RESTRICTED

SCM/M/11
7 July 1982

Special Distribution

GENERAL AGREEMENT ON TARIFFS AND TRADE

Committee on Subsidies and Countervailing Measures

MINUTES OF THE MEETING HELD ON 29 APRIL 1982

Chairman: Mr. M. Ikeda (Japan)

1. The Committee on Subsidies and Countervailing Measures met on 29 April 1982.

2. The Committee adopted the following agenda:

A. Adherence of further countries to the Agreement

B. Examination of national legislation and implementing regulations (SCM/1 and addenda)

C. Notification of subsidies (L/5102 and addenda)

D. Reports on all preliminary or final countervailing duty actions (SCM/W/18, 20, 25, 26, 27, 29 and 30)

E. Semi-annual reports of countervailing duty actions taken within the period 1 July 1981-31 December 1981 (SCM/15 and addenda)

F. Matter referred by India the Committee under Article 17:1 of the Agreement (certain domestic procedures of the United States)

G. Other actions taken under the Agreement

H. Other business (Possible contributions to the Ministerial Meeting; export credits)

3. The observer for Colombia said that a practice had developed in the Committee to have meetings limited to the Signatories only. He was aware that one of the reasons was that there was an increased number of dispute settlement cases. However, there were also meetings which dealt with subjects of general interest, as for example notifications under Article XVI:1 where confidentiality was certainly not warranted. He expressed his hope that this practice would be discontinued and that in future observers would be invited to such meetings.

4. The Chairman said that sometimes it was difficult to draw the line between confidential and non-confidential matters but efforts would be made to limit the number of executive sessions of the Committee to the necessary minimum.

A. Adherence of further countries to the Agreement

5. The Chairman recalled that since the last regular session of the Committee (28 October 1981) Egypt had signed the Agreement (subject to ratification) on 28 December 1981. On 4 March 1982 Egypt had circulated a declaration made in pursuance of Article 14:5 of the Agreement (SCM/16).

6. The representative of Canada said that if Egypt maintained no export subsidy within the meaning of the Code, it did not seem to be necessary to enter into a commitment. If, however, there were some subsidy practices, they should be notified and the commitment should be to eliminate or reduce them over a period of time. The representative of the United States said that he considered the compensation programme with respect to cotton articles as a subsidy which should be notified under Article XVI:1 and welcomed the Egyptian commitment to reduce it within three years.

7. The Committee took note of the commitment by Egypt as reproduced in SCM/16.

8. The representatives of the European Communities and Canada reserved their rights to raise, in future and if necessary, some problems with respect to this commitment.

9. The representative of Egypt said that his Government would abide by the provisions of the Agreement and would fully co-operate with other Signatories in the Committee.

10. The Chairman recalled that on 14 April 1982 Spain accepted the Agreement. This acceptance was accompanied by a declaration which was reproduced in document L/4914/Rev.5/Add.7. The Committee had before it a draft decision concerning this declaration (SCM/W/32).

11. The representative of Spain said that during the Tokyo Round his authorities had shown a great interest in signing the Subsidies Code but at that time there had been a problem with respect to a practice forbidden as an export subsidy, namely reimbursement of cumulative indirect taxes on goods that were not physically incorporated in the exported goods. The Spanish tax system used indirect cumulative taxes and the exemption or remission of such taxes, even if imposed on goods not physically incorporated in the exported goods, was a normal practice. However last year a new law had been enacted in Spain which constituted a framework for a tax reform and in the very near future the value added tax system would be introduced. Consequently the Spanish system would be entirely in conformity with the requirements of the Code, in particular paragraph (h) of the Illustrative List. Introduction of the new system would, however, require some time and a number of adaptations would have to be made. For this reason Spain had to make a reservation enabling it to gradually introduce all necessary reforms and complete the whole process by 31 December 1984. He wanted to assure the Committee that this deadline was the maximum time-limit involved and expressed the hope that Spain would be able to withdraw its reservation much sooner.

12. Representatives of the United States, the European Communities, Korea, India, Japan, Sweden on behalf of the Nordic countries, Australia, Austria, Canada, Brazil, Chile, New Zealand, Switzerland, Yugoslavia, the United Kingdom on behalf of Hong Kong and Austria welcomed the acceptance of

the Agreement by Spain and supported the draft decision contained in SCM/W/32. The Committee adopted this decision (SCM/25) on the understanding that it would not constitute a precedent for other cases which might arise in future.

B. Examination of national legislation and implementing regulations (SCM/1 and addenda)

13. The Chairman recalled that since the last regular session of the Committee the secretariat had circulated two communications concerning the national legislations of New Zealand (SCM/1/Add.15) and Chile (SCM/1/Add.16).

New Zealand (SCM/1/Add.15)

14. The representative of the European Communities said that New Zealand had notified a legislation which dated from 1966, and consequently the drafters of this legislation could not have foreseen the rules of the Countervailing Duty Code. This legislation did not contain adequate provisions, there was neither definition or criteria for determination of injury, no definition of industry, no definition of what a concession (subsidy) meant, there was nothing about calculation of the amount of a subsidy, rules on retroactivity were inconsistent with the Code, rules on the duration of provisional measures were also inconsistent, there were no rules on procedures and conduct of investigations, there was nothing on the possibility of a judicial review. He urged the Government of New Zealand to have a close look at this legislation because it required a complete redrafting in order to be aligned on the Code.

15. The representative of New Zealand said that there was some misunderstanding as to administrative practice in New Zealand. The New Zealand treaty-making power was with the executive and not the legislative. Thus to ensure the conformity of domestic laws and regulations with the provisions of the Code, it was not necessary to write the Code into the domestic law. The only thing to be done was to ensure that the domestic law did not restrict the Government in fulfilling its international obligations. The domestic legislation was phrased in broader terms than the relevant international obligations. The Government adopted, as the administrative practice, the more specific procedures to which it was bound at international level. In particular, as far as the question of injury was concerned the Government, in exercising its national obligations, would have regard to the Code. Furthermore the Government was bound to follow the dispute settlement procedure of the Code. There was nothing in the domestic legislation to restrict the Government in this regard.

16. The representative of the European Communities said that things were not quite as easy as the representative of New Zealand seemed to imply. There was a clear obligation under the Code for every Signatory to align its national legislation with the provisions of the Code. It had not been done by New Zealand. He attached great importance to the conformity of national legislation with the Code because only such conformity gave the possibility of judicial review of decisions taken by national authorities. Although certain provisions of New Zealand's legislation were vague and one could interpret them in a manner consistent with the Code it was not possible in all cases. For example section 129:9 mentioned the possibility of extention of provisional duties from three to six months, while the maximum allowed by the Code was four months. There were more contradictions of this kind and therefore the New Zealand Government should compare its present legislation with the requirements of the Code and redraft the legislation accordingly.

