RESTRICTED

C/M/186
19 April 1985

Limited Distribution

GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL
12 March 1985

MINUTES OF MEETING

Held in the Centre William Rappard on 12 March 1985

Chairman: Mr. K. Chiba (Japan)

1. Japan - Measures on imports of leather

- Follow-up on the Panel report (L/5623)

The Chairman recalled that in May 1984, the Council had adopted the Panel report (L/5623) on the complaint by the United States, and in November 1984 had discussed the follow-up to the report.

The representative of the United States recalled that following adoption of the Panel report, Japan had indicated its intention to eliminate the current tariff and make some changes in the administration of the quotas applied to imports of semi-finished leather; it had also indicated that no action was presently contemplated with regard to the restrictions limiting imports of finished leather. The United States now understood that the Japanese Tariff Council had recommended that the tariff on semi-finished leather be eliminated, and that the Diet was expected to act on this recommendation shortly. The United States welcomed this step and would check with the US leather industry to determine its effect in stimulating sales of semi-finished leather in the Japanese market. However, the United States was concerned by Japan's failure to take steps to implement the Panel's recommendation, i.e., to eliminate the system of quotas found by the Panel to be inconsistent with the General Agreement. The United States wanted to know what steps Japan would take to eliminate the quotas, particularly those limiting imports of finished leather, and when these steps would be implemented.

The representative of Japan said his Government was determined to make efforts to progressively liberalize import restrictions on leather with a view to eventual conformity with GATT provisions, although as already explained, the process needed a certain amount of time due to the serious difficulties involved. Japan had been doing its utmost to implement various measures with a view to expanding leather trade, and could now report to the Council that a bill to eliminate the 15 per cent tariff on bovine and equine wet-blue-chrome grain was already before the Diet; if the Diet approved the bill, the tariff rate would become zero as of April 1985. The Government was making every effort to secure approval of this bill by the Diet. He added that the import quota for bovine and equine wet-blue-chrome had been expanded since September 1984, and licenses had been issued whenever necessary so as to allow imports of as much wet-blue-chrome as needed; this system amounted to automatic import licensing. The import quota for bovine and equine wet-blue-chrome for the 1984 financial year had been set at

$US 20 million and would be further expanded to satisfy any additional needs. Furthermore, the size of the import quota on leather had been published since October 1984. The Government would continue its efforts to improve the situation affecting leather trade, including measures to improve trade in finished leather.

The representatives of Australia, Norway, the European Communities, New Zealand, Pakistan, Uruguay and India welcomed the steps taken by Japan towards implementing the Panel's recommendation, and recognized the efforts that it was making. However, the implementation remained incomplete, and they urged Japan to implement the recommendation fully and as soon as possible.

The representative of the European Communities said his delegation had never understood why the Community, which was a major exporter of finished leathers to most other developed countries, had a trade deficit with Japan on this product. In bilateral consultations with Japan, the Community had asked for reduction of tariffs, complete liberalization of restrictions on imports of wet-blue leathers and substantial liberalization of quotas on finished leather imports. His delegation hoped that Japan's remaining quotas, during the period before their final elimination, would be administered in a manner compatible with the provisions of the Agreement on Import Licensing Procedures (BISD 26S/154).

The representative of the United States said he appreciated the difficulties faced by Japan in this matter, but stressed the difficulties also faced by US leather exporters to Japan.

The representative of Brazil reiterated his delegation's support for the Panel's recommendation, and his delegation's view that all recommendations by panels should be promptly implemented by the contracting parties concerned.

The representative of Egypt reiterated his delegation's view that Japan should implement the Panel's recommendation as soon as possible.

The Council took note of the statements.

2. Canada - Article XIX action on imports of footwear

- Notification of compensatory measures by the European Economic Community (L/5351/Add.22)

The Chairman noted that this item was on the agenda at Canada's request. He drew attention to a communication (L/5351/Add.22) from the European Communities concerning this matter.

