

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

ADP/M/11

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Committee on Anti-Dumping Practices

MINUTES OF THE MEETING HELD ON 15 NOVEMBER 1983

Chairman: Mr. M.A. Bajwa (Pakistan)

1. The Committee met on 15 November 1983.
2. The Committee adopted the following agenda:
 - A. Adherence of further countries to the Agreement.
 - B. Examination of national legislation and implementing regulations (ADP/1 and addenda)
 - C. Semi-annual reports of anti-dumping actions taken within the period 1 January 1983-30 June 1983 (ADP/15 and addenda).
 - D. Reports on all preliminary or final anti-dumping actions (ADP/W/56, 56/Add.1, 62, 64, 66, 67, 69 and 70).
 - E. Anti-dumping investigation by Canada against certain electric generators exported by Italy. Request by the EEC for conciliation in terms of Article 15:3.
 - F. Report of the Ad-Hoc Group on the Implementation of the Anti-Dumping Code.
 - G. Other business.
- A. Adherence of further countries to the Agreement
4. The Chairman informed the Committee that on 6 September 1983 Egypt had ratified the Agreement, thus becoming the twenty-first party to the Anti-Dumping Code.
- B. Examination of national legislation and implementing regulations (ADP/1 and addenda)
Australia (ADP/W/71 and ADP/1/Add.18 and Suppl.1 and 2 and ADP/W/57, 60, 63 and 68)
5. The representative of the EEC referred to the question of whether any person engaged in an Australian industry could bring a complaint on the basis of which an anti-dumping proceeding could be initiated. He maintained that the Australian legislation permitted proceedings to be initiated on the basis of a complaint of a producer which did not constitute a major part of Australian production. He added that the Australian Government had admitted

that nothing was set out in detail in the Customs Anti-Dumping Act of 1975 and its amendments, concerning the requirements to qualify for the initiation of a procedure. He further noted that the administrative procedures probably did not have a binding effect on the administration, nor could they be invoked by any party in the national courts; these procedures should nevertheless be notified to the Committee.

6. As to the question of determining normal value he said that the Code required that if the highest export price was chosen, it would have to be a representative price. The Anti-Dumping Act of 1975 required the Australian Government, in certain situations, to base normal value on the highest export price without any specific reference to the representativity of such a price. Furthermore, as a matter of policy the Australian Government interpreted the highest price to be a representative price. He considered this way of dealing with Australian obligations under the Code as unsatisfactory. He also noted that, based on past experience, it was doubtful whether the statement made by the Australian Government concerning the disclosure and confidentiality of information could be maintained. In this context it was vital to make public not only anti-dumping notices, but also the essential reasons which lead the Australian authorities to take anti-dumping measures.

7. The EEC representative further said that the collection of provisional duties from the date of the initiation of the investigation was in sharp contrast to the Code. The same was true for the Australian legislation permitting anti-dumping measures to be taken in favour of third country exporters, if requested by one single producer and not, as the Code said, by the industry concerned as a whole in the third country. He also maintained the view that deletion of Article 14 of the Australian Anti-Dumping Act had removed a large part of the legal protection for parties involved in anti-dumping investigations in Australia. He finally stressed the need that all shortcomings so far discussed would not be present in the new legislation and that the Australian Government should make an effort to put its internal legislation in line with its obligations under the Code.

8. The representative of Australia explained that his Government had made several changes to its legislation to conform with the provisions of the revised Anti-Dumping Code. These changes included amendments to the acceptance of undertakings, imposition of retrospective dumping duties, assessment of normal value, and extension of the period for imposing provisional measures. There were also further measures designed to remedy deficiencies in the administration of the legislation as well as complementary developments in Australia's national law. He further explained that Australia complied with its obligations under GATT and the Code through a combination of domestic statutes, administrative procedures and common law rights. The inclusion of a convention or code in the domestic law required legislation by Parliament. Where legislative enactment of the text of the convention or code was not appropriate, the inclusion into national law was carried through by the adoption of administrative practices. Moreover, the Australian Government had recently conducted a review of its Anti-Dumping and Countervailing legislation requesting interested Parties to express their views on how to improve the legislation and procedures. The results indicated that further administrative and legislative changes were to be made on various sensitive issues. It was also expected that the new legislation would be introduced into the current sitting of the Australian Parliament and brought to the Committee, as required, when enacted.

