
Committee on Anti-Dumping Practices

MINUTES OF THE REGULAR MEETING HELD ON 4 & 5 MAY 2000

Chairman: Mr. Milan Hovorka (Czech Republic)

1. The Committee on Anti-Dumping Practices (the "Committee") held a regular meeting on 4 and 5 May 2000.

2. The Committee adopted the following agenda:

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A. INTERNATIONAL GOVERNMENTAL ORGANIZATIONS - REQUEST FOR OBSERVER STATUS BY COMESA	
3. The <u>Chairman</u> stated that the first item on the agenda was to consider the request of COMESA for observer status in the Committee. By letter dated 29 October 1999, the Common Market for Eastern and Southern Africa (COMESA) had requested observer status in various Councils and Committees of the WTO, including this Committee. Members would recall that the General Council adopted procedures for observer status for international intergovernmental organizations in July 1996. Those guidelines appeared at Annex 3 of document WT/L/161. According to those procedures, requests for observer status were to be considered on a case-by-case basis by each WTO body to which a request had been addressed, taking into account such criteria as the nature of the work of the organization concerned, the nature of its membership, the number of WTO Members in the organization, reciprocity with respect to access to proceedings, documents and other aspects of observership, and whether the organization had been involved in the past with the work of the GATT.	
4. The Chairman pointed out that at its meeting on 7 February 1997, the General Council had agreed, with regard to international intergovernmental organizations, (a) that the organizations which already had observer status in the General Council on an <i>ad hoc</i> basis be granted observer status immediately; (b) that for international intergovernmental organizations whose requests had not yet been considered the Chairman would conduct consultations; (c) to invite the other WTO bodies to proceed in a similar way.	
5. The Chairman noted that COMESA had not previously attended meetings of this Committee as an observer and reiterated that COMESA had also requested observer status in several WTO bodies, and the Chairmen of those bodies, including the General Council and the CTG, were consulting with Members concerning the request.	
6. The Chairman proposed that the Chairman be directed to conduct consultations on the request for observer status of COMESA, and report back to the Committee at the appropriate time.	
7. The Committee <u>so decided</u> .	

B. REVIEW OF NATIONAL LEGISLATIONS

8. The Chairman stated that the next item on the agenda today was 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). As had been indicated in the agenda, the Committee would consider the notifications of new or amended legislation, in the order indicated in the airgram convening this meeting. The Committee would then consider the one question concerning the previously reviewed notification of the EC's legislation, which had been received too late to be considered at the Committee's meeting last October, and had therefore been put over to the agenda of this meeting.

9. The Chairman congratulated Members on the timely submission of questions for the legislation review. For the first time since the Committee began the process, back in 1995, all questions relating to new notifications to be considered had been received by the deadline, 13 April 2000. Members who would be responding to questions today appreciated receiving timely submissions, which facilitated their ability to answer. The Secretariat would, as it did last November, prepare and circulate a document setting forth deadlines for submissions in connection with next fall's meetings of the Committee, as well as the Committees on Subsidies and Countervailing Measures and Safeguards.¹ Members were strongly urged to make every effort to comply with the applicable deadlines for submissions. The Chairman expressed his hope that at the Committee's next meeting, Members would again be in the happy situation of questions having been received on time. This enabled Members to prepare for the complex and often technical discussions in these meetings.

10. Turning to the substantive discussion, the Chairman noted 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 was, no later than 13 April 2000. As provided for in the agreed procedures, Members receiving written questions would be asked to respond orally to those questions in the meeting, and would also be requested, in accordance with the procedures adopted by the Committee, to answer all questions submitted in writing. The Chairman reminded Members that follow up questions might be asked in the meeting. Such follow up questions were to be submitted in writing no later than 29 May 2000 if the Member posing the question wished to receive a written answer. Written answers to all questions submitted in writing were to be submitted to the Secretariat no later than 10 July 2000.

11. Before turning to the notifications on the agenda for review, the Chairman drew the Committee's attention to document G/ADP/W/413, circulated on 17 April 2000. This document listed all documents containing the written questions and answers concerning legislation notifications considered by the Committee since it started the process of review of notifications in July 1995, and indicated those questions which had not yet been answered in writing. Some of these questions might simply have been overlooked, some were directed to Members who have not participated actively in the Committee. The document provided Members with a complete summary of the questions and answers concerning notifications of legislation and regulations concerning anti-dumping and countervailing measures presented in the review process. The Chairman hoped that it would prove useful to Members in furthering their knowledge of each others' legislation and practice. The Chairman expressed his gratitude to the Secretariat for preparing this paper.

