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**Committee on Subsidies  
and Countervailing Measures**

**MINUTES OF THE SPECIAL MEETING  
HELD ON 25 JULY 2002**

Chairman: H.E. Mr. Milan Hovorka (Czech Republic)

1. The Committee on Subsidies and Countervailing Measures (the "Committee") held a special meeting on 25 July 2002.

2. The airgram convening the meeting was contained in WTO/AIR/1866. The Committee adopted the following agenda:

- A. CONTINUATION OF THE COMMITTEE'S CONSIDERATION OF THE ARTICLE 27.4 REQUESTS AND RESERVATIONS OF RIGHTS AS MEMBERS LISTED IN ANNEX VII(B), AND RELATED DOCUMENTATION AND ISSUES; AND ..... 1
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- A. CONTINUATION OF THE COMMITTEE'S CONSIDERATION OF THE ARTICLE 27.4 REQUESTS AND RESERVATIONS OF RIGHTS AS MEMBERS LISTED IN ANNEX VII(B), AND RELATED DOCUMENTATION AND ISSUES; AND
- B. IN PARTICULAR, REVERSION TO QUESTIONS AND COMMENTS RECEIVED WITH RESPECT TO THE REQUESTS OF SURINAME, FIJI AND PAPUA NEW GUINEA

3. The Chairman stated that he intended to open the floor in respect of each of the requests and reservations for any comments or questions by Members concerning the individual requests and reservations of rights. He would then provide his assessment of the present situation and the progress that the Committee was making on this issue. Following this, he would open the floor for any

comments of a general nature that Members wished to make, including any thoughts as to next steps to be taken.

4. No Member raised any comments or questions in respect of the requests/reservations of Antigua and Barbuda, Barbados or Bolivia.

5. As far as the request of Belize was concerned, the Chairman stated that he understood that the delegation of Belize was still trying to gather the information requested in two questions, one from Australia and one from Canada. No further comments or questions were raised in respect of this request.

6. With regard to Colombia's request for extension, since the Committee's last meeting, Ecuador had circulated the document G/SCM/Q3/COL/14, containing questions and comments. The delegate of Colombia read a statement, which was circulated in document G/SCM/Q3/COL/16, responding to the questions put to Colombia by Ecuador during the previous meeting.

7. The delegate of Ecuador thanked Colombia for its comments and responses to Ecuador's questions. The Government of Ecuador nevertheless maintained its position that Colombia did not meet the requirements in document G/SCM/39 to obtain from this Committee an extension for its special zones and for its special import/export regime -- programmes which were included in the Plan Vallejo.

8. As far as the Transport Compensation Mechanism was concerned, Ecuador acknowledged that Colombia had been transparent, and, thanks to that transparency, Ecuador had found out that there were agricultural products within the mechanism. The extension of the mechanism had been requested under the scope of Article 27.4 of the Agreement. Ecuador wished to point out that, according to the calculations on export competitiveness that Ecuador had requested from the Secretariat, there were eighteen Colombian products which were highly competitive at the world level. Six of them competed with exports of agricultural exports from Ecuador. This was the reason why Ecuador maintained its reservations as far as this request was concerned. In the framework of the transparency exercise, Colombia claimed that the mechanism covered all goods with the exception of coffee, emeralds and petroleum. Of course, not all products had benefited from this programme. However, as the Ambassador of Colombia had stated in the previous meeting of the Committee, this programme was open to all products, i.e. all those which were the subject of a request except coffee, oil and emeralds. He stated that Ecuador maintained its reservations and that Ecuador was ready to continue with the analysis which was going on in both capitals. In the meantime, as long as Ecuador's reservation was not completely clarified, Ecuador maintained the position that was known to the Committee.

9. The delegate of the United States thanked the delegation of Colombia for its intervention. He noted that the questions had been submitted formally for written response. He would appreciate it if the statement could be provided formally in response to the questions that had been posed. He noted that, for every other delegation that had applied for the extension under the "fast-track" mechanism, the United States had formally requested copies of the legislation for the particular programme for which they requested an extension in order to review it. The delegate of the United States kindly requested Colombia to submit similar information to the Secretariat for circulation to Members.

10. His delegation had heard a reference, by Ecuador, to a calculation done on export competitiveness for particular products. He wished to direct a question to the Secretariat, as to whether his understanding was correct that the Secretariat had carried out this study? Or, was this a reference to world economic forum data that had been referred to in the questions that had been posed by Ecuador?. If the Secretariat itself had already performed such a calculation, the United States would appreciate it if it were circulated to the Members of the Committee.