9. The representative for Australia replying to the point that his Government opened investigations acting upon the complaint by only one producer without reference to the major proportion of national production, said that injury to an Australian industry was examined on the basis of the provisions of the Code; in such cases the Australian authorities examined the volume of production and accepted complaints submitted by, or on behalf of, the majority of firms. Concerning the second EEC point that the Act contained no detail of administrative procedures, he said that restraints in the constitutional law existed which related to the inclusion of these procedures in the Customs Tariff Anti-Dumping Act itself. Nevertheless, after examination of the recently conducted review a full set of administrative procedures, to be read in conjunction with the Act, was to be proposed. As to the question of whether those administrative arrangements would be binding in the courts, he explained that under Australian law these procedures were to be followed by the Government and were reviewable by the courts. On the question of determination of normal value, he pointed out that in the legislation sent to Parliament his Government's interpretation of a representative price would be clearly shown. Finally, on the question of disclosure of information, all interested Parties had access to all non-confidential information and it was unlikely that it would be necessary for anybody to have to resort to the Freedom of Information Act.

10. The representative of the EEC asked whether the delegation of Australia could elaborate on the different steps involved in examining a complaint, i.e. the opening of the investigation, the preliminary and the final determination of injury. In his view there were some problems of terminology and hence clarification was needed. He also asked the Australian delegate to reply to the question of whether individual parties concerned by anti-dumping investigations could invoke the administrative procedures in court.

11. The representative of Canada referred to a recent anti-dumping case involving paper cups from Canada where Australia had announced the initiation of the investigation and the imposition of duties at exactly the same time. This procedure, in his view, was inconsistent with the Code. He asked the delegation of Australia how this issue would be addressed in the new legislation. He added that he saw no problem in having regulations which developed a law in detail; however, it was disturbing that these did not have the same force and were not subject to similar appeal as the law itself.

12. The representative of Japan said that his delegation would welcome some clarification from the Australian delegation on the criteria for the imposition of provisional measures as well as on how a prima facie case was determined.

13. The representative of the United States expressed concern about the apparently broad discretion given to the Minister under the Australian legislation and wondered under which circumstances the Minister would be found to have exceeded his authority. He added that while the Committee had been told that decisions made on the basis of Ministerial discretion were reviewable in the courts, the Australian law was often so vague that it was difficult to see how the decisions could, in fact, be effectively reviewed. He too shared the view of Canada with respect to the paper cups case and noted that in Australia's semi-annual report there had been eighteen instances where provisional measures were imposed simultaneously with the initiation of the investigation. He noted that, in his view, the Committee had still not received a satisfactory answer on points related to transparency.

14. The representative of Australia elaborated on the existing and the new procedures to deal with a complaint. Under the new procedures once an industry had made a complaint, the Government would examine if the complaint was well documented, i.e. whether the department's form had been completed in all details. After acceptance of the complaint the department would make a notification and distribute questionnaires to all interested Parties, to be returned within thirty days. In the remaining fifteen days of the forty-five day period, an assessment in the form of a preliminary finding would be made. In case of a positive finding, the on-the-spot investigation would start and within a further period of 120 days, a final determination should be reached.

15. The Australian representative, said that the administrative procedures would be reviewed in the light of experience gained. As to whether they could be invoked in court, he made it clear that they would be taken into account in any decision by the court, i.e. the court could verify whether the procedures had been followed. He also indicated that he had no specific information about the issue relating to provisional measures raised by the Canadian and United States delegations. Relevant information would be collected on this matter and passed on directly to delegates. With respect to the United States intervention concerning the broad discretion given to the Minister, he indicated that the Minister was the decision-maker and consequently it was the Government that was making the decisions. Concerning the eighteen cases where provisional measures had been taken simultaneously with the initiation, that was the practice under the existing procedures which could be changed under the new procedures.

