



Committee on Anti-Dumping Practices

MINUTES OF THE REGULAR MEETING HELD ON 27 OCTOBER 2021

CHAIR: MR. AHMED AL-SULAITI (QATAR)

- 1. The Committee on Anti-Dumping Practices (the "Committee") held a regular meeting on 27 October 2021.
2. As the meeting was held in person as well as virtually via Interpretrefy, the Chair reminded Members of the different technical arrangements for participating remotely as reflected in the "Technical Guide", a link to which had also been included in the airgram convening the meeting.
3. The Chair reiterated his request to delegations to provide their up-to-date contact details by email to the Secretariat, so that it can update its contact details list, currently contained in document RD/ADP/3/Rev.16.
4. The Committee adopted the following agenda1 contained in document WTO/AIR/ADP/32:

1 NATIONAL LEGISLATION..... 2
1.1 Review of notifications of new or amended legislation or regulations not previously reviewed by the Committee (including supplemental notifications of existing provisions not previously reviewed) 2
1.1.1 Colombia (G/ADP/N/1/COL/5)..... 2
1.1.2 India (G/ADP/N/1/IND/2/Suppl.10) 2
1.1.3 United Kingdom (G/ADP/N/1/GBR/1/Suppl.12 and G/ADP/N/1/GBR/1/Suppl.12/Corr.1) . 3
1.2 Review of notifications of new or amended legislation or regulations with outstanding written questions 3
1.2.1 Cameroon (G/ADP/N/1/CMR/1/Suppl.1 - G/SCM/N/1/CMR/1/Suppl.1 - G/SG/N/1/CMR/1/Suppl.1) 3
1.2.2 Saint Kitts and Nevis (G/ADP/N/1/KNA/1 - G/SCM/N/1/KNA/1)..... 3
2 NATIONAL LEGISLATION - CONTINUING REVIEW OF LEGISLATIVE NOTIFICATIONS PREVIOUSLY REVIEWED BY THE COMMITTEE 4
A. WRITTEN FOLLOW-UP QUESTIONS CONCERNING PREVIOUSLY REVIEWED LEGISLATIVE NOTIFICATIONS:..... 4
2.1 Peru (G/ADP/N/1/PER/2/Suppl.2 - G/SCM/N/1/CRI/2/Suppl.2) 4
B. OUTSTANDING WRITTEN FOLLOW-UP QUESTIONS CONCERNING PREVIOUSLY REVIEWED LEGISLATIVE NOTIFICATIONS POSED UNDER THIS AGENDA ITEM AT PREVIOUS COMMITTEE MEETINGS:..... 4
2.2 Ghana (G/ADP/N/1/GHA/2 - G/SCM/N/1/GHA/2 - G/SG/N/1/GHA/2) 4

1 Please note that the proposed agenda contained an item requested by Brazil entitled: "South Africa - Antidumping Investigation of Frozen Bone in Portions of the Species Gallus Domesticus from Brazil". Brazil requested the deletion of this agenda item and indicated that it would make its comments on this issue under agenda item 3.

2.3	Kenya (G/ADP/N/1/KEN/3 - G/SCM/N/1/KEN/3 - G/SG/N/1/KEN/2).....	4
2.4	Liberia (G/ADP/N/1/LBR/1).....	5
3	SEMI-ANNUAL REPORTS OF ANTI-DUMPING ACTIONS (ARTICLE 16.4) (G/ADP/N/357).....	6
4	PRELIMINARY AND FINAL ANTI-DUMPING ACTIONS: NOTIFICATIONS	17
5	CHAIRPERSON'S REPORT ON THE MEETING OF THE INFORMAL GROUP ON ANTI-CIRCUMVENTION	18
6	CHAIRPERSON'S REPORT ON THE MEETING OF THE WORKING GROUP ON IMPLEMENTATION	18
7	UNITED STATES – EXAMINATION WHETHER TO CONTINUE TO TREAT THE RUSSIAN FEDERATION AS A MARKET ECONOMY COUNTRY FOR THE PURPOSES OF ANTI-DUMPING DUTY LAW – ITEM REQUESTED BY THE RUSSIAN FEDERATION	19
8	OTHER BUSINESS.....	20
9	DATE OF THE NEXT REGULAR MEETING.....	20
10	ANNUAL REPORT OF THE COMMITTEE TO THE COUNCIL FOR TRADE IN GOODS (ARTICLE 18.6).....	20

1 NATIONAL LEGISLATION

1.1 Review of notifications of new or amended legislation or regulations not previously reviewed by the Committee (including supplemental notifications of existing provisions not previously reviewed)²

1.1.1 Colombia (G/ADP/N/1/COL/5)

5. Written questions regarding this notification were posed and can be found in document:
 - G/ADP/Q1/COL/10 - G/SCM/Q1/COL/10 – Submitted by the United States
6. Written answers to the United States' written questions were provided and can be found in document:
 - G/ADP/Q1/COL/11 - G/SCM/Q1/COL/11 – Replies to the United States
7. Colombia stated that the new legislation is an update of the decree that establishes the antidumping ("AD") regime in the country. Colombia explained that the update did not entail any major changes. The changes were intended to ensure that the legislation remains in conformity with the AD Agreement and include, among others, modifications to the timelines and details relating to the investigating authority. Colombia hoped that its responses were to the satisfaction of the United States and that it remained open to further exchanges, if required.

1.1.2 India (G/ADP/N/1/IND/2/Suppl.10)

8. Written questions regarding this notification were posed and can be found in document:
 - G/ADP/Q1/IND/30 - G/SCM/Q1/IND/30 – Submitted by the United States
9. Written answers to the United States' written questions were provided and can be found in document:

² Relevant deadlines for written questions and written answers regarding the notifications of legislation reviewed in the October 2021 meeting can be found in section 1 of document G/ADP/W/508 - G/SCM/W/584 - G/SG/W/254.

- G/ADP/Q1/IND/31 - G/SCM/Q1/IND/31 – Replies to the United States

10. India explained that the notified legislative changes seek to further amend customs tariffs rules to enable provisional assessment in anti-circumvention investigations, in addition to introducing certain other miscellaneous changes. The amended AD rules came into force on 2 February 2021. The amendment allows the Central Government to make a provisional assessment of imports of the article alleged to be circumventing an AD duty and to request a guarantee from the importer until the time a decision is taken by the Central Government.

1.1.3 United Kingdom (G/ADP/N/1/GBR/1/Suppl.12 and G/ADP/N/1/GBR/1/Suppl.12/Corr.1)

11. No written or oral questions were posed regarding the notification of the United Kingdom.

12. The United Kingdom stated that the purpose of the notified regulation, dated 18 August 2021, was to allow the Secretary of State for International Trade to make a public notice to transition exemptions to trade remedy measures granted by the European Union after 31 December 2020, that is, after the end of the United Kingdom-European Union transition period, but which applied retrospectively to a date before 31 December 2020. This was consistent with the United Kingdom's commitment to ensure that there was continuity in the circumstances of the United Kingdom's withdrawal from the European Union.

13. The Committee took note of the notifications, statements, questions, and answers.

1.2 Review of notifications of new or amended legislation or regulations with outstanding written questions

1.2.1 Cameroon (G/ADP/N/1/CMR/1/Suppl.1 - G/SCM/N/1/CMR/1/Suppl.1 - G/SG/N/1/CMR/1/Suppl.1)

14. Written questions were posed regarding this notification and can be found in document:

- G/ADP/Q1/CMR/3 - G/SCM/Q1/CMR/3 - G/SG/Q1/CMR/3 – Submitted by the United States

15. The Chair noted that these questions have been pending since the Committee meeting of October 2014.

16. **Cameroon** was not present at the time. Oral answers were not provided at the meeting, nor had written answers been received to date.

1.2.2 Saint Kitts and Nevis (G/ADP/N/1/KNA/1 - G/SCM/N/1/KNA/1)

17. Written questions regarding this notification were posed and can be found in document:

- G/ADP/Q1/KNA/1 – G/SCM/Q1/KNA/1 – Submitted by the United States

18. The Chair noted that these questions have been pending since the Committee meeting of April 2021.

19. **Saint Kitts and Nevis** was not present at the time. Oral answers were not provided at the meeting, nor had written answers been received to date.