11. The Chairman stated that the Secretariat had conducted the export competitiveness analysis requested by Ecuador. This analysis had been made available to the two delegations concerned. Obviously, this was an issue for other Members, so this information would be provided to them.

12. The delegate of the United States stated that his delegation was looking for the item to be formally circulated as a document to the entire membership, unless any objection was raised.

13. The Chairman stated that this was his understanding of the request made by the delegation of the United States.

14. The delegate of Colombia thanked Ecuador and the United States for their comments. Ecuador had mentioned eighteen products which were highly competitive in terms of world trade. Everyone had read about "Asian tigers" and big exporters in world trade in the literature. However, he was not aware that Colombia was included in these groups of countries. It was not clear that Colombia was highly competitive on the basis of the criteria used by the Secretariat to prepare the study. Colombia still had many doubts on this. Members still had not really debated the criteria which should be used to define a "product" in order to be able to determine if a country was highly competitive or not in a given product. He also thought that the Secretariat had used two different criteria precisely because of these problems of interpretation, which was a matter that had not yet been settled. This was the reason why Ecuador had asked the Secretariat for a study, but it did not have any legal impact as long as the pending doubts were not settled. In any event, Ecuador had also referred to the Transport Compensation Mechanism. The answer as to why Colombia could apply a mechanism of this type for these agricultural products lay in a correct interpretation of the Agriculture Agreement.

15. Colombia had submitted written answers to the questions and perhaps the Members could use them for further studies. With respect to the US request, Colombia wished that both of the two possible scenarios to estimate the competitiveness of the Colombian products be circulated. To restate, these competitiveness calculations had, in Colombia's opinion, nothing to do with Colombia's request for extension under Article 27.4. One topic had to do with a graduation instrument for which Members had to hold a debate in order to determine how to interpret the word "product" and how to conduct the calculations. The other issue was the extensions requested by countries in order to support their exports.

16. The delegate of Ecuador stated that his delegation took note of the statements by Colombia's Ambassador. In respect of the statement that the inclusion of agricultural products was protected by the Agriculture Agreement, this was exactly what Ecuador wanted. Everything within this Committee had to do with those products which were under the SCM Agreement; other products were not included because there were other procedures for them. Colombia had stated that the Transport Compensation Mechanism applied to "everything but oil, emeralds and coffee". Ecuador believed it should only be manufactured products.

17. The delegate of Colombia stated that he did not wish to take advantage of the patience of the Chairman, nor of the other Members of this Committee. Colombia had always tried to avoid this becoming a dialogue between Colombia and Ecuador, a dialogue that had to take place in the framework of the consultations these two countries had been holding. However, he wished to state that, as already mentioned in Colombia's answers, the request for the extension of the programmes in no way modified Colombia's commitments, nor the commitments of other requesting countries, under the other Agreements. In this sense, any right or obligation in another Agreement for all Members, or for one Member in particular, would be maintained. This was the reason why the Agreement on Agriculture clearly indicated possibilities of which countries could take advantage in order to subsidize exports of agricultural products using mechanisms which, as far as his delegation understood, were included in Colombia's Transport Compensation Mechanism. Of course, this was a

debate which should take place in another forum and not in this one. Here, the Committee was just studying the request for extension of these programmes.

18. The Chairman stated that he had been encouraged by the signs of Colombia's and Ecuador's readiness to deal with this issue and he took careful note of the fact that the subject-matter was also being debated between the capitals. The Chairman was always at the Members' disposal with a view to facilitating a solution which was acceptable to all.

19. The next request for extension on the agenda was Costa Rica. No comments or questions were raised by any Member.

20. Concerning Dominica's request, the Chairman noted that on 25 July 2002, the Secretariat had received a communication from Dominica responding to the questions from the United States, contained in document G/SCM/Q3/DMA/6. This document was circulated as document G/SCM/Q3/DMA/7. The Chairman suggested that, as Dominica had not been able to send a representative to this meeting, Members study this latest response and submit any follow-up questions in writing.

21. With regard to the requests of the Dominican Republic, El Salvador, Grenada, Guatemala, Honduras, Jamaica, and Jordan, no comments or questions were raised by any Member.

22. With regard to the reservation of rights by Kenya, the Chairman noted that there was one set of questions to which Kenya had not yet submitted written answers, namely questions from the United States in document G/SCM/Q3/KEN/7. Since the delegation of Kenya was not in the room, the Chairman expressed his intention to be in touch with that delegation with a view to clarifying this situation.