12. The Chairman noted that he and the Chairman of the Committee on Subsidies and Countervailing Measures had written directly to the representatives of Members with outstanding questions in February of this year, and some responses to questions had subsequently been submitted to the Secretariat, which were reflected in document G/ADP/W/413. The Chairman stated that it was really a matter for the Members who had not yet received answers to the questions they had posed to

¹ This document was subsequently circulated as document G/ADP/W/414, dated 15 May 2000.

pursue the matter with other Members. He then turned to the substantive review for this meeting, noting that the order had been changed at the request of India and Thailand.

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

G/ADP/Q1/IND/8 – G/SCM/Q1/IND/8	Submitted by Argentina
G/ADP/Q1/IND/9-G/SCM/Q1/IND/9	To Argentina

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

G/ADP/Q1/THA/12 – G/SCM/Q1/THA/12	Submitted by the United States
G/ADP/Q1/THA/13 – G/SCM/Q1/THA/13	Submitted by Canada
G/ADP/Q1/THA/14 – G/SCM/Q1/THA/14	Submitted by the European Communities
G/ADP/Q1/THA/15 – G/SCM/Q1/THA/15	Submitted by the European Communities
G/ADP/Q1/THA/15 – G/SCM/Q1/THA/15	Submitted by Argentina

The answers provided by Thailand to those questions can be found in the following document:

G/ADP/Q1/THA/16 – G/SCM/Q1/THA/16	To All
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15. The questions regarding the notification of Argentina can be found in the following documents:

G/ADP/Q1/ARG/9 – G/SCM/Q1/ARG/9	Submitted by Korea
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The answers provided by Argentina to those questions can be found in the following document:

G/ADP/Q1/ARG/10 – G/SCM/Q1/ARG/10	To Korea
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16. The delegate of China, speaking as an Observer, requested the delegate of Argentina and the Secretariat to change the reference to "Taiwan" on pages 3 to 5 of document G/ADP/N/59/ARG to "Chinese Taipei".

17. The Chairman pointed out that the Committee had not yet reached the discussion of the semi-annual reports of anti-dumping actions, but that the Committee would take note of the comments of the delegate of China.

18. No questions were asked concerning the notification of Australia. The Committee took note of the notification.

19. No questions were asked concerning the notification of Estonia. The Committee took note of the notification.

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

G/ADP/Q1/KGZ/1 – G/SCM/Q1/KGZ/1	Submitted by the United States
G/ADP/Q1/KGZ/2- G/SCM/Q1/KGZ/2	Submitted by Canada

The answers provided by Kyrgyz Republic to those questions can be found in the following document:

G/ADP/Q1/KGZ/3- G/SCM/Q1/KGZ/3
G/ADP/Q1/KGZ/4- G/SCM/Q1/KGZ/4

To Canada
To the United States

21. The Chairman thanked the Members whose notifications had been discussed for their answers, and the Members who undertook to put questions. As usual, the exercise had been positive, and of benefit to all.

22. The Chairman reminded Members that follow up questions asked at this meeting must be submitted in writing no later than 29 May 2000 if the Member posing the question wished to receive a written answer. Written answers to all written questions received by a Members whose new notification had been reviewed today should be submitted to the Secretariat no later than 10 July 2000.

23. The Chairman informed the Committee that the new notifications of Chile, document G/ADP/N/1/CHL/2, and Turkey, document G/ADP/N/1/TUR/3 would be on the agenda of the meeting next Autumn. The Secretariat would inform Members of additional new notifications to be considered at that meeting in mid-September 2000. The deadline for submission of questions regarding new notifications of legislation for next Autumn's meeting would be 12 October 2000.

24. The final aspect of legislation reviewed involved questions regarding legislation notifications that had already been reviewed. Questions concerning the legislation of the European Communities had been received from Brazil. These questions concerned the EC's notification of countervailing duty legislation, but had been submitted too late to be considered at the SCM Committee's meeting last October, and therefore appeared on the agenda today. The Chairman stated that he understood that the EC had not yet filed written answers to these questions, but was prepared to respond to these questions at the meeting of the SCM Committee next week.