20. The Committee took note of the notifications and questions.

2 NATIONAL LEGISLATION – CONTINUING REVIEW OF LEGISLATIVE NOTIFICATIONS PREVIOUSLY REVIEWED BY THE COMMITTEE³

A. WRITTEN FOLLOW-UP QUESTIONS CONCERNING PREVIOUSLY REVIEWED LEGISLATIVE NOTIFICATIONS:

2.1 Peru (G/ADP/N/1/PER/2/Suppl.2 - G/SCM/N/1/CRI/2/Suppl.2)

21. A written follow-up question was posed regarding this notification and can be found in document:

- G/ADP/Q1/PER/34 - G/SCM/Q1/PER/34 – Submitted by the United States

22. A written answer to the United States' follow-up question was provided and can be found in document:

- G/ADP/Q1/PER/35 - G/SCM/Q1/PER/35 – Replies to the United States

23. Peru explained that the notified law has not yet taken effect.

B. OUTSTANDING WRITTEN FOLLOW-UP QUESTIONS CONCERNING PREVIOUSLY REVIEWED LEGISLATIVE NOTIFICATIONS POSED UNDER THIS AGENDA ITEM AT PREVIOUS COMMITTEE MEETINGS:

2.2 Ghana (G/ADP/N/1/GHA/2 - G/SCM/N/1/GHA/2 - G/SG/N/1/GHA/2)

24. Written follow-up questions were posed regarding this notification and can be found in document:

- G/ADP/Q1/GHA/3 - G/SCM/Q1/GHA/3 - G/SG/Q1/GHA/3 – Submitted by the United States

25. The Chair noted that these questions have been pending since the Committee meeting of April 2021.

26. **Ghana** was not present at the time. Oral answers were not provided at the meeting, nor had written answers been received to date.

2.3 Kenya (G/ADP/N/1/KEN/3 - G/SCM/N/1/KEN/3 - G/SG/N/1/KEN/2)

27. Written follow-up questions were posed regarding this notification and can be found in document:

- G/ADP/Q1/KEN/6 - G/SCM/Q1/KEN/6 - G/SG/Q1/KEN/5 and G/ADP/Q1/KEN/6/Corr.1 – G/SCM/Q1/KEN/6/Corr.1 – G/SG/Q1/KEN/5/Corr.1 – Submitted by the United States

28. The Chair noted that these questions have been pending since the Committee meeting of October 2020.

29. Written answers to the United States' follow-up questions were provided and can be found in document:

- G/ADP/Q1/KEN/7 - G/SCM/Q1/KEN/7 - G/SG/Q1/KEN/6 – Replies to the United States

30. Kenya stated that the questions posed by the United States in seeking clarification on some of the provisions of the notified legislation and the preliminary responses that have been provided were helpful in expanding the provisions of the Kenyan Trade Remedies Act. Kenya explained that

³ Relevant deadlines for written follow-up questions and written answers regarding the notifications of legislation reviewed in the October 2021 meeting can be found in section 1 of document G/ADP/W/508 - G/SCM/W/584 - G/SG/W/254.

its Trade Remedies Agency was still not operational but that plans were under way to operationalise it. Once the agency commenced its activities, Kenya would notify Members.

2.4 Liberia (G/ADP/N/1/LBR/1)

31. Written follow-up questions were posed regarding this notification and can be found in document:

- G/ADP/Q1/LBR/3 - G/SCM/Q1/LBR/3 – Submitted by the United States

32. The Chair noted that these questions have been pending since the Committee meeting of October 2020.

33. **Liberia** was not present at the time. Oral answers were not provided at the meeting, nor had written answers been received to date.

34. The Chair informed Members that, pursuant to the Committee's agreed procedures, in order for a new legislative notification to be placed on the agenda of the April 2022 meeting of the Committee, the notification should be circulated in all three languages by 14 March 2022. Shortly after this date, the Secretariat will circulate the annotated draft agenda informing Members of all legislative notifications to be reviewed at the next Committee meeting in April 2022.⁴

35. The Chair reminded Members that all unanswered written questions pertaining to new and previously reviewed legislative notifications reviewed at the meeting, as well as the subject notifications, shall, past the applicable deadlines, be automatically retained on the agenda of the next Committee meeting and on the agendas of subsequent Committee meetings until written answers are submitted.

36. The Chair noted that the new legislative notification of the **United States** circulated in document G/ADP/N/1/USA/1/Suppl.31 – G/SCM/N/1/USA/1/Suppl.32, as well as any other legislative notifications received and circulated by the applicable deadlines, would be on the agenda for review at the regular meeting of the Committee in April 2022. The Chair also referred to the written follow-up questions posed by the Russian Federation in document G/ADP/Q1/EU/15 – G/SCM/Q1/EU/15 to the previously reviewed legislative notifications of the **European Union** contained in documents G/ADP/N/1/EU/3/Suppl.2 – G/SCM/N/1/EU/2/Suppl.2 and G/ADP/N/1/EU/3/Suppl.3 – G/SCM/N/1/EU/2/Suppl.3 which would also be on the agenda of the regular meeting of the Committee in April 2022.

37. The Chair expressed concern that some Members had yet to submit a notification on legislation, particularly where all that would be required is a nil notification. The Chair encouraged Members that had not yet made a legislative notification to do so as promptly as possible. He reminded the Committee that the updated handbook of AD-related notification obligations, as well as the practical examples, is now available in English, French and Spanish on the AD webpage and could provide additional clarity as to how and when the notification obligations should be fulfilled.

38. Concerning the revised list of competent authorities contained in document G/ADP/N/14/Add.55, the Chair invited Members that had not done so to submit the information required by Article 16.5 of the AD Agreement and encouraged Members to review and update previously submitted information, where necessary.

39. The United States appreciated the fact that most Members have submitted a notification with their domestic AD legislation or a one-time notification that they do not have an AD legislation. However, some countries which have not provided a notification of their legislative status have submitted trade policy review reports indicating that they have AD laws in effect. In other words, the respective WTO Members have already gone through the effort of informing the WTO of their respective AD legislation status, albeit in another forum. The United States encouraged Members to review their respective situations and make the appropriate notification promptly. It added that the notification of AD laws and any revisions to those laws are a key element in maintaining transparency

⁴ Relevant deadlines can be found in Section 1 of document G/ADP/W/508 - G/SCM/W/584 - G/SG/W/254.

in the administration of the AD remedy. It encouraged all Members to submit future notifications promptly following the implementation of the relevant legislation.

40. The United States mentioned that there is currently a proposal on *Procedures to Enhance Transparency and Improve Compliance with Notification Requirements* (JOB/GC/204/Rev.7 - JOB/CTG/14/Rev.7), which has evolved considerably since it was introduced several years ago. It is now being discussed in the General Council and has the support of 19 co-sponsors, plus the European Union and all its member States. It is a sincere effort to tackle WTO reform at a practical level with tangible benefits for all WTO Members. There have been ongoing consultations with Members to understand the resource, time, and capacity challenges that prevent Members from making good faith attempts to meet their notification obligations. The current revision provides more balanced treatment of all notifications and more equitable access to assistance that any Member may require to prepare and submit notifications. The recommendations would bring transformative change to the Organization, strengthen the WTO's negotiating arm, and enable the WTO to make progress in negotiating new rules. Support for this proposal would be welcome as the WTO advances toward the December Ministerial.

41. The Committee took note of the notifications, statements, questions, and answers.

3 SEMI-ANNUAL REPORTS OF ANTI-DUMPING ACTIONS (ARTICLE 16.4) (G/ADP/N/357)

42. The Chair recalled that a request and a reminder for submission of semi-annual reports for the first half of 2021 had been circulated in documents G/ADP/N/357 and supplement 1. Members taking no AD actions should submit a simple letter to that effect twice per year. This would not apply to those Members that had already submitted a one-time notification under Articles 16.4 and 16.5 of the AD Agreement.

43. The Chair noted that a number of Members had not yet responded to the request for semi-annual reports. This notification requirement applied to all Members, whether or not they had taken AD actions during the period in question, except for the 51 Members that had already submitted a one-time notification.⁵ The Chair urged Members to comply with this important notification requirement.

44. The Chair explained and reiterated that while Members were free to raise at the Committee's meetings any questions that they wished regarding the actions reflected in the semi-annual reports, Members may agree that raising issues that were subject to dispute settlement proceedings may be better pursued in depth in other WTO dedicated fora.

45. The Chair made an important announcement and delivered some good news. The Chair recalled that the official launch of the new online portal to submit AD semi-annual reports took place in January 2021. Since then, various related activities had been taking place. Following the call by the Chair's predecessor to Members to enter the data contained in their last semi-annual reports covering the period July – December 2020 and the questionnaire sent on 4 June 2021 to the Members that used the portal to obtain their feedback, the Secretariat had received very useful feedback from all Members using this online platform. This feedback has given the Rules Division and the IT Division in the Secretariat a better understanding of the issues and hurdles facing Members and allowed them to embark on quasi daily updates and improvements.