The representative of Canada said that his country had held bilateral consultations under Article XIX with the European Community on Canadian measures with respect to leather and non-leather footwear which had taken effect on 1 December 1984. So far, the consultations had not resulted in agreement, although they would continue, and Canada hoped that such agreement could be reached. Canada noted that in L/5351/Add.22, the Community had not acknowledged that the modifications made by Canada to the quotas also applied to leather footwear, which accounted for 81 per cent of the Community's footwear exports to Canada, nor that the level of the leather footwear import quota had been increased by 5.1 per cent for the 12-month period of extension as compared to the previous 12-month quota period. The Community had initiated a process which it believed would allow it to suspend concessions with respect to Canada. Canada did not question the right of a contracting party to suspend concessions pursuant to Article XIX:3(a) if a mutually satisfactory settlement could not be found. However, the contracting party was required to limit such suspensions to substantially equivalent concessions or other obligations. Canada considered that the Community's proposals did not meet that requirement, and it did not accept the basis for the level of the proposed suspensions, i.e., the Community's calculation of trade impairment in the area of Can.$58 million. Nor did Canada accept that a total embargo on the import of any product (as the Community proposed with respect to Canadian footwear products) could be justified as a suspension of substantially equivalent concessions or other obligations. If the Community proceeded with its proposed suspensions, Canada would ask the Council to establish a panel pursuant to Article XXIII:2 to examine the Canadian complaint that the European Community was acting inconsistently with the obligation of Article XIX:3(a) and was thus nullifying or impairing benefits due to Canada under the General Agreement. Canada would provide the Council at that time with an analysis of why the Community's suspensions were not substantially equivalent, and would request, on the basis of the Panel's findings, that the Council consider disapproving the Community's action under Article XIX:3(a).

The representative of the European Communities said his delegation also hoped that the ongoing bilateral consultations with Canada on this matter would lead to agreement. The Community welcomed the fact that Canada was not questioning the Community's rights under Article XIX:3(a). Canada could of course question the extent of the Community's proposed suspensions, and the Community would be willing to consult on that issue. If the Community did proceed with the suspensions, and if Canada questioned these before the Council, his delegation considered it would be correct to establish a panel under Article XIX:3(a) and not under Article XXIII. However, his delegation hoped that stage would not be reached.

The representative of the United Kingdom, on behalf of Hong Kong, said that Hong Kong was one of the exporters affected by Canada's Article XIX measure on footwear. Since its initial introduction in

1977, this measure had been extended with minor adjustments on three occasions, and was now in its eighth year, a period which seemed excessive for what was supposed to be an emergency action. Another aspect of concern to his delegation was Canada's application of price breaks in the context of this Article XIX action. Such devices could produce such a narrow and selective definition of source that the action could no longer be said to be truly non-discriminatory. This would appear to conflict with the fundamental principles of the General Agreement. In the circumstances, it was understandable that affected parties, including the European Community, would find it necessary to react to this long-standing Canadian action. Hong Kong would continue to follow this issue closely and reserved its GATT rights.

The representative of Korea said that his country's exports had been adversely affected by the Canadian measure. Korea considered that the measure had lasted too long, and that Article XIX should only be invoked as an emergency measure and not for prolonged protection of a particular industry. His delegation hoped that Canada would lift this measure as early in 1985 as possible.

The representative of India said his delegation opposed the long duration of Canada's measure, and also the concept of the price break incorporated in the measure. Both aspects were alien to the principles of Article XIX.

The representative of Canada said that the measure in question had not lasted continuously for as long as had been suggested by previous speakers. Canada agreed that resort to Article XIX should be temporary. He referred to document Spec(82)18/Rev.3 (Appendix A) which showed that other contracting parties had maintained Article XIX actions for some time. He added that his delegation, as one of those participating in the informal group on Safeguards, would like to reach a working agreement on what was meant by the term "temporary".

The Council took note of the statements and that Canada and all other contracting parties had the right to raise this matter again in the future.

3. Canada - Import, distribution and sale of alcoholic drinks by provincial marketing agencies

- Recourse to Article XXIII:2 by the European Economic Community (L/5777)

The Chairman drew attention to document L/5777 concerning recourse by the European Economic Community to Article XXIII:2 over the import, distribution and sale of alcoholic drinks by provincial marketing agencies in Canada.