25. The delegate of the EC confirmed the Chairman's understanding.

26. Finally, the Chairman noted that in order for a previously reviewed notification of legislation to appear on the agenda of the Committee's regular meeting in Autumn 2000, questions had to be submitted to the Secretariat, and to the Member whose notification was in question, no later than 21 September 2000. The Chairman hoped that this advance warning would help Members in scheduling their internal work programmes.

C. SEMI-ANNUAL REPORTS OF ANTI-DUMPING ACTIONS

27. The Chairman recalled that a request for the semi-annual report for the second half of 1999, to be submitted by 29 February 2000 had been circulated to the Members in G/ADP/N/59, dated 6 January 2000. The Chairman noted that there had been some improvement in the submission of semi-annual reports. While a number of semi-annual reports had been received late, the degree of lateness had been less than in the past. As noted before, Members were well aware of the applicable deadlines for submission of semi-annual reports – semi-annual reports were always due at the end of February for the period July through December of the previous year, and at the end of August for the period January through June of the current year. There was simply no reason that this routine task could not be routinely attended to by Members, and their semi-annual reports submitted in a timely fashion.

28. Members who had submitted semi-annual reports were identified in paragraph 1 of document G/ADP/N/59 Addendum 1, dated 19 April 2000. 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.

29. In addition to the 24 Members who had submitted semi-annual reports, 30 Members, listed in paragraph 2 of document G/ADP/N/59 Addendum 1, had notified the Committee that they did not take any anti-dumping actions during the period in question. Cyprus, Haiti, Latvia and Pakistan had submitted such reports too late to be included in that document. With respect to notifications of no actions, there was no good explanation for some Members' failure to make this notification in a timely fashion. All that was required if a Member took no action during a given period was a one sentence letter stating that fact sent to the Chairman or the Secretary of the Committee before the end of February, and another such letter before the end of August. Particularly for Members who did not conduct anti-dumping investigations, it seemed that this should be a relatively simple task.

30. While there had been some improvement in compliance, the Chairman noted that there remained a significant number of Members who had not responded to the request for semi-annual reports, and had therefore failed to comply with this important requirement set forth in Article 16.4 of the Agreement. These Members were identified in document G/ADP/N/59 Addendum 1 at paragraph 3.

31. Regarding the semi-annual report of India, the delegate of the EC asked the delegate of India whether he was correct in understanding that since there were more than 50 measures mentioned as being under investigation during the period July to December, it followed that there had been no definitive or final measure taken.

32. The delegate of India stated that he would reply to the EC's question at the next meeting of the Committee next Autumn.

33. The Committee took note of the comments made by the EC and India in this respect.

34. The delegate of China, speaking as an Observer, requested that the reference in the semi-annual report of Peru to "Taiwan" be changed to "Chinese Taipei" instead.

35. The delegate of Peru took note of the point raised by China.

36. The Committee took note of the statements made by China and Peru.

37. No comments were made with respect to the semi-annual reports of any other Member. The Committee took note of the reports.

D. NOTIFICATIONS OF PRELIMINARY AND FINAL ANTI-DUMPING ACTIONS

38. The Chairman noted that lists of the notifications of preliminary and final anti-dumping actions received by the Committee had been circulated to Members in documents G/ADP/N/57, 58, 60, 61, and 62. Preliminary and final anti-dumping actions had been notified by Argentina, Australia, Canada, Egypt, the European Communities, Israel, Mexico, New Zealand, Paraguay, Turkey and the United States.

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

and comply, the Committee would be prevented from accomplishing its goal of considering Members' compliance with the requirements of the Agreement.

E. APPARENT FAILURE OF MEMBERS TO NOTIFY ALL PRELIMINARY AND FINAL ANTI-DUMPING ACTIONS (item requested by the European Communities)

40. The delegate of the European Communities stated that he had asked for the introduction of this item on the agenda because of a recent experience he had had trying to obtain some information through the Secretariat. In a different context, he had wanted to read a number of Indian decisions on anti-dumping which had been listed in India's semi-annual reports as measures in force. However, when he contacted the Secretariat he was surprised to learn that these measures had not been notified as preliminary and final actions, and that there was no further information concerning these measures available in the Secretariat. As a matter of fact, the last Indian semi-annual report reported more than 60 measures in force and more than 50 cases currently under investigation. Under normal rules, this would amount to more than 100 notifications of preliminary or final actions taken, or even more if provisional and final measures were notified separately. Further research into the matter showed that India had only once notified a preliminary or final action, in 1997, out of more than 100 that apparently had been taken. The delegate of the EC observed that this was difficult to understand, as it was not burdensome to notify these actions.