23. No comments or questions were raised by any Member with respect to the request for extension of Mauritius.

24. With regard to Panama, the delegate of Panama thanked the European Communities for its questions contained in document G/SCM/Q3/PAN/14. Responses to these questions were circulated in G/SCM/Q3/PAN/15.

25. The next request for extension on the agenda was that of Saint Kitts and Nevis. Answers to the questions posed by the delegations of Japan and the United States were circulated in document G/SCM/Q3/KNA/9. No other comments or questions were raised by any Member with respect to this request at this time.

26. The next request for extension was that of St. Lucia. In respect of this request, the Chairman noted that the United States had submitted questions in advance of this meeting but after the 3 July deadline. These questions were contained in document G/SCM/Q3/LCA/6. The Chairman gave the floor to the delegate of St. Lucia to respond to those questions. The delegate of St-Lucia gave oral responses to the questions, and written responses were circulated in document G/SCM/Q3/LCA/7. No other comments or questions were raised by any Member with respect to St. Lucia's request.

27. With respect to the request for extension of St. Vincent and the Grenadines, the Chairman stated that that on 25 July the Secretariat had received a communication from St. Vincent replying to the questions from the United States contained in document G/SCM/Q3/VCT/7. This document was subsequently circulated as document G/SCM/Q3/VCT/8. As St. Vincent has not been able to send a representative to this meeting, the Chairman suggested that Members look at this response and then come back with any follow-up questions they might wish to raise.

28. Concerning the reservation of rights of Sri Lanka as an Annex VII(b) Member, the Chairman noted that there was one set of questions outstanding from the United States, contained in document G/SCM/Q3/LKA/8. The Chairman gave the floor to the delegate of Sri Lanka to respond to those questions.

29. The delegate of Sri Lanka stated that Sri Lanka had not officially communicated the responses to the follow-up questions posed by the delegation of the United States. However, she was able to hand them over at this meeting in the form of an advanced copy of the responses that Sri Lanka intended to provide to the US. These responses were subsequently circulated in the document G/SCM/Q3/LKA/9. The requested legislation was circulated in G/SCM/Q3/LKA/10.

30. The delegate of the United States expressed United States' appreciation to Sri Lanka for getting this information together for the United States' evaluation.

31. With respect to the request for extension of Thailand, there were two sets of questions outstanding -- from Ecuador and the United States, contained in documents G/SCM/Q3/THA/13 and G/SCM/Q3/THA/14 -- to which Thailand had not submitted a written reply. Since the delegate of Thailand was not attending this meeting, the Chairman said that he would be in touch with the Thai delegation with a view to clarifying the situation. Written responses were subsequently circulated in G/SCM/Q3/THA/15.

32. In respect of the request for extension of Uruguay, no comment or question was raised by any Member.

33. The Chairman stated that he would like to open the floor in respect of the requests of Fiji, Papua New Guinea and Suriname, which the Committee had not been able to discuss at previous meetings because no written answers had been received to any of the written questions submitted.

34. In respect of the request of Fiji, written answers had been received and circulated in document G/SCM/Q3/FJI/5. The Chairman stated that, at his request, the Secretariat had also been in contact with the relevant capital-based officials of the other two delegations. Communications had been received from both Papua New Guinea and Suriname indicating that the written answers were being prepared and would be submitted very shortly. Since the delegation of Fiji did not attend the meeting, the Chairman proposed that Members look at the answers provided by the delegation of Fiji and come back with any follow-up questions.

35. The Chairman requested that Members wishing to raise any further follow-up questions in writing should submit those written questions to the Members concerned, with copies to the Secretariat, by Friday, 16 August 2002. He stated that, in course of this meeting, one or two additional requests for information had been heard, and that he understood that those requests would be submitted in writing. He asked the Members who received these questions to please submit their written answers by Monday, 9 September 2002.

36. The Chairman stated that he wished to share with the Committee his own perceptions of the present situation of the Article 27.4 process. First, he noted that a very significant number of written questions and written answers had been exchanged between Members in respect of all of the requests and reservations of rights. This was a clear and very encouraging indication that, in the first instance, the Members posing questions were engaged in a thorough and substantive review of the notifications that had been received, on the basis of the relevant criteria. He was confident that, through their questions, these Members were raising issues and bringing forth information of interest to all Members. In addition, he believed that the Members requesting extensions or reserving rights were to be highly commended for the very forthcoming and cooperative way in which they had responded to the questions that had been posed. Thus, in his view, Members on both sides were making very good

faith efforts to fulfil both the letter and the spirit of the extension process, as set forth in Article 27.4 and as elaborated upon, in respect of the so-called "fast-track" requests, based on the procedures in document G/SCM/39.