The representative of the European Communities said there were a number of aspects of the regulations and applications of Canada's provincial marketing systems which the Community felt to be contrary to provisions of the General Agreement. He recalled that this problem had been the subject of a Canadian provincial statement of intention during the Tokyo Round negotiations; unfortunately, this statement had not been converted into action. The Community was seriously concerned that various bindings and concessions made by Canada on imports of alcoholic drinks had been nullified or impaired by the regulations and actions of provincial marketing agencies, and asked that a panel be established under Article XXIII:2 to examine this matter. He noted the efforts being made by the Canadian Government to correct this problem, and still hoped that it could be resolved short of the Community's recourse to Article XXIII being carried to its conclusion.

The representative of Canada said that his federal authorities had been and continued to be in frequent contact with the provincial authorities on this issue, with a view to reaching a satisfactory solution. Nevertheless, Canada did not object to the establishment of a panel at this time.

The representatives of the United States, Spain, New Zealand and Australia reserved their delegations' right to make a submission to the panel should it be set up.

The representatives of Jamaica and Trinidad and Tobago requested that their delegations be included in whatever consultations took place on the Panel's terms of reference and composition.

The representative of New Zealand supported the Community's request for a panel.

The Council took note of the statements and agreed to establish a panel to examine the complaint by the European Communities, and authorized the Chairman, in consultation with the parties concerned, to draw up the Panel's terms of reference and to designate its Chairman and members.

4. European Economic Community - Tariff treatment on imports of citrus products from certain countries in the Mediterranean region - Panel report (L/5776)

The Chairman recalled that in November 1982 the Council had established a panel to examine the complaint by the United States. The Council had been informed of the Panel's terms of reference in May 1983 and of its composition in July of the same year. The Panel's report had been circulated in document L/5776.

Mr. Wurth, Chairman of the Panel, introduced the report and drew attention to the two following conclusions: (1) the Panel had not been requested, nor would it have been proper for it, to pass judgement on the conformity of the Community's agreements as a whole with the provisions of Article XXIV; and (2) in the light of the undetermined legal status of the Community's agreements with certain Mediterranean countries under which the Community granted tariff preferences on certain citrus products, and of the fact that the formation of a customs union or free-trade area had not yet been realized between the Community and the countries concerned, the benefits accruing to the United States directly or indirectly under Article I:1 had been impaired as a result of the Community's application of tariff preferences on fresh oranges and fresh lemons from certain Mediterranean countries in the sense of Article XXIII:1(b). The Panel had suggested that the CONTRACTING PARTIES recommend that the Community consider limiting the adverse effect on US exports of fresh oranges and fresh lemons by extending the period of application of the low m.f.n. tariff rates and/or reducing these rates on fresh oranges; action to this effect should be taken no later than 15 October 1985. In the Panel's view, a solution along these lines would preserve the principle of the tariff preferences granted by the Community and would not alter the latter's preferential rates of reduction. At the same time, such a solution would give satisfaction to the United States, whose rights under the General Agreement had been found to have been nullified or impaired, by reducing the adverse effect of these preferences on the United States, and by improving its competitive position in the Community. The date of 15 October 1985 had been chosen as the deadline for action because the Panel felt that the United States had already suffered damage to its trade on winter oranges, and a solution to the matter should be found before the beginning of the Community's high-tariff period on 16 October. Moreover, a reduction of the m.f.n. tariffs on oranges and lemons would also benefit the other parties which had made known their interests in this matter. In conclusion, he noted that in the light of the controversies and difficulties in examining preferential regional agreements between developed and developing countries, the Panel had felt that the CONTRACTING PARTIES might wish to review the best way in which such agreements could be examined under the present procedures of the General Agreement, and whether new guidelines should be envisaged.