41. The content of the notifications of preliminary and final actions had been discussed in the Committee, and guidelines for minimum information to be provided in those notifications were set forth in document G/ADP/2. There had been a discussion about what the delay for such notification should be and the delegate of the EC was under the impression that there had been some sort of consensus that notification should be at once, given that the Agreement provided for such notifications "without delay". Although there was nothing on paper, in his view it went without saying that a notification of this type should follow the publication of the decision to impose a measure. For those Members who published notices in a language used by the WTO it could not be any problem at all just to send the public notice to the Secretariat in Geneva at the time of publication. Where translation was necessary, it might take a bit longer.

42. The delegate of the EC stated that after more research, and consulting the WTO data base, he had been faced with another problem, namely that the first response to his question on the definitive measures taken by India for a certain period was "none". That explained his previous question when the Committee dealt with the semi-annual report of India. The WTO data base was based on the information in the semi-annual reports of Members who took anti-dumping actions. The delegate of the EC stated that in the case of India, he had perused the preceding semi-annual report and could not find any notification of a definitive measure; it was all provisional. The columns which dealt with definitive actions were all empty. Since the implementation of the Uruguay Round Agreement India had taken 64 definitive actions, which is not a small amount. This appeared from the list of measures in force submitted in the semi-annual report. However, no information had been included in the semi-annual report tables concerning these final actions. The delegate of the EC stated that this was insufficient, as he regarded these reports as a major source of information and provided a possibility for those in Geneva, acting for their capitals, to find out what other Members do.

43. The delegate of the EC stated that he did not want it to appear as if he were targeting India with his remarks -- it was just his experience in trying to find information concerning Indian actions which had triggered his concern. He noted that there were quite a few other Members who had apparently taken preliminary or final actions for which a notification was not in the records of the WTO. Among these were quite important users of anti-dumping measures, including South Africa, Venezuela and Brazil.

44. The delegate of the EC requested the Chairman to consider ways this situation could be improved. He acknowledged that the Chairman appealed to Members at every meeting to fulfill their notification obligations, but perhaps more could be done. He observed that the work of Members in the Committee became at least in part useless if they did not have sufficient notifications or if they were not received in a timely fashion. The work of the Committee, and probably that of other committees as well, would become far more fruitful and also interesting if there were proper and complete notifications.

45. The delegate of India stated that definitive measures had been taken and that there must have been some mistake with the report. It was India's intention to rectify it before the next meeting. Regarding the preliminary and final notifications, the delegate of India noted that it had been India's practice to send notifications to the countries concerned. The delegate of India stated that India would make sure that by the next meeting copies regarding the preliminary and final measures will also have been sent to the Committee and the WTO.

46. The delegate of the EC thanked the delegate of India for his promise that he would look into the matter and stated that the EC would be grateful to receive information. Perhaps the delegate of India would have the opportunity to make sure that the record could be completed.

47. The Committee took note of the statements made by the EC and India.

48. The Chairman noted that in addition to the importance of these notifications to the Committee's role in monitoring and discussing actions taken by Members, these notifications also served an important function of information to other Members, by allowing them to learn more about the details of determinations made by other Members. This could assist Members in better understanding how the Agreement was applied by individual Members, and in keeping abreast of actions on a more up-to-date basis than was possible through the semi-annual reports. The Chairman reminded Members that the Committee had adopted guidelines for the minimum information to be included in these notifications, at its meeting in October 1995. Those guidelines could be found in document G/ADP/2.

49. The Chairman urged all Members to comply with this notification requirement. The Chairman observed that he did not have to remind Members of Article 16.4 of the Agreement, which provides that "Members shall report without delay to the Committee all preliminary and final anti-dumping actions taken".

50. The Chairman noted the readiness of the Indian delegation to look into the matter and asked other delegations to do the same. He would be willing to discuss this issue further provided he had some indications that there were some specific difficulties which prevented delegations from notifying these preliminary and final actions. The issue did not have to be further discussed now; clearly there was an indication from the delegation of India to react at the next meeting and at the same time any difficulties which delegations have in complying with their notification obligations could be discussed.