16. The observer for Israel referred to normal values being based exclusively on the cost of production and asked whether this procedure would be changed in the new legislation and if there existed a different procedure for non-signatory countries of the Code.

17. The representative of the EEC stressed that the forty-five day time limit to determine dumping was too short, particularly when thirty days were used to reply to the questionnaire. He therefore expressed his most serious reservations about this rule and urged the Australian delegation to convey these reservations to his authorities. This procedure was not fair to exporters nor in conformity with the Code, and more importantly would provoke political pressure on other governments to do the same. If a rule like this was put into practice the EEC would apply the same time-limit to exports from Australia.

18. The representative of Canada said that his reference to the paper cups case was only an example of the problem of conducting an investigation at the same time that the provisional duty was imposed. He also noted that forty-five days was a very brief period and that Canada was providing for ninety days in its law. He finally indicated that his Government would closely watch the experiences with forty-five days for a period of time.

19. The representative of the United States echoed the views of the EEC delegate regarding the domestic pressures to reduce the time-frame before reaching a preliminary determination. He noted that in the United States, the administering authorities made a preliminary determination in anti-dumping cases only after a period of 160 days and that the administration was currently under some pressure to reduce this time period.

So far, this pressure had been successfully resisted. However, the forty-five day period proposed for use in Australian investigations would set an unhappy precedent for his Government in terms of withstanding these pressures.

20. The representative of Finland urged the Australian delegation to notify the new proposed legislation in the very near future and in any case before Parliament had finalized its examination. The Committee should be offered the opportunity to examine the new administrative procedures as well, and this not later than when the proposed new legislation was notified.

21. The representative of Hungary pointed out that in the second supplementary note to Article VI:1 of the GATT there were two simultaneous or cumulative conditions for the application of the special method to determine normal value. In Australia's legislation these two conditions had become alternatives, and the simple presence of one of them made possible the application of the special method, which was incompatible with the Code. He also requested some clarification on the problem of price undertakings. He associated himself with the concerns of other delegates as regards the forty-five day limit and the discretionary power of the administration.

22. The representative of Switzerland said that the problem with the Australian legislation was, to a certain extent, the transposition of international legislation into domestic law. There were also some problems regarding those provisions which seemed not to be contained in domestic legislation; for instance, the definition of industry. He would like to see that such a key notion in the Code be reflected precisely in the national legislation. He hoped the Committee would have the opportunity to look at the new rules before there was any parliamentary decision.

23. The representative of the United States associated himself with the request of the delegation of Switzerland and the remarks made by the Nordic countries.

24. The representative of Czechoslovakia explained that forty-five days was too short a period in which to prepare any defence. He consequently associated himself with the concerns of delegates of other countries and requested Australia to reconsider this proposition.

25. The representative of Japan supported the request made by the Nordic countries and other delegations for transparency of the new rules.

26. The representative of Brazil wondered whether Australia's anti-dumping measures against Brazil were in conformity with the Code since the two imported chemical products accounted for less than 1 per cent of Australia's consumption. The fact that Australia considered such a small percentage sufficient to cause injury was an indication that this country had not really abided by the provisions of Article 13 of the Code regarding developing countries.

27. The representative of Romania recalled that at the previous session of the Committee his delegation had made several specific points concerning the conformity of Australia's legislation with the Code. He invited his Australian colleague to take note of paragraph 14 of ADP/M/10 where the position of his country was described and to refer it back to the competent Australian authorities.

28. The representative of India reiterated the difficulties his delegation had experienced with the Australian methods of constructing normal value and the lack of conformity with the sequential procedures in the conduct of an anti-dumping investigation. All these were reflected in the minutes of past Committee meetings; he joined other delegations in their hope that Australia would give due regard to these problems.