37. Based on contacts that the Chairman had had with delegations, it was his understanding that the transparency exercise in which Members were engaged was perceived to be functioning in a satisfactory manner. Members were generally very grateful for the efforts that were being expended by requesting Members to provide necessary information in a timely and comprehensive manner. The Chairman thanked the translation staff of the Secretariat, who had been extremely efficient in keeping the very large volume of paper flowing in the three working languages. This had helped the Committee's process to advance quite rapidly.

38. The Chairman found it significant that almost no new questions had been circulated in respect of these requests and reservations of rights since the Committee's 17 June meeting. He interpreted this as a very positive signal in the sense that, for most requests, Members had obtained, or were close to obtaining, the level of transparency that they needed. He noted that, while there were virtually no new questions circulated since the last meeting, there were some questions that remained pending from previous rounds of Committee discussions. At his request, the Secretariat had been in contact with the delegations concerned to encourage them to submit their written answers as soon as possible, and most of these delegations had indicated that they would shortly submit the remaining answers. He reminded those Members that still owed written answers to some written questions that they had received to please submit those answers as soon as possible. He stated that it was obvious that it would be extremely difficult for the Committee to conclude its consideration of those requests until all written answers had been received. As there were no further requests for the floor on any of the individual requests or reservations of rights, the Chairman offered the floor for delegations to raise any general points that they wish, including any views as to next steps.

39. The delegate of the European Communities stated that his delegation was very pleased with the progress made in the review of the Article 27.4 requests. A very high degree of transparency had been reached. Almost all of the requesting countries had made an enormous effort. There were still issues open, questions not answered, but, with regard to a number of countries, the European Communities had run out of questions. It would merit consideration whether the Committee could decide on a first group of requests in the autumn. The European Communities already had a number of countries' requests in mind. The European Communities did not want to come up with a list at this moment because the results of this meeting still had to be digested. In addition, the European Communities wished to give some more time for some of the countries to submit, for instance, legislation, or to wait for translation of legislation. The delegate of the European Communities stated that his delegation was considering identifying, in sufficient time before the next meetings, a number of countries which the European Communities would regard as having completed the job of justifying their requests, and on which the Committee could decide in the autumn 2002 meetings.

40. The delegate of the United States shared the comments made by the European Communities. He expressed the United States' appreciation to the countries that had applied for the extension, particularly under the small economies mechanism, for the cooperation and transparency that they had demonstrated throughout the entire process. The United States also expressed its appreciation to the Chairman, as well as to the Secretariat, for facilitating the Committee's work in many of these areas. He stated that his delegation had been working very closely with the other Members of the Quad, as well as Australia and Switzerland, in order to accelerate the Committee's efforts to address the requests that were before it. The delegate of the United States expressed the United States' gratitude to Japan, Canada, the European Communities, Australia and Switzerland for all of the hard work these delegations had done in coming up with lists similar to that mentioned by the European Communities. These lists identified those countries for which much of the work had already been exhausted and on

which the Quad, Australia and Switzerland would be capable of moving forward, as well as any remaining gaps that needed to be filled so that the process could be expedited.

41. From the United States's perspective, each of the requests had to be evaluated on its own merits. The United States agreed with the observation made by the European Communities that it would be appropriate for the Committee to grant extensions when individual Members had demonstrated that they fulfilled the requirements of the fast-track mechanism of the G/SCM/39 document. He stated that his delegation had hoped to be able to announce its list of the eligible programmes during this meeting, but the United States had been constrained by other considerations. However, the United States would be willing to speak with delegations that had an interest in knowing what the United States' feelings were with respect to their individual programmes. The United States had been encouraged by some of the developments that had occurred in this meeting. Like the European Communities, the United States had seen where the list that had been outlined could be modified as a result of some of the interventions that had been made at this meeting.

42. On another aspect, however, based upon the information received, the United States was concerned that the Committee could be seen as legitimizing certain programmes that might fall outside the criteria of subsidies eligible for extension. In this light, the United States was concerned about the possible application of Article 3.1(b) of the Agreement on Subsidies and Countervailing Measures to particular programmes. The United States was not sure that the Committee would have the ability to grant an extension to a programme that did not otherwise conform with the requirements of the WTO Agreement. The United States noted, for example, the comments made by St. Lucia about the need to be practical in this respect. The United States was willing to be flexible in addressing certain of these items, most notably in the import substitution area. The United States had already been thinking creatively about possible ways to overcome this technical problem, as well as analyzing the applicability of Article 3.1(b). He stated that the United States intended to be in contact with those countries that had domestic content restrictions to get a better understanding of how their programmes were actually applied and what types of constructive approaches could be taken.