F. CHAIRMAN'S REPORT ON MEETING OF INFORMAL GROUP ON ANTI-CIRCUMVENTION

51. The Chairman stated that as most Members were aware, the Informal Group on Anti-Circumvention had met the previous day. Unfortunately, few papers had been submitted, despite the fact that the Group had agreed at its last meeting in October 1999 to move on to consideration of the second topic set out in the agreed framework for discussions. Members had agreed, at yesterday's meeting, to submit scenarios based on factual situations faced by their investigating authorities. Based on these scenarios, Members would be able to discuss responses to these situations. At the

same time, questions raised by the delegations of Hong Kong, China and Japan were considered and the Chairman invited Members to respond to those questions. The Chairman believed that this approach would help the Group to move ahead and to have more structured and focussed debates.

52. To conclude his report, the Chairman noted that the Informal Group would meet again on 1 November 2000 to continue the discussions on the first and second topics for discussion under the agreed framework, the questions previously posed, and the factual scenarios presented by Members. The Chairman hoped that for the future more Members would participate actively in the work of the Informal Group by submitting papers on the items in discussion, and in the discussions themselves.

G. ANTI-DUMPING INVESTIGATIONS BY ARGENTINA ON KOREAN TEXTILE PRODUCTS (Item Requested By Korea)

53. The delegate of Korea stated that in the light of the serious concerns the Korean Government had over Argentina's recent anti-dumping investigation and measures on Korean textile products, Korea had requested that the subject be placed on the agenda of this meeting.

54. Recently, Argentine authorities had imposed a series of import restrictive measures, in particular anti-dumping investigations and measures, on textile products originating in Korea. The Korean delegation referred to (1) Argentina's Provisional Anti-Dumping Measure on *Polyester Filament and Nylon Filament from Korea* and (2) Anti-Dumping Investigations on *Polyethylene and Dyed Woven Fabrics*. Korea was of the view that these matters raised several issues relating to the obligations of Argentina under various provisions of the Anti-Dumping Agreement, including Articles 6 and 8 of the Anti-Dumping Agreement.

55. The delegate of Korea stated that in January 2000, Argentina had applied a provisional anti-dumping measure on polyester filament and nylon filament (HS 5407) from Korea and Taiwan by fixing a minimum import price at \$US 9.50 per kilogram. The Korean Government was of the view that Argentina's anti-dumping determinations and measures were not consistent with the WTO Agreements in the following aspects, among others:

- During the stage of anti-dumping investigations, Argentine authorities had failed to give Korean exporters notice of the information they required and also had failed to provide them an opportunity to defend their interests. Specifically, Argentina did not even identify the exporters in Korea and had failed to even investigate Korea's home market price for the products concerned. Needless to say, whether Korean exporters were dumping or not should be determined by comparing the import price from Korea and its home market price. The Korean delegation wondered on what basis Argentine authorities could have established the dumping margin as they did, without properly establishing the home market price of the products.
- The Anti-Dumping Agreement did not authorise the minimum import price system as implemented by the Argentine authorities. Article 8 of the Anti-Dumping Agreement allowed only for voluntary price undertakings from exporters. The minimum import price measure Argentina had been implementing without consent of exporters was clearly compulsory in nature, and therefore was in violation of Article 8 of the Anti-Dumping Agreement.

56. The delegate of Korea noted that the Argentine anti-dumping authority was currently conducting investigations on polyethylene (HS 3901) and dyed woven fabrics (HS 5408) from Korea. These investigations had repeated the same mistake of failing to identify the exporters of the products under investigation. While exporters had not been duly notified of the investigation and thus had been given no opportunity to defend themselves, some Korean companies who were not exporters of the

products under investigation had been included in the notice of initiation of investigations. The Korean delegation was concerned with the arbitrary manner in which these investigations were being conducted. If the Argentine authorities conducting these anti-dumping investigations continued to disregard the standards set forth in the WTO Agreements, there was a high probability that these investigations would lead to an unjustified determination of dumping based on inaccurate data.

57. The Korean delegate stated that on a number of occasions of previous bilateral contacts, the Korean Government had conveyed its serious concerns to the Argentine Government. However, there had been no indication from the Argentine Government that the anti-dumping investigations and measures would be rectified. Korea strongly urged the Argentine Government to bring its actions regarding the above-mentioned anti-dumping cases into conformity with its obligations under the WTO Agreements. The Korean Government reserved all of its rights available to it under the WTO Agreements to defend its just commercial interests.