29. The representative of Australia said that the new legislation would be introduced in the current sitting of Parliament so that it was quite likely that the legislation, once it became public, would be available for comments both inside and outside Australia. He told the Committee that a copy of the legislation, immediately after it became public, would be forwarded to the secretariat for circulation. Responding to the points raised by various delegates he indicated that the procedure for determining normal value was applied irrespective of a country being a member of the Code or GATT. Concerning the forty-five day time limit, he mentioned that it was not proposed to enshrine that period in legislation, that this period was for normal cases and that future experiences would determine future policy. The actions taken against Brazil were taken in a non-discriminatory manner so that all countries exporting to Australia at dumped prices and at volumes which cumulatively cause injury were involved. He took note of the concerns of other delegates and guaranteed that they would be transmitted to his capital.

30. The representative of Egypt wondered whether the Code provides for the cumulation of injury principle.

31. The representative of Brazil reiterated that the provisions of Article 13 of the Code regarding developing countries were not really observed by Australia in dealing with the case in question.

32. The Chairman suggested the circulation of the revised Australian legislation amongst interested delegates. He further indicated that this item would remain on the agenda of the Committee in order to allow the Parties to revert to particular aspects of some legislations at a later stage.

Other legislations

33. The representative of Canada explained that Canada's legislation on anti-dumping and countervailing measures was fully drafted and would be examined by the Parliament as soon as appropriate time is found on its agenda.

34. The Chairman urged the Parties who had not, as yet, formally notified the Committee of their action under Article 16:6 of the Agreement to do so without further delay.

35. The representative of Poland informed the Committee that Poland's legislation was already drafted and contained in the new Tariff Act which would be submitted to Parliament this autumn so that it could be presented at the next session of the Committee.

36. The representative of Canada referred to the last session of the Steel Committee of the OECD where the Swedish delegation had enquired whether Spain had been using what appeared to be a basic price system for anti-dumping purposes. The delegate of Spain had replied at that time that Spain did not have such an anti-dumping system. The Canadian representative expressed the hope that the Spanish delegation would, like Canada, refrain from introducing anything which resembled a basic price mechanism.

37. The representative of Spain indicated that if the Spanish delegate had said that his country did not use this system, then it was certainly the case. He took note of the Canadian statement and promised to reply as soon as he received information from his capital.

38. The representative of Czechoslovakia enquired whether, in the Canadian system, if a case went to the Anti-Dumping Tribunal this could be taken to mean that there was sufficient evidence for taking provisional measures. In his view these measures could only be taken after sufficient evidence was available. The representative of Canada replied that an investigation was only initiated where there was evidence of dumping, injury and a causal link. In the new legislation the evidence of injury and the causal link could be challenged before provisional measures are imposed. The case then went to final determination of injury by the Tribunal. The requirement of the Agreement was fulfilled by the finding of dumping, injury and causal link before the preliminary determination was made. In any case, such measures were only imposed when there was sufficient evidence of existence of all three factors.

39. The Chairman said that this item would remain on the agenda of the Committee in order to allow the Parties to revert to particular aspects of some legislations at a later stage.

C. Semi-annual reports of anti-dumping actions taken within the period 1 January 1983-30 June 1983 (ADP/15 and addenda)

40. The Chairman recalled that an invitation to submit semi-annual reports under Article 14:4 of the Agreement had been circulated in ADP/15 of 21 July 1983. Responses to this request had been issued in addenda to this document. The following Parties had notified the Committee that they had not taken any anti-dumping action during the period 1 January-30 June 1983: Austria, Brazil, Czechoslovakia, Egypt, Finland, Hungary, India, Japan, Norway, Pakistan, Poland, Romania, Spain, Switzerland, the United Kingdom on behalf of Hong Kong and Yugoslavia. Anti-dumping actions had been notified by Australia, Canada, the EEC, Sweden and the United States.

