked whether the Committee could agree to adopt the format.

52. The representative of Argentina stated for the record that the format could in no way alter the rights and obligations of the parties under the Agreement.

53. The Chairman affirmed that the format was not intended to alter any of the rights and obligations of Members under Article 8 of the Agreement and was merely a tool for the use of the Committee in reviewing Article 8.3 notifications.

54. The representative of Brazil seconded the comments made by Argentina and confirmed by the Chairman. He also expressed concern over the inclusion of population information in the proposed

format and indicated that he saw no proportionality links in the Agreement between subsidies and population factors.

55. The Committee adopted the format.

H. INFORMAL GROUP OF EXPERTS - STATUS REPORT (G/SCM/W/415)

56. The Chairman recalled that the Informal Group of Experts had been created by decision of the Committee in order to consider issues relating to the calculation of 5 percent ad valorem subsidization in the context of Article 6.1(a) of the Agreement. The IGE's report contained a number of recommendations with respect to particular issues arising under Article 6.1(a) and Annex IV of the Agreement and summarized the Group's discussions on all the issues that it had considered. As this was the first meeting at which the report was before the Committee, the Chairman proposed that any general statements be heard before the next steps were considered, with a view to putting the report up for adoption at a future Committee meeting.

57. The representative of the United States considered the report a significant contribution to the operation of the Agreement, particularly given the importance his delegation attached to Article 6.1. His government required additional time to study the report before it could agree to its formal adoption. The representatives of Brazil, Canada, the EC, Japan, Korea, Mexico, Norway, and Thailand also indicated that they needed additional time to examine the report.

58. The representative of Poland requested the IGE for additional comments on certain issues: Was the opportunity cost of a subsidy to be always imputed as the cost of the subsidy, and if so, would it not be logical to use the yield to maturity on government securities as a proxy for that extra cost? Regarding expensed grants, his understanding was that they did not carry any extra costs beyond their face value (Paragraph 77). In the case of ordinary loans, was the IGE recommending that the appropriate government bond rate be used, and what were the reasons for different treatment of an allocated grant and a loan with a 10-year repayment period? With respect to Recommendation 9 in Part B of the report, was it the IGE's intention to underline the fact that " ... the amount repaid ... " meant " ... the amount repaid above the principal", and not just the sum of repaid money? Relating to Recommendation 10, was it correct to say that, since in the situation described in Paragraph 89 of the report, interest rate subsidies were to be treated as a series of recurring grants, no allocation came into play and there was therefore no need to impute an extra cost to the government? Finally, regarding Recommendation 11 (Paragraph 92), since an overdue loan turned into a grant under the debt forgiveness concept, there was a question as to how the period before the debt was forgiven should be treated. For cost to the government in that case, should the low interest rate of a preferential loan contract be used or a government bond rate corresponding to the loan in question? What was the cost of the loan-turned-into-grant and how was that to be allocated?

59. The Chairman proposed that Members wishing to raise any issues or questions do so by way of verbal or written comments to him or the Secretariat by Christmas, after which an informal meeting would be organized with the IGE in order for them to participate in a substantive debate on their views. If that was done in the course of the winter, the report could be up for adoption at the April 1998 meeting of the Committee.

60. The Committee so decided.

I. SEMI-ANNUAL REPORTS OF COUNTERVAILING DUTY ACTIONS (Article 25.11)

61. The Chairman reported that 45 of the 117 Members had submitted semi-annual reports.

62. The representative of the EC stated that there could only be one countervailing duty investigation on olive oil from the EC, and not two against the EC and Spain as reported by Argentina, given that Spain was a member of the EC.

63. The representative of Argentina indicated that that was a technical error and that a corrigendum would be issued to that effect.

64. The Chairman expressed his concern regarding compliance with this notification obligation. Approximately three-quarters of the Members had not responded to the request for semi-annual reports and many which had been submitted arrived quite late. Some of the non-notifying Members were active users of contingent trade remedies. The Chairman reminded Members that the Annual Report of the Committee would reflect the status of these notifications, and urged any Member which had not yet submitted a notification to attempt to do so before the report was adopted the next day.

J. REPORTS OF PRELIMINARY AND FINAL COUNTERVAILING ACTIONS (Article 25.11)

65. The Chairman stated that Argentina, Australia, New Zealand, South Africa, and the United States had notified preliminary and/or final actions taken since the last regular meeting of the Committee.

66. The representative of Mexico reminded the Committee that they had also reported preliminary/final countervailing actions.

K. GRADUATION FROM ANNEX VII

67. The Chairman informed the Committee that according to data in the 1997 World Bank Atlas, the GNP per capita of the Philippines, identified in Annex VII, now exceeded \$1,000 per annum.

68. The representative of the Philippines did not dispute the World Bank's data, but indicated that while the Philippines' GNP per capita had exceeded \$1,000 per annum in 1995, that was no longer the case based on the current exchange rate, and enquired as to what would happen in this situation. He also raised a question as to whether the transition period of 8 years for the phase-out of export subsidies that the Philippines would now be subject to was to be calculated from the date of entry into force of the WTO Agreement or from the date of the Philippines' graduation from Annex VII.