58. The delegate of Argentina replied that he would explain their procedure, which Argentina considered to be consistent with the Agreement. Firstly, with respect to the investigations on dyed woven fabrics and polyester and nylon filament, Argentina considered that the Korean Government had been notified of the opening of the investigation on 7 July 1999 and that Argentina had also asked the Government of Korea to supply certain information to the Argentine authorities so they would have adequate information for the investigation. A questionnaire had also been submitted to the Korean Government so it could participate in the investigation.

59. The Argentine Government had also told the Korean Government in August 1999 that the Argentina authorities would appreciate any proof or evidence that the Korean Government could submit to assist in the investigation. The Argentine Government also had a meeting with the Korean Embassy on 12 July 1999 and with the Korean Government on 27 July 1999. The Korean Government had been given a copy of the preliminary determination on 12 January 2000.

60. The Argentine Government had complied with all the requirements of notifications with respect to the opening of the investigation and the provisions of Article 5.5 of the Agreement. Notification was provided on 1 January, and all the interested parties had been informed. The Argentine Government had also requested a list of the exporters of the product in question and gave questionnaires to the exporters who had been identified after the initiation of the investigation, given the fact that the Argentine Government could not identify the exporters at the initiation of the investigation.

61. The delegate of Argentina stated that with respect to the notification of the investigation on polyester and nylon filament, the Argentine Government had notified prior to the initiation of the investigation in 1999 and had also provided notification after the initiation of the investigation in 1999. The Argentine Government had also requested that it be supplied with a list of exporters in addition to the notification and the questionnaire and had sent out the notification to interested parties. The Korean Government had therefore been given ample opportunity to provide information throughout the investigation. Based on the information, the Argentine Government had adopted a provisional measure. The delegate of Argentina considered that the application of the provisional measure on the products in question had been consistent with the Agreement, and the provisional duties the margin had been determined based on information provided by the parties as requested.

62. Unfortunately, the Government of Argentina had requested the participation of certain parties who had not yet complied with that request. The Government of Argentina continued to await their contribution of information to the investigation.

63. Notwithstanding this, with respect to the violation alleged by the Korean Government and the implementation of the provisional measures, the Government of Argentina did not see on what legal

basis Korea made its allegation at this stage. Article 8 referred to *inter alia* price undertakings, and had nothing to do with the implementation of provisional measures. Of course the Argentine Government would be available for any further clarification that might be required by the Korean Government.

64. The delegate of Korea pointed out that some elements of the reply by Argentina varied from Korea's understanding of the case at this stage, but that he would consult with his capital regarding the reply from Argentina. Meanwhile, the Korean Government reserved the right to take such measures or steps as seems appropriate.

65. The Committed took note of the statements made.

H. OTHER BUSINESS

- *Canada - Anti-dumping duties measures applied on steel bars from Cuba*

66. The delegate of Cuba stated that as a result of the anti-dumping investigation that had been initiated by Canada on 16 June 1999, the Canadian International Trade Tribunal had, on 12 January 2000, decided that importation of the steel bars had caused material injury to the Canadian industry. Cuba had noted with concern the results of this preceeding, based on the analysis and the arguments relied on by the Tribunal in reaching this decision. He wished to provide certain information.

67. At the public hearing, the Canadian producer had stated that Cuban exports had not caused injury, but that they only posed a threat of injury, if they continued to follow the same trends. Both the exporter and the Cuban producer had demonstrated at the hearing that it was impossible to continue to increase exports, based on the limited capacity for production of the Cuban industry as well as the sustained growth in domestic demand and demand in traditional export markets, which did not include Canada. However, the Tribunal considered that the Cuban exports had caused injury to the Canadian industry.

68. In the reasoning of its decision, the Tribunal did not reflect the evidence provided by Cuba which indicated the existence of fixed price zones among the various domestic producers.

69. As soon as it had been informed of the initiation of the investigation, Cuba had requested an individual analysis of its case, taking account of the marked differences in its industry which differentiated it, from a productive and competitive point of view, from the rest of the investigated countries and from the Canadian industry. The Tribunal had explicitly informed Cuba that its practice in its investigations dealing with more than one country had been to carry out an assessment of the cumulative effects of the exports of all the goods on the domestic industry. Thus, in Cuba's view, the Tribunal had converted the possibility of cumulative assessment under the Agreement, which had to be analysed and demonstrated, into a rule.