46. The Chair thanked all Members that had responded to the questionnaire. The feedback was indispensable in fixing a number of bugs and addressing issues that were of concern to Members. As with all IT issues, there still remained a number of issues to address. However, the Secretariat team has been working very hard to address those and would not relent until all those and any other issues that may arise in the future are fully and satisfactorily addressed. One of the queries included in that questionnaire touched upon Members' needs for additional training sessions to be conducted by the Secretariat. The Chair reported that since the last meeting in April 2021, the Secretariat had conducted 16 training sessions with individual Members. Following every training session, an email was sent to the respective Member indicating the next steps and expressing full readiness to hold further sessions, if one or more were needed. The Chair stated that positive comments were made

⁵ All such notifications are contained in the G/ADP/N/193 series of documents.

by Members that had received the training. By way of example, some Members have described the portal as a great effort that makes the process easier, that the portal can be accessed everywhere and is user friendly, and that overall, it is welcome and fairly intuitive and should eliminate a lot of work in preparing the reports. The Secretariat has also received very encouraging comments on the quality of the training and explanations provided. That said, the Chair was pleased to inform Members that, in concrete terms, all that effort has resulted in an extensive use of the portal. Suffice to say that 105 users from 37 Members were registered to access the portal. Regarding the most recent semi-annual report covering the period January – June 2021, out of the 40 documents circulated, 22 of them were presented using the new online platform. This accounted for 55% of all the reports circulated.

47. With respect to the good news, the Chair stated that as of 28 October 2021, Members using the online portal would notice a button called "explore data" on the dashboard when they open the portal. That is a facility, which was not available before, will now allow Members to check all the data submitted to date in their own circulated semi-annual reports and in the circulated semi-annual reports of other Members. What is available therein for the time being are the measures in force, but that was a good start and there would be more progress to follow, as the Secretariat continues with the data cleaning process. The Chair announced that the Secretariat would – after the Committee meeting – make a presentation to show Members this function and how it works. The Chair further explained that for this new function to work properly, it needed to be fed by updated information in order to provide Members with up-to-date data. In case of the information contained in all previous semi-annual reports until the end of December 2020, these were already in the portal and the measures in force contained therein could be easily found if Members used the "explore data" function. The issue now pertained to the semi-annual reports covering the first half of 2021 and contained in the N/357 series as well as all future semi-annual reports thereafter. In case of Members using the platform to submit their semi-annual reports, once the submitted report was circulated, the data contained therein was automatically repopulated into the database and could be checked using the "explore data" function. However, in case of Members submitting semi-annual reports on paper be that in the N/357 series or future semi-annual reports, once the report was circulated, the information contained therein needed to be entered into the portal first before it could find its way to the "explore data" function.

48. In order to avoid any backlogs and to make sure that all data would be up-to-date without burdening Members, the Chair suggested the following: First, with respect to the data contained in the N/357 which covers the reporting period January – June 2021, Members that had submitted those reports in paper form, not through the portal, and those reports had already been circulated, could start entering the information contained in these reports into the portal until the end of the year, i.e. until 31 December 2021. If by January 2022, Members were unable to do so, with Members' indulgence, the Secretariat would do so on their behalf, just to make sure that all up-to-date data would be available for the "explore data" function and to avoid any backlogs. Second, with respect to all future semi-annual reports, starting with the one covering the second half of 2021, which would be due by 14 February 2022, all Members submitting their semi-annual reports on paper, not through the portal, would have one month, i.e., by 14 March 2022, to enter the data into the portal if the report had already been circulated. Also, past that date and with Members' indulgence, the Secretariat would do so on their behalf, just to make sure that all up-to-date data would be available for the "explore data" function and to avoid any backlogs.

49. The Committee reviewed the semi-annual reports for the first half of 2021. No Member raised questions or made comments concerning the reports of Argentina; the member States of the Eurasian Economic Union (Armenia; Kazakhstan; Kyrgyz Republic; and the Russian Federation); Australia; the member States of the Gulf Cooperation Council "GCC" (Bahrain, Kingdom of; Kuwait, the State of; Oman; Saudi Arabia, Kingdom of; Qatar; and United Arab Emirates); Chile; Colombia; Costa Rica; Dominican Republic; El Salvador; Ghana; Indonesia; Israel; Japan; Madagascar; Malaysia; Mexico; Morocco; New Zealand; Pakistan; Peru; Chinese Taipei; Trinidad and Tobago; Turkey; and Viet Nam.

50. On the semi-annual report of **Brazil**, the United States raised concerns about the investigation by Brazil on its imports of liquid caustic soda. The United States understood that this investigation was ongoing; that Brazil had issued a preliminary determination finding no causal link between United States' imports and the alleged injury to the domestic industry; and that respondents had presented specific arguments on a number of issues to the Brazilian authorities. The United States requested that Brazil give full consideration to these arguments, continue to find no causation to the

alleged injury, and make a determination that is consistent both with Brazilian law and the AD Agreement.

51. Brazil stated that it conducts its trade remedies investigations according to rigorous and technical standards. The investigation of dumping on the United States' exports of liquid caustic soda to Brazil was initiated after sufficient elements of the alleged practice had been verified. Brazil was aware of the importance of the product under investigation, given that caustic soda is a crucial input for several industrial sectors. No provisional AD measures have been applied against United States' exports of the product to Brazil. Brazil emphasized that the conduct of every trade remedy investigation in Brazil guarantees to all parties involved their right of defence and ensured all procedural rights according to the terms of the AD Agreement in its domestic legislation.

52. On the semi-annual report of Canada, Egypt raised concerns over the AD investigation by the Canadian authority with respect to concrete reinforcing bar. In June 2021, the Canadian authority had issued its findings regarding the extent of the causal link between dumping and injury of the domestic industry. Also, on 1 May 2021, a margin of dumping for Egyptian exports was determined at a level of 11.4%. Egypt specifically referred to the petition received from the domestic industry in Canada and highlighted two issues in this regard.

53. First, Egypt referred to the allegation of non-market determination in the application. The concept of dumping relied on the fair comparison of normal value and export price. The circumstances under which an authority may look at alternative market prices are set forth in Article 2.2 of the AD Agreement. According to Article 2, if the authority elects to construct normal value, it must rely on the cost of manufacturing, as recorded by the exporter or producer. The petitioner argued in favour of determining the normal value on the basis of the complainant's own cost of production. Article 2.2, however, is clear in demanding that the information must originate from the exporter. For the purpose of Article 2.2.2, the amounts for administrative, selling and general cost and for profits shall be based on actual data pertaining to the production and sales in the ordinary course of trade of the like product by the exporter or producer under investigation. Canada, however, accepted the complaint although the normal value allegations were based on the cost of the Canadian domestic industry, contrary to the requirements of Article 2.

54. Second, Egypt raised concerns as regards the injury and causation analysis given that most economic indicators showed an improvement during the first half of 2019. Egypt questioned the presence of any causal link between imports and injury and requested Canada to reject the application.

55. The Russian Federation expressed its deep concerns about the final decision in Canada's AD investigation with respect to imports of certain concrete reinforcing bar of Russian origin. At the previous Committee meeting, the Russian Federation had expressed concerns regarding the preliminary determination which, as it understood, have not been addressed. To recall, the period of investigation covered six months, while, according to the Canadian statistics, imports had actually taken place only in two months. There were no shipments during the rest of the calendar year. Import volumes under two out of six HS codes, under which Russian imports had actually taken place, were negligible and amounted to only 2.6% of imports of the like product to Canada. This should have triggered prompt termination of the investigation as per Article 5.8 of the AD Agreement.

56. Moreover, according to the Russian Federation, such low import volumes could not have caused injury to the Canadian industry. In fact, in its finding of 2 July 2021, the Canadian International Trade Tribunal confirmed that dumping had not caused injury but was threatening to cause injury to the domestic industry. However, the Russian Federation did not see the grounds for this finding either. Article 3.7 of the AD Agreement sets a high standard for establishing threat of serious injury, stating that the change in circumstances which would create a situation in which dumping would cause injury must be clearly foreseen and imminent. The Russian Federation failed to see how such low import volumes could illustrate the presence of such an imminent change in circumstances. Therefore, the Russian Federation urged the Canadian authorities to reconsider their findings, and to abstain from the application of definitive measures.