The representative of the United States said that the Panel had unanimously concluded that the Community's tariff preferences on fresh oranges and fresh lemons nullified or impaired US benefits under the General Agreement, and had made a pragmatic recommendation to the Community to limit the adverse effects which its tariff preferences had on US exports of these products. His delegation strongly supported adoption of the Panel report, and in particular its recommendation, despite the fact that the recommendation addressed only two of the nine products cited. The United States urged the Council to adopt the report not only because the conclusions and recommendation would enable a fair

resolution of the issue, but also because it was customary GATT practice to give great weight to a panel's findings. It was important to the GATT dispute settlement process to ensure that panel reports were adopted and recommendations implemented promptly. It was significant that the Panel's conclusions on non-violation nullification or impairment were based on factual findings, not on a legal interpretation of GATT provisions. The Panel had expressly avoided a determination as to the conformity of the Community's preferential agreements with Article XXIV; it had merely restated the fact that the CONTRACTING PARTIES had neither approved nor disapproved any of the agreements nor ruled on their GATT consistency. Its conclusions did not, therefore, question the validity of these agreements or Article XXIV arrangements generally. Moreover, neither the findings nor the recommendation required the Community to amend its preferential arrangements or to take action inconsistent with them. The United States, while believing that the Community's citrus preferences were inconsistent with Article I, had brought this complaint solely to remedy a serious obstacle facing its citrus exports, and had exercised its Article XXIII rights which had been reserved when all these Article XXIV arrangements were examined in GATT. The United States sought an economic solution to an economic problem and would, therefore, accept a non-violation ruling; the Panel's recommendation responded to this economic problem. He called on the Community to carry out the recommendation and asked if the Community intended to make an offer consistent with this recommendation.

The representative of the European Communities noted the US representative's attachment to the rapid adoption and implementation of panel reports; he wondered whether this represented a change from the position taken by the United States on a number of previous panel reports. Turning to the report before the Council, he recognized the impossible task which had been set to the Panel and the efforts made by its members. Unfortunately, the Panel's recommendation asked the Community to take action which might upset the balance and the basis of existing agreements with other contracting parties; such a recommendation was not politically viable. Paragraph 5.3 of the report stated that the Panel's recommendation took into account the interests of all other parties concerned; the Community was defending not its own interests, but those of its developing country trading partners. He said that the intent of Article XXIV was to promote trade liberalization; however, the effects of the customs unions and free-trade areas which Article XXIV envisaged had to be assessed on a global basis, not product-by-product nor even country-by-country. Any such limited approach would be contrary to the basic philosophy of the GATT and might put in question the balance between Articles I and XXIV, or worse, might call Article XXIV itself into question. The Panel's report was of serious concern to the Community as it contained highly controversial and perhaps unjustified findings and conclusions with regard both to GATT in general and to the Community in particular. He outlined this concern in four points: (1) The lack of coherence in the Panel's

approach to the question of the conformity of the agreements as a whole with Article XXIV. After having found no basis on which to examine such conformity, the Panel had proceeded to pass judgement on this issue by concluding that the balance of rights and obligations had been upset. (2) The interpretation of Article XXIV:7 by the Panel according to which Article XXIV agreements had to be explicitly approved by the CONTRACTING PARTIES. This interpretation ignored both case law and drafting history. In the Community's view, an agreement was deemed to be in conformity with Article XXIV if the CONTRACTING PARTIES had not made a recommendation under Article XXIV:7. (3) The unjustified exclusion of the applicability of Part IV to Article XXIV; he wondered whether this implied that the Community should ask for reciprocal preferences from developing countries. (4) The legal inferences which might explicitly or implicitly be drawn from the report, would introduce an element of uncertainty and permanent conflict, not only in respect of the agreements at issue but of all other agreements, including those of the Community and those of other contracting parties, and even preferences granted under Article XXV derogations, or under the GSP, to developing contracting parties. He said that there were formidable implications in the report for the General Agreement, for the dispute settlement process and for the developing countries -- indeed, for GATT's future. While some of the Panel's conclusions were of interest to the Community, it would be impossible to implement its recommendation.