70. In its decision, the Tribunal explained that under Canadian legislation, Cuba was required to present evidence that the anti-dumping measures would affect its "essential interests". This improper interpretation deprived the provision on special and differential treatment of its essence, and conditioned the possibility of its application. At the hearing, the interested Cuban parties, including the Canadian importer, had explained that their intention was to maintain a small, stable presence in the Canadian market and had drawn attention to the negative effect of an affirmative determination on this intention. Today this negative effect was the reality -- since the imposition of the definitive measures, Cuba had not been able to export one further ton of the product to Canada. Canadian importers responded to offers by Cuba that exports priced at the determined normal value were not competitive.

71. The delegate of Cuba stated that the policy of the Canadian authorities was to not consider the possibility of accepting price undertakings unless the request is made by enough exporters, without considering if an undertaking was possible, as it was in the case of Cuba. This demonstrates that any analysis in this regard is conditioned on the fulfilment of formal requirements which go beyond the letter and spirit of the Agreement.

72. In light of this reality, the implications of this decision did not affect only the exportations of a developing country, but rise to a multilateral level, confirming once again that the Anti-Dumping Agreement did not provide developing countries with the necessary tools to benefit from the special and differential treatment that they need. And what is even more worrying is that the developed countries are not assuming all the obligations that the present text of the Agreement imposes with regard to this subject. These reasons reinforce the desire of developing countries to have special and differential treatment provisions of a binding nature, as a means to ensure a better balance among all the participants in the multilateral trading system.

73. The delegate of Canada responded that on 13 December 1999, the Canadian Customs and Revenue Agency (CCRA) had made a final determination of dumping with respect to imports of the subject goods from the Republic of Cuba, the Republic of Korea and Turkey. The investigation had concluded that the volume of imports of the subject goods from Cuba had been 3.9 per cent and therefore, it was larger than is considered negligible under Article 5.8 of the Anti-Dumping Agreement.

74. On 12 January 2000, the Canadian International Trade Tribunal (Tribunal) had concluded its inquiry into the injury of the dumped goods. The Tribunal had found that the dumping into Canada of the subject goods originating in or exported from the Republic of Cuba, the Republic of Korea and Turkey had caused material injury to the domestic industry.

75. In the Tribunal's Statement of Reasons, it was explained that the Canadian legislation gave the Tribunal the discretion to make or not make an assessment of the cumulative effect of the dumping or subsidizing of goods. However, it had been the Tribunal's practice, in inquiries which included goods from more than one source country, to make an assessment of the cumulative effect of imports of all the subject goods on the domestic industry. Only by considering the overall effect of all the dumping on the producers can the impact be properly assessed.

76. The Canadian delegate continued that in this inquiry, the evidence showed that the weighted average margin of dumping of reinforcing bar for each of the three named countries was more than 2 per cent of the export price of the goods and that, therefore, it was not insignificant. In addition, the Tribunal had determined that the imports from each of the three named countries had not been negligible for the purposes of its consideration of the question of injury to the domestic industry.

77. In view of the determination that the volume of imports had not been negligible and the evidence that the weighted average margins of dumping had not been insignificant, the Tribunal had proceeded to examine the question of injury to the Canadian industry. It had found that the domestic producers had experienced a significant loss of market share. In addition, to respond to this loss of market share, the domestic industry had been forced to reduce selling prices, leading to reductions in the revenue and profitability of the domestic producers, especially in the latter part of 1998 and in the first half of 1999. The Tribunal had found that the magnitude of the market share losses, the price declines and the resulting financial losses had been such as to conclude that the domestic producers had been materially injured.

78. With respect to the concern raised by Cuba over Canada's implementation of Article 15 of the agreement, a constructive remedy had been considered in the form of an undertaking. Regrettably, the parties involved had been unable in this case to pursue such an avenue. In conclusion, the

Government of Canada had made every effort to take the circumstances as presented by Cuba into consideration when the case was initiated and had worked closely with Cuba during this investigation. As noted at the last meeting of this Committee, Cuba and Canada had met on several occasions in Geneva, in Havana and in Ottawa. The Government of Canada was sensitive to the concerns of Cuba and concluded the investigation.