United States (ADP/15/Add.2)

41. The representative of Sweden referred to the case of a Swedish exporter of staples and staple machines. He explained that the differences between domestic and export prices were due to the fact that home market sales, given the small number of units sold, were made directly to end-users through a permanent staff of sales representatives, while exports to the United States were made to wholesale distributors in large quantities. Sharp differences in level and volume of trade were reflected in different selling expenses between the United States and the home market. The exporter had requested

that the US investigating authority should make a price adjustment for the selling expense differential. The request for a level of trade adjustment had been denied because that would "require an unsupportable assumption that the indirect selling expenses incurred in selling to the United States represents expenses which would have been incurred in Sweden if sales at the same level of trade existed there". Sweden was concerned that there might be somewhat excessive demands in the United States as to the necessary evidence to be provided to grant a level of trade adjustment. His delegation would appreciate it if the United States could elaborate on this matter and present its views on the requirement for granting a level of trade adjustment based on selling expenses differences.

42. The representative of the United States said that the practice of his country was in accord with Article 2:6. When the trade in the two markets was at two different levels and no comparable level existed in either market, an allowance was made for such differences provided they could be identified and quantified on the basis of verifiable facts on the record. However, the claim had not adequately been made since it was not accompanied by evidence which would have enabled his Government to make the necessary adjustment. The representative of Sweden said that this raised a more general problem. Exporters in small countries would have problems if they were requested to provide, as evidence for their claims, registered sales to customers of different size or at the same trade level in the home market. He concluded by saying that Sweden would present a paper on the subject to stimulate discussion and suggest solutions.

43. The representative of Japan said that Japanese companies had some difficulties with the anti-dumping investigation conducted by the United States concerning lightweight polyester filament fabric. He mentioned problems in answering the questionnaires used by the United States, a short investigation period, and a last minute change in the criteria used in the comparison of a similar product. He hoped that a fair and impartial solution would be found. The representative of the United States appreciated the co-operation of the Japanese Government and explained that the investigating authority had needed some further information in order to complete the cost of production analysis. He assured his Japanese colleague that in this case, as in all others, they would make a fair and impartial determination.

44. The representative of Canada referred to the preliminary determination, by split decision, by the United States International Trade Commission that certain Canadian potatoes were causing or threatening injury to a regional industry. He indicated that a final determination of dumping had now been made. He expressed his delegation's strong concern about the narrowness of product and regional market definitions, and substitutability of other potatoes. He hoped the commissioners of the ITC would take all relevant evidence into consideration and reverse their preliminary determination. The representative of the United States, while mentioning that one more commissioner had been added to the ITC, assured the Canadian delegate that all his points would be duly considered and that on the occasion of the next injury finding, a decision would be made on the basis of a majority of voting ITC Commissioners.

45. The representative of the EEC expressed his concern about the interpretation of the Code made by the American authorities in accepting the Gilmore steel case for investigation. He drew the attention of the Committee to some of the requirements for lodging a complaint, i.e. that it had to be

lodged by an industry in the importing country or on behalf of an industry. Industry was defined as either all producers or producers which represent a majority, and on behalf meant that a major proportion must have positively backed the complaint. Secondly, the Code required that the product subject to investigation be a like product, which should not be confused with a substitute product. Thirdly, if the case were to be accepted under the regional protection clause the pertinent requirements had to be met. He considered that as no final decision had been taken, some further reflection on this matter would be appropriate. The representative of the United States took note of the statement of the EEC and mentioned that his Government had had no indication prior to the initiation that the case was not filed on behalf of an industry or a major proportion of it. Consequently it had proceeded to initiate the investigation. He also said that his authorities were reviewing the case with great care. The representative of Canada referred to the remarks of the EEC delegate on substitute products and like products, saying that hopefully a solution could be found in a bilateral anti-dumping context because otherwise a situation may arise where the appropriate basis for protective action would be Article XIX and not the Anti-Dumping Code. However, such a development would have serious effects for steel producers.

EEC (ADP/15/Add.3)

No comments

Australia (ADP/15/Add.4)

46. The representative of the EEC said that in eighteen out of thirty-eight investigations Australia had imposed provisional measures on the date of the initiation of the case a practice which was not in conformity with the Code. He also noted that the notifications of provisional duties to exporters and importers contained no explanation of motives, no indication of margins of dumping or how normal values had been established. He urged the Australian delegation to look into this matter, particularly in relation to the new legislation.