17. The representative of New Zealand said he would refer the comments to his authorities. He nevertheless insisted that his Government's ability to comply with international obligations was not restricted by the domestic legislation and it would conduct itself in conformity with the Code. He also pointed out that as far as the points raised related to the time factor, there was an introductory paragraph to SCM/1/Add.15 which indicated that the Government would, if in future it took a countervailing duty action, apply the time-limits of the Code.

Chile (SCM/1/Add.16)

18. The representative of the European Communities said that Article 13 of the legislation provided for the possibility of retroative application of countervailing duties in cases where there had been provisional measures. There was no proviso in the text that in a case where the final countervailing duty was higher than the provisional one this higher amount could not be applied retroactively.

19. The representative of Chile recalled that the Committee had already discussed the draft Chilean regulations and as a result of this discussion the final version had been considerably improved. He wished to reaffirm that the Chilean legislation was exactly the text of the Code, while the text before the Committee was that of implementing regulations to guide competent authorities if an investigation should be carried out. Referring to the question put by the EC representative he confirmed that provisions of the Code were applicable and if the final duty was higher than the provisional one then the difference should not be collected.

General comments

20. The representative of Australia said that his delegation was very concious of the fact that it had not notified its national legislation but such notification would be made in the very near future. The representative of Korea said that the Korean legislation and implementing decree had been amended and entered into force on 1 January 1982. The appropriate notification would be made in the very near future.

21. The Chairman reminded the Committee that some Signatories had not, as yet, notified their legislation. He expressed his hope that appropriate notifications would be submitted to the secretariat in time for the next annual review in October 1982. In the meantime the Committee might wish to revert to certain points concerning various legislations raised at previous meetings. At any rate this item should be maintained on the agenda in order to allow the Signatories to revert to particular aspects of some legislations at a later stage or in the light of their practical implementations. It was so agreed.

C. Notification of subsidies (L/5102 and addenda)

22. The Chairman recalled briefly the history of the question before the Committee. The very unsatisfactory status of notifications under Article XVI:1 had been discussed in the Committee at practically each one of its meetings. At its April 1981 meeting the Committee had agreed that Signatories should submit their responses to L/5102 before the October 1981 meeting and that the Committee should undertake an examination of the

questionnaire on subsidies as well as of qualitative aspects of responses to it at this meeting (SCM/M/6, paragraph 15). On 21 September 1981 the Acting Chairman of the Committee had circulated an Aide-Mémoire (SCM/8) to remind the Signatories of the decisions previously taken by the Committee with regard to notifications of subsidies and to appeal urgently to the Signatories to make every effort to ensure that notifications, as complete as possible, be submitted sufficiently in advance to make possible a valid examination by the Committee at its October 1981 meeting. At its October 1981 meeting the Committee had not been able to have any meaningful discussion of this question because only four Signatories had submitted their notifications and these notifications had provided practically no details on the situation in the industrial sector. In the light of this the Chairman had pointed out that if the Committee did not want to lose its credibility it should seriously reflect on how to remedy the situation. He had also appealed again to the Signatories to make every effort to ensure that notifications as complete as possible be submitted by all Signatories without further delay. Consequently, the Committee had agreed that Signatories which had not already done so should submit their full notifications by the end of 1981. Signatories who considered that they did not grant subsidies in the sense of Article XVI:1 should notify this. Following this procedure the Committee should have a discussion on the content of notifications (SCM/M/9, paragraph 21).

23. On 3 March 1982 the Committee had had a special meeting to examine the status of notifications. By that date, and in fact the situation had remained practically unchanged since, the following Signatories had made notifications under Article XVI:1. Australia, Austria, Canada, Chile, Finland, Hong Kong, Japan, Luxembourg, Norway, Sweden, Switzerland, United States and the European Communities. Notifications from other Signatories were still, despite repeated appeals, pending. They were still pending despite the fact that the Committee had invited Signatories to make every effort to present or complete their notifications sufficiently early so that at its April meeting the Committee could examine them and reflect on the possible modifications to the questionnaire on subsidies. As to the improvement of notifications the only positive development in this field were complementary notifications of industrial subsidies submitted by Finland (L/5102/Add.3/Suppl.1) and the European Communities (L/5102/Add.6/Suppl.1).

24. At the 3 March 1982 meeting some general problems had been raised. In his summing-up the Chairman had concluded that in accordance with the statement by the Chairman of the XIIIth Session of the CONTRACTING PARTIES all Signatories should furnish information on the subsidies they applied even if in their view those subsidies were not within the purview of Article XVI:1. He also said that the Code had not changed this interpretation. The need for greater transparency had also been generally recognized. Although some delegations had misgivings about the incrimination effect of notifications, it was recognized that such misgivings were not justified and consequently they should not prevent Signatories from fulfilling their obligations. Furthermore it had been pointed out that, in certain cases, the questionnaire involved some practical problems and that the shortcomings of the questionnaire should be remedied at an appropriate moment. For the time being the most reasonable approach seemed to be to show some flexibility as to the use of the questionnaire, and as to replies to its second part in particular. In the discussion certain contradictions had emerged. Some delegations had stated that notifications were not necessary because transparency had already been

assured through official publications. That conclusion was unacceptable: when a measure was published at national level it was contradictory to claim that notification at multilateral level was superfluous or even impossible. Secondly, reference had been made to the possibility under the Code of requesting and obtaining additional information on subsidies that could make notifications unnecessary. In that connexion the Chairman drew the Committee's attention to the risks inherent in any bilateralization of information which would not contribute to the transparency sought. Lastly, the problem of subjectivity of notifications had been underlined. In that connexion the Committee should start from the premise that a determination as to whether or not a measure was within the purview of Article XVI:1 should not be made unilaterally, and in case of doubt one should opt for notifying rather than for refraining from doing so.

25. The representative of New Zealand expressed his regret that his delegation had not submitted a notification of subsidies. He promised that such a notification would be submitted in the very near future.

26. The representative of the European Communities made a statement which has been circulated in SCM/23.

27. The representative of Pakistan endorsed the Chairman's appeal for a better performance in the notification of subsidies. He said that the delay in Pakistan's notification was entirely due to administrative reasons and scarce resources. He added that most of the subsidies were notified in the official documents or journals and would be compiled in the form of a booklet. Thus there was some transparency and trading partners who felt affected by measures and incentives applied by Pakistan had the possibility of obtaining all the necessary information both directly and through the procedures of Article 7 of the Code. This would not, however, prevent his Government from notifying in accordance with Article XVI:1.