57. Canada stated that its AD investigations were conducted in an independent and arm's length manner by the Canadian Border Service Agency and the Canadian International Trade Tribunal. Any

action taken pursuant to those investigations were fully consistent with Canada's obligations under the AD Agreement and the GATT 1994. Canada thanked Egypt and the Russian Federation for their questions, and it considered the Committee's Q&A exercise to be important in promoting transparency. Canada requested the Russian Federation and Egypt to provide their comments in writing so it could provide a written response as soon as possible.

58. On the semi-annual report of **China**, Brazil raised concerns with regard to the AD measures applied by China to Brazilian poultry and the fact that no new shipper reviews had been opened. Brazil recalled that such reviews, according to Article 9.5 of the AD Agreement, should be carried out promptly and on an accelerated basis. It was inappropriate that new Brazilian exporters duly accredited since 2019 were still subject to AD duties calculated on the basis of exports by other companies.

59. Japan commented on the final determination in the AD investigation from April 2016 and the continued imposition of AD duties on imports of unbleached sack paper from Japan. Article 11.3 of the AD Agreement stipulates that any AD measure shall be terminated in five years unless the authorities determine the substantial necessity to continue the measure because the termination of the AD duty would likely lead to the continuation or recurrence of dumping and injury. China must apply Article 11.3 in a strict manner and perform appropriate reviews in accordance with the WTO Agreements. Japan requested early termination of the AD measures so that the measure will not be continued inappropriately for a long period.

60. In response to Brazil, China stated that the legal procedure for new shippers is conducted on a case-by-case basis and that it would be appropriate to raise the concerns under the legal procedure of that case.

61. Regarding Japan's concerns, China explained that the determination was made in 2016 and that it will be conducted under the relevant legal procedures for reviews. China advised Japanese companies to participate in the review and to provide relevant information in the applicable legal framework.

62. On the semi-annual report of **Egypt**, Tunisia expressed concerns about the AD measure on imports of prestressed concrete steel strands from Tunisia, for which the definitive determination was issued on 7 April 2021. Tunisia questioned the measure's consistency with the AD Agreement. As regards the determination of dumping, the Egyptian authority rejected the normal value that the Tunisian exporter had duly requested. Specifically, the exporter had requested a downward adjustment for: (i) the size of the diameter sold locally and exported, (ii) the technical assistance received by local buyers, (iii) the commercial expenses applicable only to local sales, and (iv) the expenses incurred in obtaining quality certification for local sales and not for sales to Egypt. In response, the Egyptian authority limited itself to explaining that the exporter had not demonstrated that exports to the Egyptian market incurred none of these expenses. Tunisia argued that this explanation was inconsistent with the last sentence of Article 4 of the AD Agreement, which requires that the burden of proof imposed on the parties shall not be unreasonable.

63. With respect to injury, the Egyptian authority relied on a finding of material retardation in the establishment of a domestic industry, although it also explicitly determined that injury had been established. In Tunisia's view, this was problematic because, if injury was already established, the Egyptian authority would have had to conduct its analysis on the basis of material injury and not on a material retardation. As such, by choosing an erroneous form of injury, the Egyptian authority breached the obligation of objectivity under Article 3.1 of the AD Agreement. In addition, the Egyptian authority relied on a feasibility study to assess each injury factor. However, this study or a non-confidential version was not on file. The Egyptian authority did not explain in its final report the methodology that this study employed in arriving at the projected results. The resulting lack of transparency is inconsistent with Articles 6.2, 6.4, 6.5, 6.5.1, 6.9 and 12.2.2 of the AD Agreement.

64. With respect to price undercutting, the investigating authority conducted a separate country-by-country analysis, despite the fact that it had decided to cumulate imports from the three subject countries. However, according to Tunisia's calculations, the price undercutting for the cumulative imports that the authority should have calculated was 0.4%, which would have called into question the significant nature of the price undercutting. As to price depression, the Egyptian authority compared in the feasibility study the price of the domestic product with the provisional product price

but did not address how imports played a role in determining the downward price. It, therefore, appeared that the price analyses were inconsistent with Articles 3.1 and 3.2 of the AD Agreement.

65. Furthermore, with respect to the analysis of the factors listed in Article 3.4 of the AD Agreement, the Egyptian authority did not explain how it had calculated the provisional figures for each of these factors. Tunisia recalled in this regard that the obligation of objectivity referred to in Article 3.1 requires an authority to provide a reasoned and adequate explanation that demonstrates compliance with the relevant obligations. Tunisia was of the view that the Egyptian authority had breached its obligation of objectivity under Articles 3.1 and 3.4 of the AD Agreement by failing to explain the methodology used by the domestic producer to calculate the provisional figures.

66. Finally, in finding a causal link, the Egyptian authority ignored the relevant evidence in the file showing that the inability to reach the forecasted figures was due to the incorrect calculations in the feasibility study. These errors distorted the calculation of several forecasted figures such as market shares, sales, production and profitability. It, therefore, followed that by attributing the injury observed to imports and not to errors in the calculation of the forecasted figures, the Egyptian authority violated Articles 3.1 and 3.5 of the AD Agreement.

67. Therefore, Tunisia considered that the above-mentioned AD measure was inconsistent with Articles 2.4, 3.1, 3.2, 3.4, 3.5, 6.2, 6.4, 6.5, 6.5.1, 6.9 and 12.2.2 of the AD Agreement. Tunisia requested the Egyptian delegation to start a process of bilateral consultations in order to discuss the legal and practical aspects arising from this measure. Tunisia reserved the right to take any action provided for in the WTO covered agreements in order to safeguard its commercial interests.

68. Egypt indicated that the investigation was conducted according to Article 3 of the AD Agreement, finding material retardation. Egypt had given all interested parties an opportunity to submit all relevant documents and, given the COVID-19 pandemic, Egypt had afforded Tunisian exporters additional time for submissions to be made. Egypt requested Tunisia to submit its comments in writing.

69. On the semi-annual report of the **European Union**, Egypt raised concerns regarding the reopening of the investigation concerning certain woven and/or stitched glass fibre fabrics imported from Egypt. It indicated that the European Union was seeking to extend the application of the AD measures to artificial islands and floating installations. Egypt requested the closure of the investigation because this area was outside the European Union's customs area.

70. China expressed concern about the European Union's practice related to sunset reviews. The WTO rules stipulate that any AD measure shall be terminated within five years unless the authority determines the necessity of continuing the measure because its expiry may lead to the continuation or recurrence of dumping and injury. China urged the European Union to adhere to the basic principle and spirit of the multilateral rules and to apply strictly Article 11 of the AD Agreement. China opined that, in practice, some Members including the European Union have not complied with this requirement.

71. China asserted that according to the annual report from the European Commission on the European Union's AD, anti-subsidy, and safeguards activities in 2020, the European Union initiated 90 sunset reviews of AD measures while only two measures were automatically terminated upon expiration. In addition, the European Union's 2020 trade policy review revealed that 71% of the European Union's sunset review decisions maintained and extended the duration of measures. China noted that 99 European AD measures have been maintained for more than 20 years, including, but not limited to, measures on imports of ammonium nitrate (26 years), bicycles (28 years), ring binders (25 years), silicon metal (31 years), steel ropes (22 years), tube and pipe fittings (26 years), tungsten carbide and fused tungsten carbide (31 years). In these cases, given the European Union's policy preference, it was difficult to obtain a fair ruling, even if the respondents tried their best to cooperate, and exporters were forced to give up in subsequent sunset reviews.

72. China believed that these AD measures remained in force for too long and became barriers to foreign trade that impaired the domestic industries' innovation and competitiveness, causing excessive distortions to international trade and the European industries. As the European Union itself had commented on Canada's AD investigation on refined sugar during the Committee meeting on

28 October 2020, although no legal limitation exists on the duration of expiry reviews, having measures in place for more than 25 years is outside the economic reality and is unjustified; the measure should now be terminated, and the market should be allowed to adjust without unwarranted protection. China called on all Members, including the European Union, to tighten their sunset review investigations. China also called for further clarification and improvement of the rules on sunset reviews in future Rules' negotiations, so as to improve the predictability of AD measures and to protect the legitimate rights and interests of interested parties.

73. Turkey referred to the European Commission's initiation, on 24 June 2021, of an AD investigation against imports of Turkish corrosion resistant steels products. Turkey had submitted its views regarding the initiation of the investigation and the content of the non-confidential version of the complaint to the investigating authority on 11 August 2021. Turkey explained that it had stated in its written submission that most of the complainants' financial indicators showed positive results during the injury investigation period. Some of their financial indicators, such as sales, market shares and investment levels, deteriorated during that period. However, the negative trends in the economic indicators of the complainants did not stem from subject countries' imports, as alleged in the complaint. Rather, they were due to the closure or reduction in the production of the complainants' steel mills as a result of containment measures taken during the injury period and the circumvention by dumped imports that were already subject to AD measures by another Member. Therefore, the negative trends could not be attributed to imports from subject countries. Turkey requested the European Union to terminate the current investigation without any definitive measures.