47. The representative of Switzerland referred to the tables presented by the Australian delegation and indicated that in order to fully understand them, some additional information was needed. Moreover, further clarification was needed in certain cases. In this respect he cited examples some of which involved imports representing 1 per cent or less of domestic consumption where after provisional measures had been taken too much time was needed to arrive at a no injury determination. As a consequence, in some cases provisional measures had remained in force for two years now.

48. The representative of Sweden said that in his country exporters of stainless steel flatware were subjected to an investigation in Australia. He fully supported the comments of the EEC on the matter of transparency and criteria for imposition of provisional measures.

49. The representative of Australia reiterated that in the future legislation a preliminary finding on dumping, material injury and the causal link would be made before imposition of provisional measures. Customs notices would also include all necessary details. In two of the cases

mentioned by Switzerland a long delay had occurred because several enquiries were made in a number of European countries. He took note of the comments by Sweden and assured the Committee that his delegation would present the information and details requested.

Canada (ADP/15/Add.5)

50. The representative of the EEC, referring to the wide flange beams case, thanked the Canadian authorities for their co-operation and hoped that further talks could take place to clarify certain points. The representative of Canada fully agreed with this comment.

Sweden (ADP/15/Add.6)

No comments

D. Reports on all preliminary or final anti-dumping actions (ADP/W/56, 56/Add.1, 62, 64, 66, 67, 69 and 70)

51. The Chairman said that notification under these procedures had been received from Australia, Canada, the EEC and the United States. He welcomed comments on this matter.

52. The representative of the United States, referring to page 14 of ADP/15/Add.4, wondered how the values of hydraulic cranes were established by the Australian authorities with respect to imports from all countries. The representative of Australia said that the finding of dumping for this commodity had been made prior to the adoption of the Anti-Dumping Code. As for the method of establishing normal values, he said that pertinent information would be provided to the United States. The representative of the United States reserved his right to discuss with the Australian delegation, at a later time, whether previous anti-dumping orders can be maintained under the Code obligations. The representative of Australia indicated that the dumping action was taken prior to 1975.

E. Anti-dumping investigation by Canada against certain electric generators exported by Italy. Request by the EEC for conciliation in terms of Article 15:3 (ADP/16)

53. The representative of the EEC explained that in 1980 an Italian producer of hydro-electric generators, Ansaldo, had submitted a tender in respect of the Upper Salmon development project in Canada. At the opening of the tender it was found that the offer of Ansaldo had undercut the tenders of the Canadian producers by 15 per cent. Later on two more tenders were called for in respect of other projects. In the Cat Arm project it was found that the Canadian producer was the lowest bidder and in the third tender, the Nipawin project, the Italian producer did not bid. Based on these elements the Canadian authorities considered that a tender, whether accepted or not, was an agreement to sell and therefore dumping existed which had caused, was causing and would be likely to cause material injury. Yet, in no case had a generator been exported and in all cases the contract had been awarded to the Canadian producer. The representative of the EEC added that his delegation considered that, according to Article 2:1 of the Code, there must be exports before there could be dumping. As to the question of existence of injury,

since in all three cases the contracts were awarded to the Canadian producer, the determination of injury was based on the fact that bids for the last two projects were made at unprofitable prices, in anticipation of dumping by the Italian firm. Neither did a threat of injury exist for there would not be further awards for hydroelectrical equipment before 1986 and consequently no future imports. He concluded by asking the Canadian authorities to rescind the order and if this was not possible, the EEC would continue the conciliation procedure of the Agreement.

54. The representative of Canada said that the case in question had considerable relevance for the work of the Ad-Hoc Group relating to the definition of sale. However, the relevance of Article 15:3 was not clear to him since no provisional measures had been taken, no definitive anti-dumping duties had been levied and no price undertakings had been accepted. He further said that both Article VI of the GATT and Article 2 of the Code were clear in that dumping was regarded as pertaining to the situation where a product of one country was introduced into the commerce of another country at an export price which was less than the comparable price in the country of exportation. In the case of the Ansaldo bids, both of these conditions were fulfilled. He added that the effective implementation of Article VI and the Code would be frustrated if importing authorities were unable to deal with such contractual arrangements at time of tender. As to the question of injury, the Tribunal had considered various important factors, namely the Canadian producers' financial concessions and price suppression, the importance of a single contract for the utilization of the production facilities, the contribution of price suppression to reduced profitability and finally the resulting severe constriction in the size of the Canadian domestic market.