28. The representative of Chile thanked the Chairman for his introduction to the question which had put the problems in the right perspective. He was concerned that the situation, in terms of the status of notifications, had not changed very much since the beginning of the year. One of the ways of opening the discussion would be to hear the Signatories which had not fulfilled their obligations to notify to explain the reasons why. He noted with pleasure the statement of the representative of Pakistan that all efforts were being made to submit a notification shortly. Referring to the statement by the representative of the European Communities, he said that his concerns were shared by the Chilean delegation. For example the questionnaire on subsidies might be inadequate in the current situation and in the light of the needs of economic life and therefore the Committee should reflect on the possibility of revising the questionnaire. Such an exercise should take account of the need for transparency but should also result in certain flexibility and realism. He further said that it would be very difficult to review individual notifications at this meeting and suggested that a special meeting be held to deal with this matter. At that time the Committee should have notifications from all Signatories and it could decide on the questions raised by the EC representative regarding transparency, scope of the questionnaire, flexibility, etc.

29. The representative of the United States said that the Chairman's remarks deserved the special attention of the Committee and shared his hope that all Signatories would comply with their obligations under Article XVI:1. He noted

the absence of notifications from several Signatories, in particular from Brazil, India, Korea, Uruguay and New Zealand, and invited them to explain why they had not notified their subsidies. Referring to the statement by the representative of the European Communities he said that with regard to a general point about the meaning of Article XVI:1 he considered that this Article's language was unambiguous and it provided that any subsidy, including any form of price support which directly or indirectly affected imports or exports, should be notified in writing. The mere fact that such subsidies or programmes were maintained did not imply that they were in violation of the Code or that a countermeasure should be taken against them. There was nothing in Article XVI:1 that incriminated any party for it having notified something; its purpose was to ensure that the practices of all Signatories were transparent. With regard to the suggestion that there were certain types of subsidies which did not need to be notified he thought that although there was a certain degree of subjectivity, Signatories should be guided by common sense in deciding what should be notified. In particular he could not agree with the suggestion that subsidies which were not countervailable did not need to be notified.

30. The representative of Canada agreed with the introductory remarks of the Chairman. He considered very helpful the fact that recently some Signatories had notified their subsidies in the industrial sector. He wished to stress that the obligation under Article XVI:1 was still the central one. Consequently shifting the burden of notifications through the procedures of Article 7:3 on other Signatories should be avoided. He expressed his concern about the unsatisfactory status of notifications by the majority of the contracting parties and some of the Signatories. He further said that in the process of examining notifications it would be useful to look at the questionnaire to see whether it was still serving the purpose for which it had been designed. On the one hand this Committee should not be overloaded with too many papers and this should be taken into account in new guidelines on notifications. On the other hand it would be wrong to assume, on the basis of some examples, such as subsidies in the steel sector, that there was sufficient transparency because of national publications. There were many sectors where this transparency was far from sufficient and therefore the fact that certain national sources of information existed should not guide the Committee in its considerations. He believed that the Committee should find an objective and flexible approach to the question.

31. The representative of India said that his authorities were in the process of preparing a notification under Article XVI:1. There were, however, some problems because it was difficult, on the basis of existing notifications and statements by some Signatories, to determine what practices should be notified. Only recently major trading countries had given more ample information of their subsidy programmes and this would certainly help a lot in preparing the Indian notification.

32. The representative of Switzerland endorsed the Chairman's introductory remarks and noted that some progress had been made as several Signatories had completed previous notifications. He said that in the field of subsidies it was very important to know what was going on in other countries, particularly as different forms of aids and subsidies had increased substantially in the course of the last twenty years. The conclusion to be drawn from this situation was that the need for transparency was even greater now than it had been at the time when subsidies played a much less important rôle. He pointed

out that Article XVI:1 imposed a legal obligation which had to be fulfilled. The observance of this obligation was, of course, influenced by considerations related to the trade effects of a subsidy. The question of self-incrimination played no doubt a certain rôle for not notifying but he did not think that it could be resolved if Signatories limited themselves to domestic publications; Moreover domestic publication could give rise to exactly the same apprehensions of self-incrimination. The CONTRACTING PARTIES, when they had agreed on the procedure for notification, had certainly taken into account the fact that it created a necessity of giving more information than otherwise would have been done. For a given country, however, the fact that it had to give more information and hence run the risk of a certain self-incrimination was balanced by the fact that it also obtained from their trading partners more information on their subsidizing practices.

33. The representative of Korea said that his authorities had had some difficulties in preparing the notification of subsidies. The draft was presently subject to consultations between various Ministeries. For this reason he could not give a precise date for the submission of the notification but he expected that it would be done in the near future. He wished to assure the Committee that every effort would be made by his authorities to ensure Korea's compliance with its obligations under the General Agreement and the Code.

34. The representative of Japan agreed with the points raised by the Chairman in his introductory remarks, in particular that notifications were of great importance to the Committee's operation and that its credibility depended to a large extent on the successful outcome of this matter. One of the issues was how to increase the transparency but, at the same time, the Committee should approach this question in a pragmatic way and this double objective should be taken into account in any possible revision of the questionnaire.

35. The representative of Brazil said that his Government intended to comply fully with its obligations under Article XVI:1. The Brazilian authorities were preparing a notification which would be submitted in the near future. This process would be facilitated by improvements made in notifications by other major trading countries.

36. The representative of Sweden said that his authorities were quite willing to notify domestic industrial subsidies for the sake of transparency. Steps had been taken to prepare such a notification; but his authorities wanted to ascertain the level of ambition it should reflect. Some of the notifications made so far were very general and one might wonder what purpose they could serve. If notifications were to serve the purpose of transparency, the Committee should specify what kind and scope of information was required. The questionnaire did not reflect all the needs of the present situation. He believed that the notification procedure could be helpful in providing transparency but he agreed with the EC representative that it would be necessary to determine which subsidies were suitable for this procedure and what specific information should be provided.

37. The representative of New Zealand reiterated that his authorities were preparing a notification under Article XVI:1 which would shortly be submitted to the secretariat. One of the difficulties enountered was that the questionnaire was sometimes inadequate from the point of view of the present

situation. He agreed with those speakers who thought that the Committee should specify what kind of information was really needed.

38. The Chairman said that the discussion had shown that there were grounds on which to work out a satisfactory solution to the problem of notifications of subsidies. There had been a certain improvement in notifications and at least five Signatories, including developing countries, had indicated that, in accordance with their obligations under the Code and the General Agreement, they would be submitting their notifications in the near future. During the disucssion several speakers referred to the possibility of adapting the questionnaire to the existing situation and stressed that in such an exercise the need of improved transparency on the one hand and of flexibility and pragmatism on the other should be taken into account. The Committee seemed to be unanimous that the present status of notifications, although improved, was still unsatisfactory. For this reason the Committee would continue to examine this question with a view to working out a satisfactory solution. The Committee would proceed with the examination of individual notifications at its next regular session or the Chairman might, in consultations with delegations, convene a special meeting for this purpose. It was so agreed.