74. With respect to Egypt's comments, the European Union stated that the investigation was reopened on 27 May 2021 following changes to the European Union's AD legislation in June 2018 that introduced the possibility of extending AD measures to imports of significant quantity to the continental shelf of the exclusive economic zone. The investigation was still ongoing to consider whether to extend the measure to imports of significant quantity to the continental shelf of the exclusive economic zone. The investigation was expected to be concluded within 13 months.

75. As regards China's statements, the European Union stated that Article 11 of the AD Agreement allows for the continued imposition of measures for as long as it is necessary to counteract dumping which is causing injury. This provision was reflected in the European Union's AD legislation. The duration of measures depended on whether there was continued injurious dumping. Measures were only extended beyond the initial five-year period following expiry reviews which were conducted fully in accordance with the legislation and to the highest standards. The measures were extended only if the legal requirements were fully met.

76. In response to Turkey, the European Union remarked that it was only four months into the investigation and that *prima facie* evidence of dumping and causation was filed by the complainant prior to the investigation. The evidence submitted met the required standard and, therefore, the investigation was opened. On the issue of causation, the European Union encouraged Turkey to provide its comments in the context of the investigation where all comments made by interested parties would be taken into account and addressed.

77. On the semi-annual report of **India**, Japan expressed its concern on the final determination in the AD investigation, made in May 2017, and the continued imposition of AD duties on Japanese exports of hot-rolled flat products of alloy and non-alloy steel, and cold rolled/cold reduced flat products of iron or non-alloy steel. Japan has been arguing from the beginning that the product under investigation included a wide range of products with a variety of physical characteristics, intended uses, price ranges, etc.

78. Japan argued that when India's investigating authority had found injury, it had not considered specific factors, including as regards the fact which products, from the wide variety of products under investigation, actually affected domestic like products in terms of volume and price. Japan regretted that AD measures began to be applied from May 2017. Thereafter, a sunset review began in March 2021 and an extension of the duty was proposed by the Ministry of Commerce and Industry in September 2021. Japan observed that Article 11.3 of the AD Agreement stipulates that any AD measure shall be terminated in five years unless the authorities determine the necessity to continue the measure, namely that the elimination of the AD duty would likely lead to the continuation or recurrence of dumping and injury. Japan stated that India must apply Article 11.3 of the AD Agreement in a strict manner and perform appropriate reviews in accordance with the

AD Agreement. It requested early termination of the AD measures so that the measures would not be continued for a long period.

79. India requested Japan to provide its comments and questions in writing to the Permanent Mission of India such that it can respond in writing.

80. On the semi-annual report of the **Republic of Korea**, Japan expressed its concern on the final determination, made in July 2004, and the continued imposition of AD duties based on the fourth sunset review regarding Japanese exports of stainless-steel bar. The AD measures were imposed in July 2004 and subsequently extended, such that 17 years have already passed since the measure was originally imposed.

81. Japan explained that on 30 November 2020, a WTO panel report was issued on the Republic of Korea's measure extending the imposition of AD duties on the same product as a result of the third sunset review. The panel found that the extension measure was inconsistent with the AD Agreement and recommended that the Republic of Korea bring its measure into conformity with that agreement. In view of the panel's determination, the fourth extension measure at issue lacked any proper basis. While the Republic of Korea should have terminated the AD measure upon the fourth sunset review, it decided favourably on the fourth extension.

82. Japan further stated that the Republic of Korea had explained, during its recent Trade Policy Review, that all of the technical issues raised by the panel were properly addressed. In Japan's view, however, there were certain flaws in the Republic of Korea's determination in the fourth sunset review, such as conducting a comparison of relevant products without ensuring their comparability. Thus, the determination could not explain why concerns regarding the lack of competitive relationships and export incentives in the third sunset review, as considered by the panel, did not equally apply with respect to the fourth sunset review.

83. In particular, Japan indicated that the Korean investigating authority did not have a sufficient basis for its findings that (i) there were competitive relationships among Japanese, Korean and Indian products that could justify the imposition of the AD duties, despite significant price differences among Japanese products and the other products; and that (ii) Japanese producers had the capacity to export and thus had a margin to increase exports if AD duties were terminated. Accordingly, Japan argued that the authority had failed to reasonably explain why the termination of the AD duties was likely to lead to the recurrence of injury to the domestic industry and that therefore the Republic of Korea should review the determinations on the competitive relationships, etc. by appropriately considering the findings of the panel. Japan requested early termination of the AD measure which was, in its view, improperly continued for a long period.

84. The Republic of Korea responded that the AD measures against Japanese imports were still under appeal, for which reason it declined to comment on this issue. Its decision to appeal was due to the flaws in the panel report, as articulated in detail in Korea's notice of appeal. All the technical issues raised by the panel report have been properly addressed in the final determination of the fourth sunset review against Japanese stainless-steel bar.

85. On the semi-annual report of the **Philippines**, Turkey stated that since 9 January 2015 the Tariff Commission of the Philippines has been imposing AD measures against imports of Turkish wheat flour. The authority conducted an expiry review regarding this measure and published the final report on 9 September 2020, extending the measure for another three years. Turkey drew attention to what it viewed as a violation of the AD Agreement because AD duties were applied on imports from Turkish exporters for whom *de minimis* margins had been calculated in the original investigation.

86. Turkey explained that Article 5.8 of the AD Agreement states that "[t]here shall be immediate termination in cases where the authorities determine that the margin of dumping is *de minimis*...". Moreover, panels and Appellate Body reports in several disputes, such as in *Canada – Welded Pipe*, *Ukraine – Ammonium Nitrate* and *Mexico – Anti-Dumping Measures on Rice*, concluded that the imposition of AD duties on exporters with *de minimis* margins of dumping was incompatible with Article 5.8. Given this, Turkey considered that the Tariff Commission's practice was a clear violation of the AD Agreement and the relevant jurisprudence.

87. Turkey added that it had also conveyed its views on this issue to the Tariff Commission but had not received any response. Similarly, it had raised this issue during the previous Committee meeting and had subsequently conveyed its views to the Permanent Mission of the Philippines to the WTO. To avoid any further difficulty, and in an effort to resolve this issue bilaterally, Turkey stated that it expected concrete steps from the Philippines' authorities. Turkey reserved all its rights stemming from the AD Agreement and relevant WTO jurisprudence.

88. The Philippines confirmed that it was currently engaging with Turkey on this matter. It requested that Turkey provide a written copy of its statement and thanked Turkey for its readiness for further exchanges.

89. On the semi-annual report of **South Africa**, Brazil indicated that it was following closely the AD investigation on frozen chicken cuts. Brazil recalled that chicken meat was the main export product from Brazil to South Africa. Brazil had already made a submission on the record of the investigation in which it demonstrated that no reason existed to apply AD duties. Brazil understood that the provisional determination would be published soon and expected that no provisional AD duty would be applied.

90. The European Union expressed its concern about the initiation of the investigation concerning frozen poultry because it considered this sector to have been already hampered by several measures in the South African Customs Union. According to the European Union, this investigation showed some major shortcomings. The alleged dumped imports from Europe decreased significantly by 34% over the period analysed, for which reason the domestic industry could not be suffering material injury caused by alleged dumped imports. Rather, any difficulty the domestic industry was experiencing must have been caused by other factors, such as increased cost, inability to satisfy domestic demand, domestic consumption, and other imports with much lower prices. The dumping calculations in the application were inadequate because they did not allow for a fair comparison between normal value and export prices and did not adequately reflect the differences between white and dark meat, different cuts, different qualities, and different levels of trade. The European Union thus urged South Africa to act in full compliance with WTO rules and obligations and to terminate this investigation without further delay. The imposition of any measures would be unwarranted.

91. Egypt raised concerns over the AD investigation regarding imports of uncooked pasta. It referred to the calculation of the margins of dumping and the methodology for differentiating between types and models. The investigation concerned imports of products falling under HS tariff code 1902.19, including uncooked pasta. Although it was well known that pasta products made from semolina flour were more expensive than pasta products made from other types of flour, the investigating authority did not distinguish between such types of pasta exported from Egypt. Egypt has resorted to its official sources to verify such issues and has found that pasta exported from Egypt included a small portion of the type made from semolina while the greater portion is made from cheaper types of flour. Thus, Egypt requested that comparisons be made of identical types of the subject product.