55. The representative of the EEC, referring to the relevance of Article 15:3, said that there had been final determinations of dumping and injury, the consequence of which was that if a generator were imported and dumped a duty would be collected, as in any other case. The main question was whether the Italian firm had engaged in dumping; nevertheless a real investigation had never taken place because all determinations had been based on best evidence available. He further noted that in Article 2:1 it was explicitly mentioned "... if the export price of the product exported ...", and from this the EEC drew the conclusion that there could be dumping only if exports had taken place; in this case no export had ever taken place. He also reiterated that only in the first tender was the Italian bid lower than that of the Canadian producer; in the second the Italian offer was at a higher price and in the third Ansaldo did not bid. The EEC delegation considered the price depression factor as resulting from rather unfounded expectations of the Canadian producers.

56. The representative of Canada said that this case differed from normal investigations in that goods were contracted for several years in advance of delivery and the commercial effect occurred at the time of tendering when plan loadings, etc., were decided. For damage to occur it was not necessary for an actual exportation of a product to take place since the damage was made earlier when the tender was opened in the market. It was the Tribunal's view that because of the anticipated bids, the Canadian producer had to make unnecessary low bids so as to maintain his presence in the market. He added that a firm which operated from behind a protected monopoly situation, as the Italian firm did, was likely to find itself in a dumping situation when competing outside its own country. As for the reference to Article 15:3, parts of it addressed different kinds of problems so that it could be that

conciliation was not the appropriate route to follow. In this regard he recalled his earlier comments regarding the absence of definitive final actions and referred to the work underway in the Ad Hoc Group. He concluded by saying that he would wait to hear the views of other delegations on this matter.

57. The representative of the EEC disagreed with the allegation that Italy constituted a protected market. As to the new investigation mentioned by the Canadian delegate, he asked if it meant a new investigation into dumping and into injury.

58. The representative of Italy said that in his country the organizations dealing with the production of electricity were private law enterprises. Consequently, purchases could be made anywhere and would be made on the basis of the best price.

59. The Chairman suggested that the FEC deferred consideration of this item to the next meeting of the Committee. The representative of the EEC agreed to the suggestion and said that the case was under consideration; whether the question could be addressed at the next meeting would depend on the outcome of the case before the Federal Court. The representative of Canada indicated that the Group of Experts could continue its work on the question of definition of sale and the Committee could also come back to it at a later time. He was also looking at the possibility of making instruments of the GATT responsive to the problems of the future. The Chairman finally indicated that the Committee would come back to the matter whenever the two parties considered it necessary.

F. Report of the Ad-Hoc Group on the Implementation of the Anti-Dumping Code

60. The Chairman informed the Committee that the Group had completed its discussion on the issues concerning transparency of anti-dumping procedures, procedures for an on-the-spot investigation, and time-limits given to respondents to anti-dumping questionnaires. It had agreed to submit to the Committee the appropriate draft recommendations for possible adoption. The Committee would adopt these recommendations which constitute an understanding of the manner in which Parties intended to implement certain provisions of the Code. The Chairman also stated that the recommendations did not add new obligations nor did they detract from the existing obligations under the Code. The Committee considered and adopted:

- (a) Draft recommendation of the Committee concerning the transparency of anti-dumping procedures (ADP/W/51/Rev.6).
- (b) Draft recommendation of the Committee concerning procedures for an on-the-spot investigation (ADP/W/52/Rev.6).
- (c) Draft recommendation of the Committee concerning the time-limits given to respondents to anti-dumping questionnaires (ADP/W/53/Rev.1).

Date of the next meeting of the Committee

61. According to the decision taken by the Committee at its April 1981 meeting (ADP/M/5, paragraph 51), the next regular session of the Committee will take place in the week of 7 May 1984.