L. MEXICO - COUNTERVAILING DUTY INVESTIGATION ON CANNED PEACHES FROM GREECE

69. The representative of the EC wished to point out serious procedural inadequacies in the anti-dumping and countervailing duty investigations initiated by Mexico on canned peaches from Greece. Article 13.1 of the SCM Agreement required the investigating Member to hold consultations prior to initiating any investigation, and this provision had been completely ignored by Mexico, which was a serious infraction that could result in the investigation being rendered a nullity. Mexico had also failed to inform the EC or Greek authorities of the investigation. Further, Article 13(b)(i) of the Agriculture Agreement required a Member to show due restraint in initiating any countervailing duty investigations with respect to domestic support measures in conformity with the Agriculture Agreement. How had this requirement been fulfilled when the Mexican authorities had not even offered to hold consultations? In addition to these procedural infractions, there were also substantive inadequacies. The requirements of Article 11.2(iv) of the SCM Agreement as to evidence of injury had not been met, and the period from April through December had been chosen arbitrarily. Injury to a domestic industry was the only relevant criterion for initiation of a countervailing duty action, and since injury had only been considered for a brief period, no trends had been considered nor had information on market share been provided. Considering that prices in the domestic industry had in fact gone up during the period in question, where was proof of injury? The EC stressed the importance of following

procedural rules. The imposition of countervailing measures was exceptional and required good justification.

70. The representative of Mexico indicated that his government had held informal consultations with the EC in July 1997. He did not want to prejudice Mexico's position in other fora and was thus unable to make any further comments at this point, but took note of the EC's statement.

M. NEW ZEALAND - COUNTERVAILING DUTY INVESTIGATION ON CANNED PEACHES FROM THE EC

71. The representative of the EC expressed increasing concern about certain interpretations of the countervailing duty provisions of the SCM Agreement. New Zealand had initiated an investigation on the basis of a complaint, which contained allegations about certain programmes maintained by the EC. Having sought and obtained information by means of questionnaires, New Zealand had then come back with further allegations based on its own information which had never been made available to the EC before it had answered the original questionnaire. In its letter of 19 September 1997 expressing its desire to initiate that second investigation, New Zealand had provided no evidence of the existence of subsidies as required by Article 11.2 of the SCM Agreement and, in particular, no evidence to demonstrate that any of the programmes were likely to have benefited the production or the export of canned peaches. It should also be noted that Article 25.7 of the SCM Agreement made clear that the notification of a measure did not prejudice its legal status. Given that the EC was already in the midst of an investigation, New Zealand's approach seemed to have been to reverse the burden of proof by requiring the EC to show that a number of arbitrarily chosen programmes were not countervailable subsidies instead of providing positive evidence itself. Further, New Zealand had attempted to circumvent the requirement of Article 13.1 as to the need for consultations, and had thus denied the EC the opportunity to demonstrate that the investigation was not appropriate as regards the programmes in question. Given that those programmes had never been raised by the complainant, New Zealand had effectively self-initiated a second investigation, even though no "special circumstances" as per Article 11.6 had been explained. Due to the delay in notifying the EC, the EC had not been provided sufficient time to respond adequately to the allegations or defend its interests as per Article 12.1. It had therefore requested New Zealand to terminate the second investigation, which the latter had not done. The EC also found itself in an extremely difficult position as to its obligations vis-à-vis the investigating authority, and it considered that New Zealand should take a position on the new programmes so that the EC may know what its rights and obligations were. The matter would be discussed in bilateral consultations with New Zealand the following week.

72. The representative of New Zealand stated that the investigating authorities considered that the subject of an investigation was the effect of subsidized imports, and subsidies identified in the course of an investigation did not need to be subject to a new initiation process, but should be included in the investigation to the extent that their inclusion was reasonable. That was not self-initiation and the "special circumstances" provision of Article 11.6 did not arise. There had been no attempt to reverse the burden of proof; New Zealand had obtained information indicating the existence of subsidies which might be applicable to canned peaches imported to New Zealand, could not ignore that information, and had sought the comments of the EC on the applicability of those programmes. Nor had there been any attempt to introduce delays or deprive the EC of its consultations rights. New Zealand looked forward to the consultations with the EC the following week.

73. The representative of the EC could not accept the argument that New Zealand had not reversed the burden of proof and did not think that the investigating authority should be subject to a lower standard of proof by identifying programmes; It should demonstrate that subsidization benefited the product concerned. He stated that the new subsidies had not been identified in the course of the investigation, but rather, chosen to be brought up with the governments concerned to see if by chance there might have been benefit conferred. The EC could not accept that as a way of conducting countervailing investigations and wished to bring the practice to the attention of the Committee.

74. The representative of the United States was reassured by the last intervention of the EC regarding the examination of subsidies uncovered in the course of an investigation. He also indicated that his authorities would be very interested in following the subject matter of this investigation and the Mexican one. Questions had been raised about a possible increase in the use of subsidies affecting the production or sale of canned peaches in the EC, and the matter was of some concern to the US domestic industry.