92. South Africa requested that the Members raising concerns provide their comments in writing so that the investigating authority could take them into account. South Africa also remarked that the investigation into imports of frozen chicken cuts was still ongoing and that the authority has not yet made a preliminary determination, for which reason South Africa wished to make no comments.

93. On the semi-annual report of **Thailand**, Egypt raised concerns with respect to the AD investigation into imports of hot-rolled steel coil originating from Egypt and other countries. According to Egypt, the investigating authority disregarded the fact that no exports had been made from Egypt to Thailand of the subject product during the investigation period, as reflected in official statistics and acknowledged by interested parties. The investigating authority decided not to conduct on-spot verifications and disregarded additional questionnaire responses. The investigating authority also disregarded actual sales records of the responding party and official export statistics. According to Egypt, the violation of Article 5.8 of the AD Agreement was clear. Moreover, any injury suffered by the domestic industry was due to factors other than the allegedly dumped imports from Egypt and there was no causal link between those imports and the alleged injury suffered by the domestic industry. Egypt urged Thailand to terminate the investigation.

94. Thailand requested Egypt to provide a written version of its statement.

95. On the semi-annual report of **Ukraine**, the Russian Federation expressed its concern about the initiation of the AD investigation on imports of certain articles of asphalt or of similar material originating in the Russian Federation. It added that the Ukrainian authorities appear to have initiated the proceeding based on an application that lacked sufficient evidence of dumping, injury, and causality, contrary to the requirements in Article 5.2 of the AD Agreement.

96. First, as Russian exporters had claimed, this investigation was initiated based on an application that cannot be considered as filed by or on behalf of the Ukrainian industry, contrary to the requirements of Article 5.4 of the AD Agreement. One of the major Ukrainian producers of the like product was not included in the assessment of support for, or opposition to the initiation, which tainted the assessment.

97. Second, essential elements of the normal value, export price and dumping margin calculations were kept confidential in the application. Non-confidential summaries of this information, sufficient to permit a reasonable understanding of its substance, were not provided. Without any understanding of those calculations, interested parties had no opportunity to defend their interests, contrary to the requirements of Article 6.2 of the AD Agreement.

98. Third, the application did not include sufficient evidence of any negative impact of Russian imports on the applicants. On the contrary, a number of indicators of the state of the Ukrainian industry illustrated improvement of its conditions. For instance, the domestic industry's sales volumes, domestic prices, export volumes, nameplate capacity, employment and average salaries have increased. Other flaws existed in the application. The Russian Federation believed that the application fell short of providing sufficient evidence justifying the initiation of the investigation. Therefore, it urged Ukraine to terminate the investigation immediately.

99. Ukraine stated that it had, on 21 April 2021, initiated an AD investigation in the matter at issue concerning imports from the Russian Federation and Belarus. The investigation had been initiated pursuant to a petition from the domestic industry. During the investigation, Ukraine would provide all interested parties with the opportunity to present evidence, attend public hearings, submit comments, and participate in bilateral consultations with the Members having substantial interests as exporters of the goods. The views of the interested parties, including the Russian Federation, would be taken into account in making the relevant decisions.

100. On the semi-annual report of the **United Kingdom**, China made an intervention concerning the continued application by the United Kingdom of the European Union's trade remedy measures and the transition reviews conducted by the United Kingdom after Brexit. China opined that this practice was in breach of the provisions of the AD Agreement and infringed upon the legitimate interests of Members. With Brexit, the United Kingdom was released from all its rights and obligations as a member of the European Union and it no longer held any connection with the European Union's trade remedy measures. The United Kingdom no longer had an authority to review those measures. There was no basis for the United Kingdom to maintain the application of these measures nor did WTO rules authorise a Member to apply the trade remedy measure of another Member. The United Kingdom was acting inconsistently with WTO rules by maintaining certain European trade remedy measures. China requested that the United Kingdom terminate all AD measures originally taken by the European Union as well as the transition reviews. China was of the view that the United Kingdom should initiate new investigations if it considered that its domestic industries were injured.

101. In response, the United Kingdom stated that it had retained certain definitive trade remedy measures applied before the end of the United Kingdom-European Union transition period and in respect of which the United Kingdom held an interest. These measures had been established based on an investigation covering the entire territory of the European Union, including the United Kingdom. Therefore, they have been maintained in respect of the United Kingdom territory as of the end of the United Kingdom-European Union transition period. The United Kingdom explained that it determined which AD measures should be retained based on evidence presented by the United Kingdom's industries and all interested parties, including international industries. The relevant assessment was based on objective evidence relating to specific criteria, including a market share threshold for the United Kingdom-based producers of the product in question of more than 1%.

The United Kingdom underlined that it was committed to maintain a fair and transparent approach. Its investigating body would conduct objective evidence-based transition reviews of the retained measures. These reviews would determine whether the measures remained necessary to offset dumping and whether injury of the United Kingdom's domestic industries would recur in case the measures were lifted. This could result in the measures being amended, terminated, or maintained. Until the conclusion of the reviews, the measures would be maintained. Its investigating body had initiated five transition reviews in respect of AD duties. The United Kingdom noted that it has an online digital service where interested parties could register their interest, access the public files, and participate in the proceedings.

102. On the semi-annual report of the **United States**, Turkey stated that in 2015 the United States' authorities had initiated AD and countervailing duty investigations against Turkish exports of hot-rolled steel flat products. In the final determination, the authorities had calculated a *de minimis* subsidy margin for Colakoglu, a respondent company in the investigation, and a 6.01% subsidy margin for the other respondent company, Erdemir. It was also determined that, after excluding exports from Colakoglu, subsidized imports from Turkey fell below the 3% negligibility threshold and that the countervailing duty investigation was terminated in respect of imports from Turkey.

103. Likewise, in the third final AD remand redetermination dated 28 January 2020, Colakoglu received a 0% dumping margin, and Erdemir a 2.73% dumping margin. Hence, Colakoglu was excluded from the AD duty order. After the decision on Colakoglu, Turkey believed that the termination of the countervailing investigation was also applicable for the AD investigation and that, therefore, this measure should be terminated for Turkish imports. Turkey expected the United States to terminate the AD duties for all subject merchandise from Turkey.

104. Japan took issue with the administrative review, from June 2020 to May 2021, under the AD duty order on imports of glycine from Japan. Specifically, Japan requested the investigating authority to consider the fact that there were two grades of glycine subject to this review: industrial grade and pharmaceutical grade, the latter being subject to certain Japanese qualification requirements.

105. As Japan explained, during the review it had requested that in comparing normal value and export prices, price comparisons should be done on a type-by-type basis that ensured a proper and fair comparison in accordance with the relevant WTO rules. Japan requested the United States' investigating authority to conduct a fair review, considering the qualification mechanism related to pharmaceutical products in Japan and the difference in glycine grades in accordance with such qualification requirements.

106. Japan also raised concern regarding the prolonged imposition of AD measures against Japanese products. Japan pointed out that the United States currently had 19 measures in force against Japanese products. The longest measures have continued for more than 42 years, and 16 of them were in force for more than 5 years. For example, Japan referred to diffusion-annealed nickel-plated flat-rolled steel products (from September 2014), certain hot-rolled steel flat products (from May 2016), non-oriented electrical steel (from November 2014), polyvinyl alcohol (from July 2003), certain cold-rolled steel flat products (from July 2016) and prestressed concrete steel wire strand HTSUS (from July 2016), all of which are still in force. Article 11.3 of the AD Agreement stipulates that any AD measure shall be terminated in five years unless the authorities determine the substantial necessity to continue the measure, namely that the elimination of the AD duty would likely lead to the continuation or recurrence of dumping and injury. Japan urged the United States to apply Article 11.3 of the AD Agreement in a strict manner and to perform appropriate reviews in accordance with the WTO Agreement. It also requested the early termination of these AD measures which had been improperly continued for a long period.

107. Ukraine expressed its deep concern about the AD investigation of the United States on raw honey from, inter alia, Ukraine. Ukraine believed that the investigating authority had no grounds to impose provisional or definitive AD measures regarding Ukrainian products. According to the preliminary report of the USITC, imports from Argentina, Brazil, India, Ukraine, and Viet Nam accounted for 91% of total imports of raw honey by quantity between April 2020 to March 2021. This meant that almost all imports would be subject to AD measures. This, Ukraine stated, clearly distorted competition in the United States' domestic market. In Ukraine's view, such an approach was against the principles of transparency and fair trade in the WTO. During the period of investigation covering 2018 to 2020, as well as the most recent period, Ukraine's imports held the smallest share of total imports and of apparent domestic consumption. Specifically, Ukraine's share

in the United States' consumption accounted for 3-4% and could not cause or threaten to cause any material injury to the specific industry in the United States. Ukraine urged the United States to take into consideration all relevant evidence presented in the investigation pursuant to the AD Agreement and not to cumulate imports of raw honey from Ukraine with those of other countries in order to reach unbiased conclusions as regards Ukrainian products.