The representative of the United States wondered whether the Community recognized the implications for GATT of its position, which would eliminate third parties' Article XXIII rights when other contracting parties concluded a preferential arrangement and notified it as an Article XXIV agreement, regardless of whether or not it conformed to the explicit criteria of that Article. There was nothing in the General Agreement to support the view that Article XXIII procedures were not available in cases involving Article XXIV. The Community's position on this case was a reversal of that taken in working party reviews of its preferential arrangements, i.e., that contracting parties retained their rights under Articles XXII and XXIII. The Community's current position rendered null and void any rights reserved under Article XXIII. The United States was troubled not only by the Community's unwillingness to accept adoption of a panel report but by the impact of such an approach on future preferential arrangements. The Community seemed to be saying that unless the CONTRACTING PARTIES affirmatively rejected an arrangement under Article XXIV:7(b), it must be presumed to be consistent with the General Agreement; this amounted to saying that a non-conforming measure would be legitimized over time if not challenged. This was clearly not the rule in GATT. Should the presumption underlying the Community's view be accepted, a third party which was adversely affected by a tariff preference would be limited to seeking a finding under Article XXIV:7 that the entire arrangement was inconsistent with the General Agreement; Article XXIII rights would thus become non-existent. Under such circumstances, contracting parties

would be forced to examine with greater scrutiny than in the past every preferential arrangement; this would be the consequence of the Community's argument, which elevated Article XXIV to a position of greater importance than Article XXIII and which seemed to ignore Article I altogether. He reiterated that the United States was seeking an economic solution to an economic problem.

The representative of Pakistan agreed with the Panel's recommendation and proposed that the Council adopt the Panel's report.

The representative of Spain recalled that before establishment of the Panel, his country had asked instead for a working party in order to include directly all parties with interests at stake in this dispute. He noted that agreement on the Panel's mandate had been reached on the understanding that the Mediterranean countries would have an adequate opportunity to participate in its work where relevant. However, the Panel had failed to inform the other interested parties of its conclusions and recommendation when these were presented to the two parties to the dispute, thus creating a situation in which the United States and the Community alone might reach an agreement and present it to other interested parties as a fait accompli. The US position on this matter was inconsistent in that it had, in the past, stressed the importance of concentrating on questions of principle rather than on immediate trade consequences, and now it was asking for an economic solution to an economic problem. The Panel's interpretations would affect not only the parties to the dispute but many other contracting parties, and could affect GATT's credibility. For a number of reasons, it would be dangerous to follow the path taken by the Panel. While recognizing that the issue was not within its purview, the Panel had given a special interpretation to Article XXIV:7(b) and had concluded that there should have been positive approval of the agreements; such approval was not in fact necessary. His delegation could not accept the report as it would be a bad precedent for GATT's future and credibility. He recommended that the Council not adopt the report.

The representative of Turkey said that his delegation could not agree with some of the Panel's findings and conclusions. The Panel had not been requested to examine the relationship between Turkey and the Community, or the compatibility of this relationship with the General Agreement; that task properly belonged to the CONTRACTING PARTIES and had been carried out in a working party whose report (L/3750) had been adopted by the CONTRACTING PARTIES in 1972. The Panel report's omission of any reference to the Working Party's finding as to the GATT conformity of the Community's agreements with Mediterranean countries prejudged the compatibility of the agreements with the General Agreement, and constituted an important weakness in the report; for this reason, his delegation objected to the recommendation contained in it. Turkey supported the statement by the representative of the European Communities, and urged the Council not to adopt the report.

The representative of Egypt said that while the Panel had stated it would not be proper for it to pass judgement on the conformity of the Community's agreements as a whole with Article XXIV, it had nevertheless concluded that their legal status remained open. Article XXIV:7(b) did not support this conclusion, since that Article did not require the CONTRACTING PARTIES to decide on conformity. The absence of a recommendation could not signify that the arrangements were in a juridical no-man's land; rather, in his delegation's view, they conformed until such time as the CONTRACTING PARTIES pronounced to the contrary. Regarding the impact of preferences, such as those granted by the Community, on non-recipient contracting parties, he said that no compensation was required as long as there was no increase in the bound tariff; should compensation be required, the Panel should also recommend further compensation for the developing countries to restore their preferences. In his view, the objective of Article XXXVI was that developed countries offering preferences to developing countries should not expect reciprocity. A reduction in the m.f.n. rates on the products in question would remove preferences which the developing countries needed. Furthermore, the Panel report did not preserve the commitments contained in Article XXXVII. Egypt supported the statements by the representatives of the European Communities, Turkey and Spain, and recommended that the Council not adopt the report.