39. The representative of Canada referred to documents SCM/18, 19 and 22. He recalled that his delegation had made a formal request pursuant to Article 7:3 of the Code that the United States notify the subsidy programme known as DISC, in accordance with its obligations under Article XVI:1. The United States had responded by refusing to notify the DISC claiming that it was not, in their view, a subsidy. In the circumstances his authorities had decided to invoke the provisions of Article 7:3 of the Code. He wished to stress that the DISC was clearly a subsidy programme which operated to increase the level of the United States exports. The GATT panel report adopted by the GATT Council concluded that the DISC constituted a subsidy which had led to an increase in exports from the United States. The panel report had also found that the DISC was covered by the notification obligation of Article XVI:1. Nothing in the statement which the Council had adopted with the panel report could be construed as invalidating the conclusions of the report. Furthermore the DISC was clearly an export subsidy practice of the type identified in paragraph (e) of the Illustrative List of Export Subsidies of the Code. The second footnote to this paragraph had specifically been included into the Code to cover such programmes as the DISC. He had difficulty in understanding the current US position that the DISC was not a subsidy when such a footnote had been included to permit the US to sign the Code while still maintaining the DISC. In the light of the US refusal to notify the DISC his authorities had notified it as a subsidy in accordance with Article 7:3. He urged the United States to take the necessary steps to expeditiously bring the DISC in conformity with the Code and the US obligations under the GATT.

40. The representative of the European Communities said that he was totally in agreement with the statement made by the representative of Canada.

41. The representative of the United States said that his Government's view was that the rules of Article XVI:4 and of the Code required that the level of taxation to be assessed upon exported products be at least equal to that level which would apply in the event of the territorial system of taxation being adopted by the country in question. In the case of the United States the level of direct taxation imposed on exports exceeded the level which would have been applicable under a territorial system. The United States' position was therefore in conformity with the panel report as qualified by the Council

although the United States recognized that there was nothing in the panel report or in the qualifier which would prevent any contracting party - signatory to the 1960 Declaration from challenging or contesting the DISC. Similarly, the same right existed with respect to the three other tax practices examined by panels or any other tax practices maintained by other countries.

42. The representative of the European Communities said that he had noted the US view about the rules applicable in Article XVI:4 cases and he could only say that he disagreed completely. Article XVI:4 provided, inter alia, that countries should not grant a subsidy which resulted in the sale of a product for export at a price lower than the comparable price in the domestic market. The comparison therefore was between the level of taxation on exports and in the domestic market and had nothing to do with a hypothetical situation in which the country concerned might apply a different taxation system nor with the level of taxation that might then hypothetically apply. Also he could not agree that the understanding adopted by the Council had resulted in any meaningful qualification of the DISC panel report. The Chairman of the Council at that time had noted that none of the decisions taken modified the existing rules of Article XVI:4 in any way at all. In the light of these two points of fundamental disagreement, the European Communities intended to pursue this question at the earliest opportunity in the GATT Council.

43. The representative of Sweden said that the Nordic countries attached great importance to Article 7 of the Subsidies Code, in particular because this provision aimed at facilitating transparency in the subsidies area. This important aim should not be frustrated. He expressed the Nordic countries' concern about the US response to the Canadian request under Article 7. The Nordic countries fully concurred with the conclusions of the panel report in document L/4422 that the DISC was an export subsidy. For this reason it was self-evident that it should be notified under the procedures of Article XVI:1. The decision of the GATT Council of December 1981 was accepted by the Nordic countries as a reasonable compromise to end the long-standing dispute but they did not interpret this decision as an acceptance of the DISC system nor as changing the substantive conclusions of the panel's report on DISC. He reserved the Nordic countries' rights to revert to this matter in the GATT Council and the Committee.

44. The representative of Australia said that he did not share the view expressed by the United States. There was no question that the DISC was a subsidy and as such had to be notified under Article 7 of the Code and Article XVI:1. He shared the views expressed by the previous speaker on the panel's finding that DISC was intended to increase the US exports and should be regarded as an export subsidy and that nothing in the December 1981 Council Understanding modified the panel's conclusion. He said that his delegation would pursue this matter in an appropriate GATT fora.

45. The representative of India noted with concern that the practices of one major Signatory, which had been pronounced to be a subsidy by a GATT panel, were now considered otherwise by this Signatory. This was not only a step backwards, but it would considerably complicate the examination of the scope of notifications which his authorities had undertaken. The exchange of views on the matter not only added to the existing ambiguities but especially complicated the situation of developing countries.

46. The representative of Switzerland was surprised, in the light of the discussion on the notification of subsidies, that the US representative took the view that the DISC should not fall under the obligation of Article XVI:1. He was even more surprised to hear that the DISC was not a subsidy. He shared the views expressed by the previous speakers. He asked th US representative whether, in his view, footnote 2 last but one paragraph related to item (e) of the Illustrative List did not cover the DISC.

47. The representative of New Zealand viewed with some concern the US reply to the Canadian request and associated himself with the remarks made by the previous speakers. The representative of Brazil said that his authorities were studying the US reply and he reserved his right to revert to the matter at a later stage. The representative of Chile said that he shared the concern expressed by the previous speakers.

48. The representative of the United States said that he was surprised that so few countries had notified their export credit programmes. He continued to believe that these programmes were subsidies and should be notified.

49. The representative of the European Communities said that the issue of export credits had already been discussed at the previous meeting and at that time he had made it clear that according to item (k) of the Illustrative List all export credits which were in conformity with the international arrangement in this area did not constitute subsidies. Consequently they were not notifiable. If the United States Government did not share this opinion and wished to notify certain practices of the Ex-Im Bank it was free to do so.

50. The representative of Canada believed that export credit programmes should be notified under Article XVI:1. The fact that they were covered by paragraph (k) did not relieve the obligation to notify them.

51. The representative of Chile said that paragraph (k) provided that if export credits granted at such rates as to be considered export subsidies were in conformity with the OECD arrangement then they were not considered as prohibited practices. This was only a qualification as to legality or non-legality but it did not change the fact that these practices were subsidies which increased exports and that they should be notified.

52. The representative of Japan said that he shared the view expressed by the representative of the European Communities.

53. The representative of Switzerland said that his understanding of paragraph (k) was that it ennumerated practices which were forbidden by the Code. But it also contained a derogation from the general rule. The second part of paragraph (k) meant that the practices covered by it were not considered as prohibited export subsidies and therefore they were not inconsistent with the Code. However one should not pretend that they were not subsidies and for this reason, and in particular in the light of the discussion of notifications, he considered that the obligation of Article XVI:1 also covered these kind of practices.