108. China called upon the United States to refrain from maintaining, through repeated sunset reviews, AD measures for unnecessarily long periods. According to the annual report by the United States for the year 2021, the United States was applying 90 AD measures against Chinese products, among which six measures began in the 1980s and have been in place for at least 34 years. The United States has also been applying measures against Japan since 1978. China pointed out that China and Japan were not, of course, the only affected Members. The United States has been applying AD measures to imports from Chinese Taipei since 1984, from India since 1986, from Canada since 1986, and from France, Italy, and Germany since 1987. The AD Agreement states that AD measures shall be terminated within five years unless the authority determines, through sunset reviews, that the expiry of the duties will likely lead to the continuation or recurrence of dumping and injury. China asked how the United States' domestic industry could still be so fragile after protections have been in place for 30 or 40 years. The prolonged – and even permanent – application of AD measures has become a barrier to free and fair international trade and resulted in market distortions as well as adverse effects on foreign exporters, consumers and the domestic industry's innovation and competitiveness. China urged the United States to carefully examine the evidence submitted by domestic petitioners in certain reviews to ensure that the standard for substantiating such requests, as set forth in Article 11.3 of the AD Agreement, serves to prevent quasi-permanent AD measures. Furthermore, China suggested that in future Rules' negotiations Members should consider clarifying and improving the rules on sunset reviews to prevent the emergence of permanent measures.

109. In response to Turkey, the United States suggested that Turkey reach out directly to the investigating authority. With regards to Japan's statement, the United States mentioned that the matter concerned an ongoing proceeding and encouraged Japan to provide its comments for the administrative record so these could be considered by the investigating authority.

110. As to the point concerning prolonged measures, the United States did not believe any basis exists for Japan's concerns. The expiry proceedings conducted by the United States were consistent with the obligations under the AD Agreement. In the United States' view, Japan appeared to imply that an old measure was no longer valid solely on the ground that the measure was old. The United States disagreed on this point. The United States explained that the purpose of expiry reviews was to examine if dumping and injury would recur if the measures were removed. The United States' expiry review proceedings were evidence-based and participation by Japanese companies was helpful in terms of obtaining relevant information and arguments from the relevant parties. The United States observed that many measures involving Japanese exporters had been terminated; out of 65 reviews 52 have resulted in the termination of measures. Seven of the oldest 10 measures remained in effect due to the lack of participation by Japanese companies. The United States encouraged participation by Japanese industries in the review proceedings.

111. With respect to Ukraine's intervention, the United States remarked that this matter concerned an ongoing investigation and that it would be inappropriate to comment. It encouraged Ukraine to provide its comments for the administrative record so they could be considered by the authority.

112. In response to China, the United States reiterated that its expiry review proceedings were consistent with the obligations under the AD Agreement. China, like Japan, appeared to imply that an old measure was no longer valid solely on the ground that the measure was old – a position that the United States disagreed with. The United States explained that the purpose of expiry reviews was to examine if dumping and injury would recur if the measures were removed. The United States' expiry review proceedings were evidence-based and participation by Chinese companies was helpful in terms of obtaining relevant information and arguments from the relevant parties. To the extent that Chinese respondents had comments regarding any particular expiry review, the United States suggested that the comments be submitted for the record of the particular review.

113. China took the floor to state that it agreed that a measure does not become invalid on account of its age. China underscored, however, that under the AD Agreement investigating authorities must ensure that petitioners substantiate applications for extensions. China doubted that the

United States had satisfied this obligation in each and every sunset review. Some of the requests by the petitioners were simple and not duly substantiated. China encouraged the United States to increase its efforts in this regard.

114. The United States replied that under its laws, petitioners in each sunset review were required to provide specific elements in order to substantiate a claim that it was necessary to maintain an order. These submissions were lengthy. If China had any issue with any particular sunset review, the United States suggested that China submit those comments for the administrative record.

115. With respect to semi-annual reports that the Committee had not previously reviewed due to late submission and circulation, neither comments were made, nor questions were posed by any Member.

116. The Committee took note of the semi-annual reports, the statements made, the questions posed, and the answers provided.

4 PRELIMINARY AND FINAL ANTI-DUMPING ACTIONS: NOTIFICATIONS

117. The Chair referred to the notifications of preliminary and final AD actions submitted by Members since the Committee's last meeting listed in documents G/ADP/N/355, 356, 358, 359 & Corrigendum 1, 360 and 361. During this period Argentina; Australia; Brazil; Canada; China; Dominican Republic; European Union; India; Indonesia; Japan; Kazakhstan; Republic of Korea; Kyrgyz Republic; Mexico; New Zealand; Pakistan; Philippines; Russian Federation; South Africa; Chinese Taipei; Turkey; Ukraine; United Kingdom; and the United States notified preliminary and/or final AD actions, which were listed in these documents. Since document G/ADP/N/361 was circulated, Argentina; Armenia; Australia; Brazil; India; Indonesia; Kazakhstan; Republic of Korea; Kyrgyz Republic; Mexico; Pakistan; Russian Federation; South Africa; Chinese Taipei; Turkey; Ukraine; United Kingdom; and the United States have submitted such a notification, which will appear in the next list circulated by the Secretariat.

118. The European Union referred to a notification made by **Ukraine** with regard to an investigation initiated on 1 September 2021 concerning aluminium ladders from Poland and the Slovak Republic. The European Union indicated that the claims of injury and causal link were insufficient. The injury analysis was limited to one year only and any decline in certain indicators was only apparent during one quarter. There was thus no *prima facie* evidence that the Ukrainian industry was suffering from material injury. Even if there were any injury, there was no evidence that it had been caused by the alleged dumped imports given that the import's market share increased by only 1.8%. Rather, injury, if any, had been caused by other factors, such as an increase in costs or excessive investments. The European Union urged the Ukrainian authority to terminate the investigation immediately in full compliance with the WTO obligations.

119. **Ukraine** was not present at the time to provide its comments.

120. Turkey expressed concerns about the initiation, by **Argentina**, of AD investigations against Turkish exports of polymer profiles of vinyl chloride of the types used in the manufacture of openings or enclosures and tiles of glass whether or not on a backing, for mosaics or similar decorative purposes on 14 May and 26 February 2021, respectively. As a general remark, Turkey requested the Argentinian investigating authority to be attentive to the due process rights of the interested parties. Turkey recalled that Article 6.2 of the AD Agreement requires that throughout the investigation all interested parties shall have the full opportunity to defend their interests.

121. With respect to the PVC profiles investigation, the Government of Turkey, an interested party in the investigation, was not provided with the report on the preliminary determination which was stated as the base for the determination of threat of injury and causality in the Preliminary Notice, dated 31 August 2021. Although it had requested the report from the Argentinian investigating authority via its Commercial Counsellor's Office in Argentina through two official notes dated 9 and 13 September 2021, Turkey received nothing from the authority. Therefore, Turkey considered that its rights of defence had been infringed at this stage of the investigation.

122. With respect to the investigation on tiles of glass, the Turkish Embassy in Buenos Aires was informed via a note dated 19 October 2021 that the evidentiary stage of the investigation had been

closed and that the essential facts report was being prepared by the National Commission for Foreign Trade on which interested parties had ten business days to comment. Despite all its attempts, Turkey was unable to obtain the report.

123. Turkey underlined the importance of the right of interested parties to have an opportunity to defend their interests. It emphasized that it was the investigating authority's obligation and responsibility to ensure that this was the case, as provided for in Article 6.2 of the AD Agreement.

124. Argentina stated that it had taken note of Turkey's intervention and that it would inform its capital. It requested Turkey to provide its comments in writing.

125. The Chair drew attention to the continued apparent lack of full compliance with this notification requirement. These reports were a key element of the required transparency concerning Members' AD actions, and the Committee could not effectively carry out its monitoring and discussion functions if Members did not fulfil their obligations in this regard. The Chair strongly urged all Members taking AD actions to provide these notifications of preliminary and final actions, regularly, consistently and in a timely fashion. The minimum information format for these notifications adopted by the Committee in October 2006 and revised in October 2009 (document G/ADP/2/Rev.2), contained important guidance as to the kinds of actions that should be notified and the information that should be provided.