79. The Committee took note of the statements made.

I. CHAIRMAN'S REPORT ON THE MEETING OF THE AD HOC GROUP ON IMPLEMENTATION

80. The Chairman observed that, in his assessment of the Group's work over the course of the week, the participation of Members, both in terms of the papers and proposals, and the discussions themselves, had been excellent. The Group had discussed all of the topics on its agenda. The discussions had been lively at times, and a great deal of information had been exchanged among Members regarding their practices in implementing the requirements of the Anti-Dumping Agreement.

81. The Chairman was extremely pleased to be able to report that, after long hours, hard work, and great effort on the part of all Members, the Group had arrived at a consensus with respect to the text of a draft recommendation concerning the periods of data collection for anti-dumping investigations. The text of the draft had been made available in English earlier, and was available in the room in Spanish and French. The Chairman thanked all those who helped prepare the draft in all three WTO languages. Given the extensive discussion concerning this draft recommendation in the Ad Hoc Group, the Chairman hoped that the Committee could agree to adopt the Draft Recommendation.

82. No Member spoke in response to the Chairman's comments.

83. In light of the apparent agreement of the Members of the Committee, the Chairman proposed that the Draft Recommendation concerning the periods of data collection in anti-dumping investigations be adopted.

84. The Committee so decided.

85. The Chairman mentioned that he was particularly encouraged by the presence of experts from capital at the meeting of the Ad Hoc Group, who brought the necessary technical knowledge of their own practices to the discussions, thereby making them more substantive and useful for all Members. Their participation in the discussions in the Ad Hoc Group over the course of the week had been critical to Member's ability to adopt the draft recommendation at this meeting. The Chairman strongly encouraged Members, if at all possible, to continue to bring technical experts from capitals to future meetings of the Group.

86. The Chairman noted that the Ad Hoc Group had a very fruitful meeting this time, and hoped that Members would continue to participate actively in the work of the Ad Hoc Group. In this regard, the Chairman reminded Members of the tasks agreed to with regard to the topics under consideration in the Group.

- The Secretariat would circulate a revised version of the draft recommendation on the contents of preliminary affirmative determinations, reflecting the suggestions made during the course of the meeting of the Ad Hoc Group.

- With respect to the discussions concerning practical issues and experience in applying Article 2.4.2, the Secretariat would compile and circulate a list of the questions posed by Members, either in written submissions or orally at this meeting, as an aid to Members in preparing for the next meeting.
- In addition, given the course of the discussions on this topic, Members who had not already done so, and who undertook transaction-to-transaction comparisons, were requested to provide specific examples of their practice in this regard.
- With respect to the discussions concerning practical issues and experience in cases involving cumulation under Article 3.3, the Secretariat would compile and circulate a document setting forth possibly relevant criteria regarding the conditions of competition for consideration in deciding whether a cumulative assessment of the effects of imports is appropriate in light of those conditions.
- With respect to the discussions concerning practical issues and experience with respect to questionnaires and requests for information under Articles 6.1 and 6.1.1, Members were requested to submit their own proposals as to relevant considerations in deciding whether to grant extensions of time to respond to questionnaires

87. The Chairman noted that the Group had scheduled its next meeting for 30 October 2000, and that submissions for that meeting should be provided to the Secretariat for translation and circulation by 18 September 2000.

88. The Committee took note of the Chairman's statement.

J. DATE OF NEXT REGULAR MEETING

89. The Chairman stated that the Committee had agreed at its meeting of 21 February 1995 that regular meetings normally would be held in the last week of April and the last week of October. Accordingly, the next regular meeting of the Committee would be held in the week of 30 October 2000. In light of previously scheduled meetings of the Ad Hoc Group on Implementation and the Informal Group on Anti-Circumvention, this Committee will therefore meet on Thursday and Friday, 2 and 3 November 2000.

K. ELECTION OF OFFICERS

90. The Chairman stated that, as Members were are no doubt aware, the Chairman of the Council for Trade in Goods had not completed informal consultations on the nominations of Chairmen 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 its consideration.

91. The Committee's rules of procedure called for the election of officers to take place at the first regular meeting of the year, which was this meeting, to take effect at the end of the meeting. In this regard, the Chairman noted that the CTG had decided that, until the consultations were completed, the current Chairmen would continue in their functions for one more meeting of their respective bodies. Thus, 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, extended the term of the current Chairman and Vice Chairman, Mr. Milan Hovorka and Mr Roberto Azevedo, until the next meeting of the Committee. This action proposed for the Committee was consistent with the spirit of the decision of the CTG.

92. The Committee so decided.
 93. The meeting was adjourned.
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