54. The representative of the United States said that the language of paragraph (k) was absolutely clear. It said that certain programmes should not be considered as prohibited export subsidies. It did not say that they were not export subsidies, it only said that they were not prohibited by the Agreement. The notification of a subsidy programme had no implication that

there was something illegal about having such a programme. Export credit programmes, if consistent with paragraph (k), were certainly legal under the Code. However he could not understand how one could pretend that these practices were not export subsidies.

55. The representative of the European Communities said that paragraph (k) stated that certain practices were not prohibited export subsidies. On the other hand Article XVI:4 made it clear that all export subsidies were prohibited. Consequently if paragraph (k) considered a practice as not being a prohibited export subsidy it meant that this practice was not an export subsidy at all.

56. The representative of the United States said that everybody, and in particular the representative of the European Communities, knew that there were certain types of export subsidies which were not prohibited by the Code, for example export subsidies for certain primary products. The addition of the words "prohibited by the Code" meant an acknowledgement that there were certain types of subsidies which were prohibited and others which were not. The language of paragraph (k) was clear and nobody could reasonably interpret it in the way the representative of the European Community had done.

D. Reports on all preliminary or final countervailing duty actions (SCM/W/18, 20, 25, 26, 27, 29 and 30)

57. The Chairman recalled that notifications under these procedures had been received from the United States and circulated in documents SCM/W/18, 20, 25, 26, 27, 29 and 30.

58. The representative of Canada referred to document SCM/W/27 and said that in the case of hard-smoked herring fillet the US Commerce Department had accepted a petition despite the fact that it did not include any evidence of injury. In addition the Commerce Department knew that a similar petition from the same complainant had already been rejected in the past. This practice amounted to a harassment of Canadian exporters. He wished to express his expectation that practices of this sort would not reoccur in the future.

59. The representative of the United States said that in the case of smoked-herrings the Commerce Department had thought that there had been sufficient evidence of injury, particularly as the petitioner was a very small firm.

E. Semi-annual reports of countervailing duty actions taken within the period 1 July 1981-31 December 1981 (SCM/15 and addenda)

60. The Chairman recalled that an invitation to submit semi-annual reports under Article 2:16 of the Agreement had been circulated in SCM/15 on 22 January 1982. The following Signatories had notified the Committee that they had not taken any countervailing duty action during that period (SCM/15/Add.3): Austria, Brazil, Chile, Finland, India, Japan, Korea, Norway, Pakistan, Sweden, Switzerland, UK on behalf of Hong Kong and Yugoslavia. No notification had been received from Uruguay. Countervailing duty actions had been notified by the European Community (SCM/15/Add.1), Canada (SCM/15/Add.2) and the United States (SCM/15/Add.4).

61. The representative of the European Communities raised a problem concerning the ninety-six steel petitions filed in January 1982 by the US

steel industry and covering 95 per cent of the European steel exports. After consultations under Article 3 of the Code the US Department of Commerce decided, on 8 February 1982, to initiate eighty-six investigations. The ITC rejected forty-nine of these cases but made thirty-six preliminary injury determinations. In this relation he wished to stress that under the Code there was a certain number of requirements for the initiation of an investigation. First there had to be a petition containing sufficient evidence on subsidies, injury and a causal link between the two. Secondly, the investigating authority had to satisfy itself that this evidence was indeed sufficient to justify initiating an investigation. Thirdly, the evidence of a subsidy and injury should be considered simultaneously in the decision as to whether or not to initiate the case. The Code, therefore, required an initial substantive evaluation of injury at the moment of initiation of the case. It was the EC contention that these requirements had not been met in all Department of Commerce decisions. The Department of Commerce limited its first examination of cases to the question of whether there was some evidence on record concerning injury rather than going into a meaningful first examination of the existence of injury. The result was that only six petitions out of ninety-six were rejected. All other cases were accepted for preliminary examinations, even if they were very meagre. For example in the case of hot-rolled carbon steel bars the cumulative market share of exporters from the Federal Republic of Germany, France and Italy was 0.27 per cent. In the case of hot-rolled alloy bars the market share of EC exporters was 0.31 per cent and in the case of cold-formed carbon bars 0.13 per cent. He considered that the only explanation for this situation was that something was wrong with the US countervailing duty system. The US authorities had locked themselves into such a set of mandatory time-limits that they had no possibility of going into meaningful injury determinations at the moment of the opening of an investigation. In particular they had no such possibility in situations where they received 132 petitions on the same day and when they had to proceed with them all within the time-period of 20 days provided by the US legislation. It was true that the ITC had, subsequently rejected forty-nine of the cases but in the meantime exporters had been harassed, there had been uncertainty and considerable financial cost for the firms concerned. On top of that the US action was inconsistent with the Code because the injury determination at the stage of initiation of the investigation had not been properly made. He urged the US authorities to be more careful in the future and not to open cases where there was not sufficient evidence of injury justifying the preliminary investigation by the ITC.

62. The representative of the United States said that the Department of Commerce had had considerable evidence of injury in all of the petitions involved. It had gathered evidence from many sources including the trigger-price mechanism. Most of the injury information was contained in the ITC reports.

63. The representative of the European Communities said that if there had been so much evidence of injury in those ninety-six cases why had the ITC rejected forty-nine? The representative of the United States said that ITC decisions were based on a very detailed examination and the motiviations of these decisions were published.

F. Matter referred by India to the Committee under Article 17:1 of the Agreement (Certain Domestic Procedures of the United States) (SCM/20)

64. Whilst presenting India's case set forth in SCM/20, the representative of India said that India was coming before the Committee for the second time with some of its problems vis-à-vis the same Signatory, the United States. He said that apart from the adverse effects on India of some of the US domestic procedures, methods and practices, India considered the matter to be of sufficient importance both to Signatories and non-Signatories who perhaps at some stage were expected to join the Code. He added that implementation of the Code was still at the preliminary stage and it was, therefore, all the more important that Signatories had to be cautious of the way in which the Code was being implemented.

65. The refusal by the US authorities to extend the benefit of the injury test even after the US accorded to India status of "country under the Agreement" could not be comprehended. Without prejudice to India's case regarding imposition of such countervailing duties on industrial fasteners prior to 25 September 1981, he felt that the imposition of countervailing duties after India had been accepted as a member of the Code was a grave violation of the Code and in particular Article 4:9. He added that in some respects, the US authorities were violating even their own domestic procedures and that whereas this was for them to examine, the action was clearly in violation of their international obligations. He also went on to say that some items of industrial fasteners had become duty free as of January 1982. In terms of the 1974 Trade Agreements Act all items which were duty free would have the benefit of an injury test. It was, therefore, all the more surprising that the US authorities had not been able to grant India the benefit of the injury determination criterion.