43. The delegate of the United States stated that the United States would not want to give anyone the indication, in any way, that particular programmes that were not on such a list were objectionable. The United States hoped that as many of these additional programmes as possible could be resolved and that they could be added to a decision to be taken by September. The United States intended to work diligently to resolve outstanding items by that time. He requested those delegations that had not yet provided their legislation or answers to the questions to send them to his delegation as early as possible, because the United States wished to meet informally, to the extent possible, prior to the September meeting.

44. The Chairman asked the delegate of the United States whether his delegation was suggesting that this issue be placed on the agenda of the meeting of the Committee scheduled to take place in September with a view to taking some decisions by the time of that meeting.

45. The delegate of the United States stated that this was the intention of his delegation.

46. The delegate of Australia shared the satisfaction expressed by the European Communities and the United States with regard to the progress that the Committee had made, and, in particular, with regard to the transparency achieved through its work. The delegate of Australia stated that there was just one issue that he would like to raise with the Committee and that was the question of the structure of a Committee decision. This was something to which the Committee had not yet given thought and it was an important issue in Australia's mind. Therefore, Australia suggested that the Committee start to give consideration to the structure of a Committee decision in the near future. In this light, Australia shared the concerns expressed by the United States with regard to any Article 3.1(b) aspects of some requests. This was an important issue which would need to be addressed somehow in a

Committee decision. Australia would be willing to work with the United States and other delegations in finding a constructive approach to addressing this issue.

47. The delegate of Switzerland confirmed what the United States had said: that the Quad, Australia and Switzerland were looking closely at how to proceed further. Switzerland supported the Chairman's appreciation of the situation and Switzerland wished to take the opportunity to thank all the Members that had submitted requests for extension for the information they had provided to the Committee. This showed that the procedures on which Members had decided were working in a very constructive manner. Switzerland joined and supported the proposal made by the European Communities. Switzerland thought that the time was ripe to start looking at how to proceed to deciding on many programmes.

48. The delegate of Japan shared the Chairman's view that the Committee had made substantial progress in this exercise and joined the other delegates that had spoken earlier in saying that Members had had a very good exchange of information. Japan supported the initiative of the United States, the European Communities and other Members to prepare a list of programs that could be approved.

49. The delegate of Canada joined others in thanking all delegations that had contributed to the process for the documentation, the questions and the answers that had been provided during the course of this process. This had been very productive and had added significantly to the transparency exercise. As the Chairman had rightly pointed out, there were very few outstanding questions and, for those, Canada certainly would be looking for responses. Like others, his delegation wished to signal that Canada was quite comfortable with the extension of programmes for a number of countries. Canada looked forward to working with others so that a decision could be taken on some programmes at the Committee's September meeting. Canada thought that the September meeting could be quite productive and positive. The Committee could then concentrate on the rest of the programmes between September and December. This would be a very constructive way of approaching the Committee's work. With that in mind, and picking up on the idea of Australia, Canada asked the Secretariat to give some thought to the wording for a decision from the Committee without, of course, outlining what the countries or programmes would be. In closing, his delegation also wished to mention that Members had to be cognizant during this exercise of not providing extensions to programmes that were covered by, or fell under, Article 3.1(b) of the Agreement on Subsidies and Countervailing Measures. Canada was, however, confident that Members could find a creative way of dealing with this issue while staying within the mandate of the Ministers and the provisions of Article 27.4.

50. The delegate of Chile stated that this transparency process had been very constructive, and that delegation had been following closely all the information on certain programmes and on certain countries which were of interest to Chile. This was the time to determine how to proceed. Her delegation had a systemic concern. It seemed that the Quad, Australia and Switzerland had prepared draft decisions. It was true that those countries had been much more active in the second part of the process; however, since this was a multilateral process, it would be interesting to have that information on hand before the meeting. Chile reserved its rights to comment on this matter.