126. The Chair noted that some Members were still submitting the same ad hoc notifications pertaining to certain AD actions via different means, i.e. electronically, by fax and post. In certain instances, certain Members, while submitting new ad hoc notifications, also tended to resubmit previously notified actions and in some cases provided electronic links that did not correspond to the notification the Member submits. In addition, some of these notifications were not submitted to the Centre of Registration and Notification (CRN) directly, but to the Rules Division Secretariat which had to resend it to CRN for registration. The Chair reminded all Members that a given ad hoc notification, as in case of all other notifications, should be sent electronically and only once to CRN with a copy to the Secretary of the Committee and that any previously submitted notifications should not be resubmitted. The Chair also requested Members, instead of providing electronic links to general websites, to attach directly the relevant document containing the action they wish to notify in WORD or PDF formats. Members were also able to consult presentation audios and interactive presentations made by the Secretariat at the 2015 workshop on notifications, which have been made available on the AD webpage on the WTO website. The Chair stressed the need to avoid any confusion, repetition or duplication as these notifications were the source of necessary information contained in Annex D of the Committee's annual report.

127. The Committee took note of the notifications and statements made.

5 CHAIRPERSON'S REPORT ON THE MEETING OF THE INFORMAL GROUP ON ANTI-CIRCUMVENTION

128. The Chair stated that the meeting of the Informal Group on Anti-Circumvention was not held. As for the Committee spring meeting of 2022, the approach agreed in the Spring of 2015 would be applied in deciding whether the Informal Group will meet.

129. No statements were made by any Member.

130. The Committee took note of the report made.

6 CHAIRPERSON'S REPORT ON THE MEETING OF THE WORKING GROUP ON IMPLEMENTATION

131. The Chair recalled that the last meeting of the Working Group on Implementation ("WGI") of the Committee was held in autumn 2019. Since then, three meetings of the WGI have had to be postponed due to the limitations caused by the COVID-19 outbreak.

132. The Chair also recalled the email dated 20 August 2021, where Members were asked whether they had any reactions to holding the October meeting of the WGI in either a hybrid or fully virtual mode. In his email of 7 September 2021, the Chair indicated that no Member had raised any

objections to that suggestion. He added that the WGI would be meeting in the afternoons of 28 and 29 October 2021, to discuss issues relating to (i) reviews for the purpose of determining individual margins of dumping for any exporters or producers in the exporting country (new shipper reviews); (ii) price undertakings; and (iii) access to non-confidential case files.

133. Ms Yomna Elshabrawy of Egypt, serving as discussant, had circulated an outline of issues for discussion in document RD/ADP/WGI/15. The Chair encouraged all Members to attend, and to participate actively in the discussions.

134. Finally, the Chair stated that the topics and discussant for the next meeting of the WGI have not yet been determined by Members and that he would be contacting Members in order to identify the next topics and a discussant to assist at the April meeting of the WGI.

135. Egypt thanked the membership for selecting its candidate as a discussant. It emphasized the importance of the topics and encouraged everyone to attend.

136. The Committee took note of the report and the statement made.

7 UNITED STATES – EXAMINATION WHETHER TO CONTINUE TO TREAT THE RUSSIAN FEDERATION AS A MARKET ECONOMY COUNTRY FOR THE PURPOSES OF ANTI-DUMPING DUTY LAW – ITEM REQUESTED BY THE RUSSIAN FEDERATION

137. The Russian Federation raised concern over the issue that since 30 July 2021 the United States' Department of Commerce ("USDOC") has been conducting a review of the Russian Federation's market economy status under the domestic AD duty law. The review followed a petition lodged by the United States' domestic industry regarding imports of urea ammonium nitrate solutions from the Russian Federation.

138. In this regard, the Russian Federation recalled that the market economy status for the purpose of United States' investigations was granted to the Russian Federation in 2002. In 2012, the Russian Federation became a Member of the WTO. The Working Party did not consider it necessary to include in its report any special provisions relating to AD investigations against Russian products. Thus, the report does not include any commitments in this respect. The Russian Federation also stressed that the WTO rulebook allows very limited scope to depart from a strict comparison between the export price and the normal value obtained in the domestic market. None of these exceptions applied to the Russian Federation. The Russian Federation was convinced that the WTO rules provided no grounds to apply the methodologies that were envisaged by the United States' legislation for non-market economies in the determination of dumping in respect of Russian products. The Russian Federation expressed its hope that the United States would not make any decisions that may lead to violations of the WTO rules in its AD proceedings.

139. China shared the concern raised by the Russian Federation. According to China, it was clear that the surrogate country method was inconsistent with Article 2.2 of the AD Agreement which states that only two alternative methods for calculating normal value are available, export prices to a third country or construction of normal value based on the cost of production in the country of origin. In contrast, the surrogate country methodology required the use of costs and prices from outside of the country of origin. China argued that this methodology was an unfair and dangerous deviation from the AD Agreement as it ignored the economic reality in the exporting country and inflated the margins of dumping.

140. China opined that if such methodology was widely adopted, the AD rules would ultimately be eroded. Furthermore, discriminating against certain Members in AD investigations was in breach of the WTO's fundamental principle of MFN treatment. Therefore, China believed that no WTO Member should be subject to such unfair methodology. It urged the United States to stop the steps taken to target the Russian Federation and to accord the same treatment to all WTO Members.

141. The United States explained that, on 26 July 2021, the USDOC had announced the initiation of investigations concerning imports of urea ammonium nitrate solution from the Russian Federation and Trinidad and Tobago. The USDOC intended to announce the preliminary determination by 7 December 2021, although it may extend that date, if necessary. The United States added that this investigation was ongoing for which reason it would be inappropriate to comment. Any comments

that the Russian Federation wished to be considered by the administering authority should be placed on the administrative record of the investigation. The USDOC would carefully consider arguments placed on the record by all interested parties.

142. The Committee took note of the statements made.

8 OTHER BUSINESS

143. The Chair encouraged Members that had issues to raise with other Members under other business to give sufficient notice to the Members concerned prior to the meeting in order to ascertain whether or not an answer could be obtained at the meeting.

144. The Russian Federation raised concerns pertaining to certain amendments to the European Union's legislation on AD introduced by Regulations (EU) 2017/2321 and (EU) 2018/825. It stated that, on numerous occasions in this Committee, the Russian Federation had commented on the amendments to the European Union's AD legislation. They remained a matter of concern and the Russian Federation closely monitored relevant developments in this regard.

145. The Russian Federation recalled that, like other Members, it had posed written questions on this matter in document G/ADP/Q1/EU/7. The European Union had provided written replies in document G/ADP/Q1/EU/12. The Russian Federation had recently submitted follow-up questions which were circulated in document G/ADP/Q1/EU/15. The Russian Federation looked forward to the replies of the European Union and to a substantive discussion at the next Committee meeting.

146. The Russian Federation reiterated its view that the amendments were of a discriminatory and WTO-inconsistent nature. Together, these amendments crafted an instrument for manipulating access to the European market. The Russian Federation urged the European Union to abstain from the application of the methodologies envisaged by the amendments and to respect WTO rules.

147. China commented on the European Union's legislation and practices regarding the so-called significant market distortions by claiming that they were inconsistent with relevant WTO principles and rules. First, the European Union's AD law created the concept of significant market distortions and other concepts not included in the AD Agreement. These concepts authorise the European Commission to review the market situations of other Members in an AD investigation and to construct the normal value.

148. Second, China added that the methods for constructing normal value in the European Union's AD law were inconsistent with WTO rules. China claimed that according to the European Union's AD law, normal value should be constructed exclusively based on the cost of production and sales in a sufficiently representative country, or on international prices, if a significant market distortion was found to exist. This was inconsistent with Articles 2.2 and 2.2.1.1 of the AD Agreement. China expressed its hope that the European Union would return to the method set forth in the AD Agreement and comply with its obligations as a WTO Member.

149. The European Union referred to its statements on this matter made at previous meetings of this Committee and on the record of the Council for Trade in Goods.

150. The Committee took note of the statements made.

9 DATE OF THE NEXT REGULAR MEETING

151. The next regular meeting of the Committee would be held in the week of 25 April 2022.

10 ANNUAL REPORT OF THE COMMITTEE TO THE COUNCIL FOR TRADE IN GOODS (ARTICLE 18.6)

152. The Committee adopted its 2021 Annual Report to the Council for Trade in Goods.