66. On the second point raised in SCM/20 regarding methods and principles applied by the US authorities in calculating countervailing duty in respect of industrial fasteners, iron metal castings and leather footwear and uppers exported from India, the representative of India said that the US procedures were completely at variance with the provisions of the Code and the General Agreement. Explaining India's system of granting Cash Compensatory Support which was intended primarily to off-set the indirect taxes granted on exports, he said further that the system was granted as a percentage of f.o.b. value. In the light of Article 4:2 of the Code and the provisions of the General Agreement, it was clear that countervailing duty could be granted only to the extent of the subsidy. The United States had, however, in three of the cases mentioned above countervailed the entire amount of the CCS. This was all the more surprising in view of the fact that they had themselves acknowledged that at least part of the CCS was clearly a restitution of indirect taxes (page 2 of the Federal Register, Volume 45, No. 141 of Monday, 21 July 1981). In view of this, the US action was clearly a gross violation of Article 4.2 of the Code which says that countervailing duty can only be imposed to the extent of the subsidy. He also reiterated that the restitution of indirect taxes was provided for and not considered a subsidy both in terms of the General Agreement and the Code.

67. On the third issue in SCM/20 regarding the retroactive imposition of duties he said that in the case of India a final determination of duty was made in 1979 concerning imports of one item. This was reviewed in 1982 and the duty was raised. While the reason for the raising of the duty could form

an issue by itself, what was of importance was that the retroactivity exercised in the review went back as much as 24 to 25 months. He said there was no provision in the Code for such a retroactive application of duties and the US action was in complete violation of Article 5 of the Code. He said that the Code clearly provided for retroactive application of duties between a preliminary and final determination and it left no doubt that it was not possible to go back over a period of 25 months. He concluded by expressing the hope that after discussions, the Committee would declare the US practices as violative of the Code and would grant India an appropriate relief.

68. The representative of the United States said that the issue of non-extention of the benefit of the injury criterion to industrial fasteners was before the US court and active efforts were being made to work out a bilateral solution with the Government of India. The refusal by the ITC to extend the injury test had only occurred a month ago and efforts were under way to see whether any other solution could be found. With respect to the question of rebate of indirect taxes he considered that the US law was consistent with the General Agreement and the Subsidies Code. The United States had always considered bona fide indirect tax rebate schemes as non-countervailable. Such rebates should not, however, be established in a vacuum but rather based on the indirect tax incidence of a product sector as collected and reviewed by a foreign government. In determining the existence of the indirect tax rebate programme the US authorities were guided by the foreign governments own methodology and administration. The bona fide nature of an indirect tax rebate depended on the extent to which a foreign government could establish that: (1) the programmes were established and operated to rebate indirect taxes; (2) there was a clear link between eligibility for export payments and the incidence of indirect taxes; and (3) the level of export payments for a given product was well founded and documented. He further said that his government was seeking a solution with the Government of India and that this solution depended, to a certain extent, on the degree to which the latter felt it could furnish some information and the degree to which the US law required the Department of Commerce to verify that information. With respect to the question of retroactivity he said that it was related to classification problems distinguishing sandals and shoes. The US authorities had requested documentation in support of the Indian position regarding the classification of sandals. This request had been made on a number of occasions and upon receiving this documentation it should be possible to move quite expeditiously to resolve that issue and probably to exclude sandals from the order. He further said that the matter raised by India under this heading was not, in fact, a question of retroactivity but a question of attempting to set a final rate of countervailing duty when an injury test had only been applied long after the countervailing duty determination by the Department of Commerce.

69. The representative of the European Communities said that he had real sympathy with the Indian arguments on certain points, while other points resulted probably from a misunderstanding between the two parties. He wished to stress that under Article VI of the General Agreement and under the Code there was an obligation to have an injury test and it also covered the industrial fasteners case. He also said that he had problems with the US authorities' interpretation of Article VI:4 of the General Agreement which cleary provided that restitution of indirect taxes did not constitute a subsidy. The Committee should agree one day on the exact meaning of this Article, in particular what really counted - was it the intent which was

underlying the governmental restitution programme or only the facts or more precisely differences between intentions and facts.

70. The representative of the United Kingdom speaking on behalf of Hong Kong said that the matter referred to the Committee by India was a question of implementation of the Code in respect of another Signatory. The question was complex but he found it quite strange that the injury test had not been extended to industrial fasteners, particularly as there was no doubt about the obligation to have such an injury test. The procedure used with respect to the calculation of the countervailing duty was also a matter for concern. With respect to the retroactivity he said that the period of retroactive application was limited by the Code itself under Article 5:9. He noted that the US representative had expressed the willingness of his authorities to look into the question and he hoped that the question would be resolved without any further action by the Committee, but should it prove necessary, the Committee should be prepared to take appropriate action.

71. The representative of Australia said that he had considerable sympathy with each of the points spelled out by the representative of India. He was particularly concerned at the discriminatory application of the injury test. He also pointed out that countervailing duties should be applied only to the extent of the subsidy found to exist and nothing more. He considered that the issues in SCM/20 caused concern regarding the ability of the United States to strictly apply the provisions of the Code and cast doubts as to the conformity of US regulations and practices with Articles I, VI and X of the General Agreement. He was encouraged by the comments of the US representative on the possibility of achieving a satisfactory solution but felt that if these efforts were not successful the Committee should be prepared to come back and respond to the request for conciliation that had been made.

72. The representative of Canada said that as document SCM/20 raised some concern, it was useful to hear the comments of the representative of the United States. He hoped that an effort would be made in the near future to achieve a satisfactory solution of at least some of the issues. He further noted that the matter had been referred to the Committee for conciliation and, if so required, the Committee should try to find a solution. He wondered whether the delegation of India expected more from the Committee than was provided for in Article 17:1 and 17:2. He felt that it would not be appropriate for the Committee to pass judgement on the matter without going through the appropriate procedure of the Code.

73. The representative of Yugoslavia said that the Committee was facing a very important and complex problem concerning the functioning of the Code. He thought that parties to the dispute should be encouraged to find a mutually satisfactory solution but if such a solution failed to be found the Committee would have to have a special meeting to examine the matter.

74. The representative of Brazil said that he was fully sympathetic with the concerns expressed by India. He thought that in his counter-arguments the US representative had put too much stress on the relevance of the US law because what really mattered was the Code and from this point of view the Indian arguments were very clear. He hoped that both parties would continue their discussion and would find a satisfactory solution. If it proved impossible then the Committee would have to play its rôle.

75. The representative of Chile said that the questions raised by India deserved the full attention of the Committee. He considered that the problem was very complex and therefore the Committee should be fully informed about all its technical aspects in order to be able to assume its responsibilities if so requested. He welcomed the goodwill shown by both parties in their statements and their desire to co-operate in order to find a mutually satisfactory solution. If it was up to the Committee to help to find such a solution, the Chairman could, as a first step, offer his good offices and play an active rôle in the conciliation process. This could be done through informal consultations with both parties and suggestions as to the appropriate course of action. If, subsequently, the Chairman needed further assistance from other Signatories he would certainly have the full support of the Chilean delegation.