51. The delegate of Colombia thanked the Chairman and the Members for the progress achieved in the framework of the process that the Committee had been following for the consideration of requests. Colombia was not aware of certain discussions that had been held in recent weeks on the way to proceed forward within the framework of this process. Colombia would have liked to know all this before this meeting. However, having heard the Australian delegation's statement, Australia was offering Members very important elements which would help the Committee to determine how to proceed in future. He thought it was necessary to do some soul-searching and to consider how to proceed, in the context of the decision which should guide and give structure to this discussion. This process could not deviate from the context of the Decision taken by the Ministers in Doha, and this



was the reason why he wished to ask -- especially when he listened to the European Communities -- how they saw what was to be done in future? The European Communities was, of course, aware that Members could take a decision which would benefit some countries and not others, at a certain point in time. The Committee would have to see how it was going to select countries and programmes and things of that nature. He thought that these decisions were so important that they deserved consultations. The Chairman should schedule such consultations in order to include all Members. Any draft decision had to be subject to prior discussion, and Members had to discuss the draft decision on the programme and not the Doha Decision. The Doha Decision was quite clear, he thought, in the minds of all Members. He referred here to his delegation's concern about the possibility of certain scenarios cropping up which did not duly take the Doha Decision into account, and which started to impose other criteria on decisions that were to be taken in the Committee.

52. The delegate of the European Communities stated that it was not the intention nor the substance of the idea of an early harvest for some of the applicants, to contradict in any way either the content of Article 27.4 or the Doha Decision. None of these foresaw any particular sequence. The Committee had to decide by the end of the year, but nothing precluded the Committee from deciding earlier within this year as long as it did it before the year-end. That was the formal side of what the Committee could and could not do. It was also clear that a decision taken by the Committee had to be known sufficiently beforehand in order that all delegations could make up their minds as to whether they wanted to be in favour, or against, it. For that, the Committee had clear, established procedures. It could be that delegations could ask, sufficiently in advance of the next meeting, for a point to be put on the agenda of the meeting. He agreed that, if this point had been put on the agenda, there had to be a text. There had to be a draft which had to have been circulated, so that Members could look at it sufficiently in advance of the meeting. This draft, however, could be elaborated by one or several Members. It was not necessarily something which the Chairman had to do. The Chairman was always invited to do things like this, but it was very clearly an option that Members could submit, not only that a point should be on the agenda, but also a draft for decision. If this had been given sufficiently in advance to all Members, it could be decided.

53. The delegate of the United States added that Members could actually submit the draft of a decision. This was probably the scenario that the Quad, Australia and Switzerland would envision in this context. They would probably ask for an agenda item to be added for the September meeting, listing those programmes in which they saw that a consensus could exist for adoption, as well as a draft text.

54. The delegate of Colombia stated that the European Communities and the United States were opening up a new scenario of which he had not been aware. It was obvious that any Member could put forward any proposal and could request that an item be included or present a document, but, as far as he knew, any decision had to be the subject of consultations and had to be decided by consensus. What he did not see, and what he would not like, was the generation of a situation in which Members would write a draft decision in respect of which some Members who were interested in extending some programmes would not be adequately consulted. He thus requested, through the Chairman, that as far as he understood the way that things were handled in this house, a draft decision had to be appropriately consulted with all Members -- and not just be included in the agenda -- in order for it to be presented during a meeting.

55. The delegate of the European Communities stated that this matter required further clarification. He agreed with the Ambassador of Colombia that if the Chairman submitted a draft decision, he would normally consult Members. This would also apply if the draft decision were to come from the Secretariat. However, every Member had a right to submit an issue to the Committee. The delegate stated that he could not see where, in the Rules of Procedure of the Committee, or in the general way in which Members dealt with issues, this would be excluded. On the other hand, there was an understanding in the WTO that decisions were taken by consensus. The European

Communities did not question this in any way. It was just a question of whether Members had a right to submit an issue. Certainly, it was impossible that a number of Members could ever decide an issue over the rest. This was not the European Communities' intention. The understanding on how the Committee took decisions -- *i.e.*, by consensus -- was not affected by this.

56. The delegate of Colombia stated that his delegation totally agreed with what the European Communities said. He stated that his concern arose when, or because, the United States had said that it was going to define which countries and which programmes could be included within the decision. It was obvious that every Member would make up its own mind on what could be included and what could not be included. This process had to be subject to consultations with all Members of the Committee and it was an issue that had to be discussed before anything could be considered in the Committee for a decision. Any Member could present proposals for discussion. It was a right that Members had. But, if something was going to be presented for decision in September, the process had to be duly placed within the process that the Committee had been carrying out with all the Members interested in the extension of their programmes. The Committee had to define which criteria it would use in order to take an early decision, if Members felt that this was going to help the extension process. In other words, Members had been developing a process here. The question was: did the proposal consist of taking a train and disconnecting a series of wagons in order to get to the next stop, with only with certain of the wagons which were originally part of the train? Would this help the Committee to be successful in the process that it had started to consider the criteria that had to be adopted in order to take a decision -- a final decision -- on this matter?