75. The Committee took note of the statements made.

N. OTHER BUSINESS

(i) Questions from the EC regarding Australia's and Korea's updating notifications

76. The questions regarding Australia's notification can be found in the following documents:

G/SCM/Q2/AUS/11 (Submitted by the EC)

G/SCM/Q2/AUS/13 (Submitted by Korea)

77. The answers provided by Australia can be found in the following document:

G/SCM/Q2/AUS/14 (To questions submitted by the EC and Korea)

78. The questions regarding Korea's notification can be found in the following document:

G/SCM/Q2/KOR/13 (Submitted by the EC)

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

G/SCM/Q2/KOR/14 (To questions submitted by the EC)

(ii) Requests under Article 25 by the EC to Egypt and Japan

80. The request to Egypt can be found in the following document:

G/SCM/Q2/EGY/1 (Submitted by the EC)

81. The information provided by Egypt can be found in the following document:

[NO INFORMATION HAS YET BEEN PROVIDED BY EGYPT]

82. The request to Japan can be found in the following document:

G/SCM/Q2/JPN/14 (Submitted by the EC)

83. The information provided by Japan can be found in the following document:

G/SCM/Q2/JPN/15 (To the request submitted by the EC)

(iii) Provisional measures imposed by Argentina regarding wheat gluten from the EC

84. The representative of the EC contended that there had been a violation of the SCM Agreement in the imposition of these provisional measures since the subsidies had been granted to the users of starch which, contrary to Argentina's argument, had no influence on the production or export of wheat

gluten. Despite all the evidence that the EC had provided to that effect, a duty had been levied on wheat gluten. It was not tenable that subsidies granted to the users, and not producers, of a by-product, in this case starch, granted a benefit to the producers of wheat gluten, and the EC would provide further evidence of non-subsidization. Given that Argentina's interpretation of the terms subsidy and benefit to the recipient violated the most essential provisions of the Agreement, the EC asked Argentina to apply its legislation in conformity with the Agreement.

85. The representative of Argentina indicated that he was simply making a brief statement since the matter was being discussed under "Other Business". Argentina had held consultations with the EC as per Articles 13.1 and 13.2 of the Agreement, the last of which took place in March 1997. At that meeting, Argentina had given the EC over 15 pages of observations on the issues discussed and had committed to not taking any decision for three months. His government had hoped to receive similar written comments from the EC, but had instead had the issue raised today under "Other business". He took note of the EC's statement, was willing to cooperate and discuss the matter, and awaited future reactions from the EC.

86. The representative of the United States stated that these measures were a matter of interest to the US too. The United States found that the EC's concerns in terms of the legal questions at issue under the SCM Agreement had some validity, but it also had sympathy with respect to the commercial issue from the perspective of Argentina. The United States considered that the EC's claim that subsidies to starch had no influence on the production of wheat gluten defied logic in terms of economic realities, and that the particular programmes had resulted in some measure of commercial disruption in a number of markets throughout the world.

87. The representative of the EC considered that the subsidies did not benefit the production of starch since they were granted to the users, and not the producers, of starch. As regards Argentina's comment about the EC having raised the matter under "Other business", the EC had been unable to put the matter on the agenda for the meeting because they had learned of the imposition of the provisional duties only very recently.

88. The representative of Australia supported the United States' remarks, and pointed out that the EC's exports of gluten had had a serious impact on Australia's exports of gluten, both to the United States and to a number of Asian markets. The nature of the consumption subsidies involved had been increasing the consumption of starch in the EC and therefore increasing the development of the by-product, gluten. Certainly the subsidy programme had been having a large trade impact on the Australian industry.

89. The representative of Norway wished to reiterate the concerns that his government had recently raised in the General Council and the Goods Council as to the use of "Other Business" for fairly substantive discussion. Issues under "Other Business" were more a signalling of intentions than a real discussion.

90. The Chairman affirmed Norway's view.

91. The representative of Argentina stated that Norway's view reflected his government's, in relation to the other business issue. Argentina also flatly rejected the EC's definitions as to the illegality of their measures. The representative also indicated that the official notification to the Secretariat would be made shortly.

92. The Committee took note of the statements made.

(iv) Presentation on Anti-dumping and Countervailing Duty Database

93. The Chairman informed the Committee that the Secretariat had completed work on a computerized database containing anti-dumping and countervailing actions dating back to 1987, which would be updated each semester and was accessible for consultation by interested Members and the general public.

O. ANNUAL REPORT TO THE COUNCIL FOR TRADE IN GOODS (Article 32.7)

94. The Committee adopted its Annual Report to the Council for Trade in Goods.

P. DATE OF NEXT REGULAR MEETING

95. The Chairman recalled that by decision of the Committee, regular meetings would normally be held in the last week of April and October. However, given the number of days that would be needed for the meeting of the Committee on Anti-Dumping Practices and its subsidiary bodies, it was proposed that the next regular meeting be held in the week of 20 April 1998.

96. The Committee so decided.