76. The observer for Hungary said that, as a possible future signatory, his delegation had a genuine interest in the way in which the Code was being implemented. In connexion with the matter raised by India in SCM/20 he wished to stress that one of the major problems his delegation was worried about was the application of rules and procedures regarding the investigations to determine the existence, degree and effect of the alleged subsidy and the imposition of countervailing duties. He was interested in knowing whether these rules and procedures were fully observed by Signatories. He further said that his Government's decision to eventually accede to the Code depended not only on the existence of necessary internal and external conditions but also on positive or negative experience gained from the practical application of the Code.

77. The representative of India said that what he was seeking in the Committee was the solution of his country's problems and this was why he had taken up the matter under Article 17. For the moment his action was limited to this Article only. As some delegations had not had enough time to study in depth document SCM/20, and the implications of issues raised therein, he proposed that the Committee continue the consideration of this subject. He also welcomed the co-operative attitude of the United States and stressed that his delegation was willing to work on a bilateral level towards a satisfactory solution i the spirit of good will and co-operation. Taking into consideration the importance of the matter he proposed that the Committee should revert to it, possibly at a special meeting, at an appropriate moment.

78. The Chairman said that the proper course of action would be to agree to revert to this matter at a date to be fixed by the Chairman in consultation with interested delegations and bearing in mind the fact that procedures of Article 17 had been initiated at this meeting. It was so decided.

79. The representative of Canada requested the US delegation to submit to the Committee their views, particularly on legal issues involved in the case.

G. Other actions taken under the Agreement

80. The Chairman recalled that at its October 1981 meeting the Committee had agreed to revert, at this meeting, to the question regarding the invocation of the non-application provision of Article 19:9 of the Agreement, in relation to the draft decision circulated in SCM/W/14.

81. The representative of the United States said that as no Signatory was currently invoking the non-application clause of Article 19:9 the issue raised in the draft decision was moot and there was nothing for the Committee to decide in this respect.

82. The representative of India said that the draft decision had been submitted a long time ago and despite several discussions the decision on it had twice been postponed. He considered that the matter was important as it was not necessarily related to any pending case but in general to Article 19:9. The content of the proposal was that a Signatory should not be in a position to invoke Article 19:9 for the purpose of getting more benefit than he was entitled to under the Code. He was quite open to possible amendments to this draft and suggestions on its form. Given the late hour, he would not object if the matter was carried over to the next meeting of the Committee.

83. The representative of Chile said that the draft contained a number of valid points which, although obvious, could be reaffirmed. He recalled that he had informally made some suggestions for amendments and was favourable to informal contacts with a view to agreeing on a final text acceptable to all Signatories. The representative of the United Kingdom speaking on behalf of Hong Kong said that he maintained his support for the Indian proposal and thought that it should remain on the agenda for further consideration.

84. The Chairman said that the draft decision contained in SCM/W/14 would be maintained on the agenda of the next regular session.

85. The Chairman said that on 30 November 1981 the secretariat had circulated a communication from Brazil (SCM/13) concerning certain adjustment in the phasing out of its subsidies. The Committee took note of this communication.

H. Other business

(a) Possible contributions to the Ministerial Meeting

86. The representative of the United States said that unlike the situation in the Anti-Dumping Code, the United States believed there were significant issues involved in the interpretation of various aspects of the Subsidies Code, which might be drawn to the attention of Ministers. He wished to state that it was the opinion of his delegation that the question of subsidies, and in particular the interpretation of certain aspects of the Subsidies Code, should be considered at the Ministerial meeting. He did not wish to suggest the exact way in which these issues should be considered by Ministers but he believed that the question of subsidies and the interpretation of the Subsidies Code were extremely important and should be raised. He further said that his delegation would be pleased to submit a detailed, written proposal to the Chairman and the members of the Committee in the near future.

87. The representative of Chile said that the Committee clearly had a contribution to make to the Ministerial meeting. He thought that in the very near future the Committee should discuss this issue in detail and he was looking forward to any contribution by Signatories on this matter. One point which he considered would be an important input to the Ministerial meeting was the question of export subsidies in the agriculture sector. Perhaps it could lead to a review of the Code, or of its disciplines, in order to align these

disciplines with those that existed in the Code for non-primary products. He recalled the work of the group of experts which had to come to some recommendations regarding the calculation of subsidies. He also pointed to the quite obvious need to make some improvements in the system of notifications in order to make it more realistic, pragmatic, but nevertheless transparent. He also mentioned the question raised by the European Communities earlier at the meeting of indirect taxes under Article VI:4 of the General Agreement and the related provisions in the Code. He considered these items as examples of things that were important enough to be brought for consideration and attention and eventually a decision by the Ministerial meeting.

88. The representative of Sweden said that with regard to the work now being carried out in the Preparatory Committee the Nordic delegations would suggest that the Committee on Subsidies and Countervailing Measures invite its Chairman to submit the contribution of the Committee to the Chairman of the Preparatory Committee. This contribution should be of a political nature and should thus be reflected in the declaration that would constitute part of the final act of the Ministerial meeting. The declaration should take account of the increasingly important rôle subsidies were playing in domestic economies and of the ramifications this might have on the international trade. Multilateral discipline and transparency should be emphasized as factors of great importance if the potential damage of subsidies to trade was to be limited. It was within the Subsidies Committee of GATT that the legal framework for such a discipline would have to be established. Ministers should encourage all countries to join the Subsidies Code. The Chairman of the Preparatory Committee should also be informed of the work carried out in the Subsidies Committee in order to improve discipline and transparency, even though this work might not require substantive decision by Ministers.

89. The representative of Australia said that he shared the view of the United States and Chilean delegations with regard to the importance of the work of the Committee and of the importance of subsidies in general, being a key item at the Ministerial meeting. He could also agree with the Nordic suggestion that problems posed by subsidies should be highlighted in part 1 of the three-tier structure currently being considered for the Ministerial meeting in the form of a political declaration, and that the question of elimination of subsidies should be included in GATT's future work programme. He wondered whether, given that the entire question of subsidies was already on the agenda of the Preparatory Committee, it would not be appropriate to await developments in the Preparatory Committee before undertaking action in the Subsidies Committee. That was not to say, however, that the Committee did not have a rôle, it certainly would have, but the nature of that rôle might be somewhat difficult to define at this time.