57. The delegate of the Dominican Republic stated that Members were aware that this process was of high priority for the Dominican Republic. It was no secret. In its participation before Doha, the Dominican Republic had made efforts for this to be resolved and in order for a decision to be taken at the Ministerial Conference. This was proof of how important it was for the Dominican Republic. This was also the case for various neighbouring countries. It was a process that had culminated in Doha, but it had been initiated in 1997, with other proposals. She stated that she did not know whether the Dominican Republic was on the list of countries which were "problem free". However, as the European Communities' delegate had said, there was nothing to impede the Committee's taking a decision before the end of the year. Nevertheless, the Dominican Republic could not accept that the criteria for decision be discussed again. The criteria were very clear and were contained in document G/SCM/39. These were decisions made by Ministers. The Committee was not entitled to re-open the debate in order to establish procedures.

58. The Chairman stated that he was encouraged by the positive indications that some Members had made according to which, with respect to most requests, they had obtained, or were close to obtaining, the level of transparency that they required. This was a confirmation of the Chairman's earlier remarks that the Committee had made very good progress and that it was nearing the end of this transparency phase of the Article 27.4 process. Certainly, any Member enjoyed the right to place a matter on the proposed agenda for the meeting to take place in September, and to suggest that the Committee follow a particular course of action. The Chairman stated that that would have to be done in writing. The Chairman took note of concerns and comments made by certain delegations in the course of the discussion and expressed his intention to give further thought as to what obviously would be the best way to proceed, whilst fully respecting the rights of Members and, at the same time, preparing the ground or creating a positive environment for decisions to be taken. It went without saying that those decisions would have to be done on the basis of consensus.

59. The Committee took note of the statements made.

C. PROCESS FOR COMMITTEE'S REVIEW OF CERTAIN 2001 NEW AND FULL SUBSIDIES NOTIFICATIONS RECEIVED TOO LATE TO BE REVIEWED UNDER PROCEDURES ADOPTED BY THE COMMITTEE AT THE SPRING 2001 REGULAR MEETING (STATEMENT BY THE CHAIRMAN)

60. The Chairman stated that Members would recall that the Committee had adopted procedures at its May 2001 meeting concerning the review of 2001 new and full subsidies notifications, in G/SCM/W/441. Under these procedures, these subsidy notifications were to be reviewed in three special meetings to be held in conjunction with the regular meetings of the Committee in Autumn 2001 and in the Spring and Autumn of 2002. The third and final meeting envisaged would therefore occur in Autumn 2002. Pursuant to the Committee's current procedures, only notifications distributed in all three working languages not less than 19 weeks before the meeting could be reviewed at that meeting. Accordingly, those 23 notifications currently up for review at that meeting were listed in WTO/AIR/1844. Written questions on these notifications were due by 15 July 2002, and written answers were due by 16 September 2002.

61. Members would further recall that, by fax dated 2 July 2002, the Chairman had informed them that five additional 2001 new and full subsidies notifications had also been submitted by 30 June 2002 (Chinese Taipei, Japan, Norway, Slovenia and the United States), and he wished to ask if Members could go along with the suggestion he had made in that fax, according to which the Committee would also review these notifications at the Autumn 2002 special meeting, despite the fact that they were received too late to be reviewed under the procedures adopted by the Committee in May 2001.

62. Recalling that the review of subsidy notifications was to be conducted on the basis of written questions and answers provided before the meeting, the Chairman noted in passing that some questions had already been submitted in respect of some of these five notifications. However, as the deadline for the submission of questions in relation to other 2001 new and full notifications had already passed, he proposed that any written questions relating to the five notifications in questions be submitted to the Member concerned and the Secretariat for circulation by 15 August 2002 and that answers to these questions be submitted to the Member concerned and the Secretariat by 10 October 2002. He wondered if Members were willing to go along with the way of proceeding suggested by the Chairman.

63. The delegate of the European Communities stated that, in principle, his delegation would be in favour of the Chairman's proposal, but that they would be grateful if the deadline for written questions could be moved to 6 September. This would leave the normal six-week period for the notifying Member to reply to the questions, meaning that answers would have to be given by 21 October. This would, of course, cut down the period in which the answers could be reviewed by Members before discussing them at the meeting itself. But his delegation thought that this was an acceptable approach, since there would always be the possibility to ask follow-up questions after the meeting in writing.