90. The representative of India said that considering the importance of the subject, he thought it was quite appropriate that the contribution from the Committee should form a part of the work of the Preparatory Committee. He could completely agree with the representative of Chile about the subject that he had mentioned. He also considered that if some delegations had problems about interpretation, these could be taken up. At the same time the members of the Committee should reflect on ways by which they could encourage other countries to join the Subsidy Code and see what the reasons for not joining were. It might also be relevant to discuss, while preparing for the Ministerial meeting, the experience in the implementation of the Code during

the last two years. He further thought that there might be some provisions of the Code which might have proved to be inadequate or defective, and that might also have to be gone into. He suggested as a practical step that the Chairman hold consultations regarding various specific issues which had been mentioned in the Committee and after a series of consultations, he might think of convening a meeting in case there was a consensus in the consultations that there were certain important contributions to be made. He was quite convinced that the Committee could make a good deal of contributions to the Ministerial meeting.

91. The representative of the European Communities raised one point of procedure and one point of substance. On the procedure he asked himself whether it was really up to the Ministers to decide on the interpretation of the Codes. The Codes had been signed by a certain number of Signatories and the forum for their interpretation was normally the relevant Committee and not the Ministerial meeting. Any attempt to change this would raise the entire question of the relation between the Codes and the General Agreement. He considered that this matter should be considered very carefully. On substance he hesitated too, because the Code was new and the Committee had not got enough experience of its operation. He recalled that certain work had been started in the Committee, for instance to define how to calculate the amount of a subsidy, and up to now that it had not led very far. A number of conciliation procedures had also been started but not a single one of them had yet been concluded. In those circumstances, he was asking himself whether it was not first up to the Committee to make up its mind on certain important questions before they were brought before the Ministers. Of course this had to be decided in the light of the contributions which the Signatories wanted to make. If the United States and other countries wanted to make written proposals, his delegation would study them with the greatest care and interest.

92. The representative of Canada said that his delegation had not developed its ideas and thinking on the matter very extensively but he did agree that the Committee should make an input to the Preparatory Committee for the Ministerial meeting. He said that, having heard the intervention of the representative of the Nordic countries, he was attracted by this approach, and believed that the issue of subsidies in general, and particularly in a time of severe economic difficulties throughout the world, called for an examination by Ministers. He also thought that effects of subsidies on international trade could be a most appropriate issue which the Committee might propose to the Preparatory Committee to be brought to the attention of Ministers.

93. The representative of United Kingdom speaking on behalf of Hong Kong said that he too, like the previous speaker, was attracted by the suggestion which had been made by the Nordic delegation and which had been touched upon by the Australian delegation. It seemed to him that the contribution of the Committee should be general rather than specific and should be included in the first part of the documentation which was being considered by the Preparatory Committee. It could take the form of exhortations rather than proposals for redefinition of the Code. He agreed with the suggestion made by India for consultations to be held by the Chairman together with submission of written material which some Signatories might wish to put forward.

94. The representative of New Zealand said that his delegation found itself in a position very similar to Canada's. It had no firm ideas on exactly what contribution the Committee might make to the preparations for the Ministerial

meeting; however, he felt that it did have a contribution to make. He added that the difficulties, which had been mentioned by the representative of the European Community in making the Code work, might perhaps lie in the fact that there were certain fundamental inadequacies in the Code itself which should be addressed.

95. The representative of Brazil said that his delegation could also support the suggestions made by the Nordic countries. He thought that the kind of questions the Committee would raise in the field of subsidies could be reflected in a general statement in part 1 of the Declaration. He did not see at this point of time any major questions that should be dealt with specifically in other parts of the Ministerial Declaration. Nevertheless he would like to see the proposals that the United States had promised to make and then revert to the question. On the other hand, he thought that there were some problems concerning the Code which the Ministerial meeting would have some difficulty in dealing with, since the Code was not applied by all member countries of the GATT.

96. The representative of Austria said that, while supporting the representrative of the European Communities, he had nothing against the Ministerial meeting dealing in a very general way with the question of subsidies. However he wanted to warn against bringing details before the Ministerial meeting.

97. The Chairman said that the Committee had had a very interesting and thought-provoking discussion which, however, was still inconclusive. There were voices of caution with respect to the appropriateness of the Ministerial meeting looking into details of the work of the Committee and of the operation of the Code but, on the other hand, a large number of delegations were in favour of making an input to the Ministerial meeting through the Preparatory Committee. There were various suggestions as to the possible issues for such an input. In these circumstances he thought that the Committee might wish to follow the procedure suggested by the representative of India, namely that all Signatories and interested observers should be invited to prepare, if they so wished, a note setting forth their views and send it to the Chairman. The United States delegation had already promised to circulate a document containing its views. The deadline for possible submissions could be 20 May 1982. After having received communications from interested delegations the Chairman would consult these delegations on how to proceed further. One possibility would be to hold a special session to discuss the matter. It was so agreed.

(b) Export credits

98. The representative of Yugoslavia drew the Committee's attention to the increased rôle of export credits in international trade. He pointed out that these credits could easily be transformed, especially in a period of economic recession, into an export subsidy. The Code, and in particular paragraph (k) of the Illustrative List, considered export credits as prohibited export subsidies if granted at rates below those actually prevailing in international capital markets. There was, however, an exception for Signatories of the Arrangement on Guidelines for Officially Supported Export Credits and for those countries which applied the interest rates provisions of that Arrangement. The Arrangement contained a paragraph (12) which stipulated that any country which was willing to apply its guidelines might become a

Participant upon the prior invitation of the existing Participants. Consequently non-participating countries were encouraged and had the right to apply the same conditions as participants in the Arrangement. However, the implementation of this objective depended, to a large extent, on the availability of complete and up-dated information on the operation of the Arrangement. Unfortunately the situation in this respect was far from satisfactory. He wished to make it clear that he was not against export credits, in particular if they were consistent with paragraph (k) of the Illustrative List. He believed, however, that the Committee needed, and had a right, to be better informed on developments concerning the Arrangement. As it was indispensible for their compliance with paragraph (k) of the Illustrative List, all Signatories should be given the possibility of following the evolution of the situation in this field. Consequently he proposed that the secretariat prepare complete and up-dated information on the application of the Arrangement. On the basis of this information the Committee might have a detailed discussion of the question of export credits. This information would also be very useful for the annual review of the operation of the Code.

99. The Chairman said that in pursuance of a request made at the October 1981 meeting (SCM/M/9, paragraph 34) and after consultations with the OECD secretariat, the secretariat had circulated some information concerning the OECD Arrangement on Export Credit Terms (SCM/Spec/7).

Date of the next regular session of the Committee

100. The Chairman said that according to the decision taken by the Committee at its April 1981 meeting (SCM/M/6, paragraph 36) the next regular session of the Committee would be held in the week of 25 October 1982, following that of the Committee on Anti-Dumping Practices. In this relation he reminded the Committee that according to this decision the regular sessions of the Committee would be held in the last week of April and the last week of October every year and therefore Signatories could plan their time-table as many months or years in advance as they wished. It should also be borne in mind that normally at least two full working days ought to be reserved for the Committee session.