64. The delegate of Australia indicated her delegation's support for this approach.

65. The Committee took note of the statements made and agreed to proceed accordingly.

D. OTHER BUSINESS

**1. Subsidy notification seminar – statement by the Chairman**

66. The Chairman stated that, as he had indicated to Members by fax dated Friday, 21 June 2002, a budget request in respect of the planned subsidy notification seminar for capital-based officials to be held back-to-back with the Committee's regular Autumn meeting had been submitted on 24 June 2002

on the basis of a list of Members and Observers that had indicated their desire to receive financial sponsorship to participate. He recalled that all Members and Observers were entitled to participate in the seminar, and that the only issue concerned certain requests for funding. He also wished to recall that development of a list of countries had been specifically for the purpose of planning a budget request for the seminar, and had no relevance or significance for the legal rights and obligations of Members under the SCM Agreement.

67. He wished to underline that the Committee process, and in particular its decision taken on 3 May 2002, were for the purpose of formulating a basis on which a budget request could be submitted for financing from the Global Trust Fund. It had always been clear that this budget request, once submitted, would go through the procedures followed with respect to the financing of WTO technical assistance activities. He now understood that, in applying these technical assistance procedures, nearly all those countries that requested funding would receive funding. On this basis, logistical planning for the seminar, which was currently envisaged to take place on 29 and 30 October, in conjunction with the regular Autumn session of the Committee, would now get underway.

68. The Committee took note of the statement made.

**2. Statements of Brazil and India made during the informal session in respect of the Committee's review of the provisions of the Agreement on Subsidies and Countervailing Measures having to do with countervailing duty investigations and the 31 July 2002 report to the General Council**

69. The delegate of Brazil stated that, as the Committee was approaching the deadline for the conclusion of this exercise, his delegation wished to thank the current Chairman, the previous Chairman and the Secretariat for the hard work and dedication in this process of examination of Brazil's proposals. He also wished to thank the delegations that had presented questions or comments on the different points raised, either in writing or orally. It had been a very intensive year, since September 2001 and Members had covered a lot of ground in the analysis of such complex issues. The proposals that Brazil had presented had a systemic nature. They stemmed from Brazil's assessment, shared by many, that the countervailing duty part of the SCM Agreement could, and should be improved, by means of interpretations or amendments to the text, as appropriate. On this point, he wished to re-state something that his Ambassador, and other Heads of Delegations, had mentioned several times in the past. Contrary to what some had expressed in the course of this exercise, if a proposal was labelled as an "Implementation" proposal, this did not mean that it should not entail amendments to a WTO Agreement, if necessary. In any case, now that Members were in a "negotiations" mode – and the Ministerial Declaration was clear in this regard – with an unambiguous mandate in respect of subsidies, this distinction lost all of its meaning. It was needless to say that Brazil was disappointed that, at this time, Members had been unable to reach a consensus on at least some of its proposals. This was particularly disappointing since it appeared that many of Brazil's suggestions enjoyed a considerable degree of support, formally or informally. In fact, the practice of many of the Members already went in the same direction as Brazil had tried to advocate. Brazil had hoped that this extensive period of more than one year would have been enough for Members to reach some conclusions on the issues. Unfortunately, it had not been enough. With respect to the Implementation process as a whole, it was obviously not a good signal that this item might be leaving this subsidiary body without being the object of any sort of recommendation. This was even more worrying when Brazil noted that this would probably not be an isolated case. Nevertheless, one important aspect of this was that Members had dedicated a tremendous effort to discussion of these issues. It was imperative that the critical mass be retained. Of course, Brazil intended to come back to these issues, even if not within the Committee. To end on a positive note, at least Brazil would be able to take advantage of the discussions of the previous year and go directly to more advanced stages of the debate.

70. The delegate of India stated that his delegation also wished to thank the Chairman, his predecessor, Mr. Remo Moretta, the Secretariat and all delegations for the time spent in the examination of these proposals. However, it was needless to state that it was a matter of disappointment for India that this Committee – in spite of the deliberations spanning over ten months – had not been able to come out with any recommendation on these proposals. At a very early stage of this process, India had singled out an item for decision: that countervailing duties were limited to the amount of excess remission, exemption or deferral. India believed that at least this item could have been easily resolved, if there had been a will amongst Members to genuinely address the Implementation concerns. This was especially the case as the practice of many Members already went in this direction. India was, however, constrained to state that, in its perception, constructive engagement with a view to finding a solution to the problem had been lacking. The result was that, contrary to the spirit in which the declarations had been made at Doha, no progress whatsoever had been made since then in addressing issues of relevance to developing countries. He wished to quote some of these statements in the Declaration, such as "we attach the utmost importance to the Implementation-related issues and concerns raised by Members and are determined to find appropriate solutions to them" and, elsewhere, that "outstanding Implementation issues shall be addressed as a matter of priority".

71. The Committee took note of the statements made.

72. The meeting was adjourned.

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