The representative of Tunisia said that in this complex matter more was at issue than the adoption of a panel report and its recommendation; the Council's decision would affect the vital interests of many contracting parties. Tunisia felt that as the GATT conformity of the agreements in question had been carefully examined in working parties, it was difficult to accept that a panel, which itself had deemed this matter to be outside its purview, should call the agreements into doubt; in this connexion he referred to the statement by the representative of Spain regarding Article XXIV:7(b). For some years, a number of contracting parties had expressed concern over the breaking up of GATT into a general GATT for all and another for certain contracting parties only. The report seemed to suggest further fragmentation in GATT; for example, paragraph 4.11 stated that Article XXIV and Part IV constituted distinct sets of rights and obligations. He asked if paragraphs such as this would be considered as establishing a precedent, and suggested that the contracting parties give more thought to the legal implications of the report for Article XXIV and for the social and economic interests at stake.

The representative of Yugoslavia said that her delegation was concerned by the Panel's report and could not accept certain of its proposals. Yugoslavia considered this matter to involve more than a pragmatic solution for the United States, and could not accept the report because of the precedents it would set. Her delegation was also concerned by the report's finding in paragraph 4.11 that Part IV and the Enabling Clause (BISD 26S/203) were not relevant; this was an important point and should be considered when developing countries' trade agreements were in question. Her delegation agreed with the statements by the representatives of Spain, the European Communities, Egypt and Tunisia regarding Article XXIV:7 and other GATT provisions.

The representative of Cyprus, speaking as an observer, recalled that the 1972 Association Agreement between Cyprus and the Community envisaged setting-up a customs union, and cited evidence to the effect that both Cyprus and the Community were moving towards this goal. The Agreement had been duly examined by a working party whose report (L/4009) indicated that many contracting parties had found it to fulfil the conditions of an interim agreement in the sense of Article XXIV:5. The Panel had no mandate to rule on the GATT conformity of any of the agreements in question; this was for the CONTRACTING PARTIES themselves to determine. Nor could the compatibility of the Community's citrus concessions granted to Cyprus be questioned in any way, as GATT approval was not required for their establishment. The United States in its complaint, and the Panel in its method, had adopted a selective approach to the problem; the tariff preferences accorded to Cyprus by the Community were the product of wider negotiations between the parties, entailing reciprocal preferences. In the light of these considerations, Cyprus could not accept the Panel's conclusions or adoption of the report.

The representative of Korea said common sense dictated that the Panel report should be respected as much as possible unless there was a compelling reason not to do so. The panel procedure was the principal means of dispute settlement, and it would be a bad precedent, especially in a case involving the United States and the Community, to reject the report. This case involved m.f.n. treatment, one of the key GATT principles, which should be upheld unless there was an exception to it under Article XXIV or some other GATT provision. He pointed out that his country did not belong to any regional free-trade agreement, and if m.f.n. treatment were nullified by resort to Article XXIV, a country such as Korea would eventually lose all its trade privileges.

The representative of Austria, speaking on behalf of the EFTA countries, said that this question was important to all contracting parties as it touched on a number of matters of principle regarding key provisions of the General Agreement and their application. The legal questions to which the Panel report gave rise were such that they should be dealt with by the CONTRACTING PARTIES themselves and not by a panel. A main objection to the report was that parts of it could call into question the status of arrangements under Article XXIV. His delegation felt it was too early to take a decision on the report, and proposed that the Council revert to this matter at its next meeting.

The representative of Brazil said that his authorities' examination of the Panel report had shown the findings and conclusions to be well-founded in tackling the different trade aspects of the question. In Brazil's view, the report should be respected; however, in view of the difficulties expressed by some contracting parties, Brazil would agree to the Council having a further opportunity for a more in-depth discussion of the report. At that time, his delegation would contribute its own detailed views on this matter.

The representative of Australia said that while some contracting parties had argued that the Panel report threatened the existence of Article XXIV arrangements, that conclusion could not reasonably be drawn from the report. In fact, the Panel had skillfully avoided the Article XXIV issue. The real issue was whether the rights of third parties could be nullified or impaired by measures which did not violate a GATT obligation. The Panel had concluded that this could and did happen regarding US trade in fresh oranges and fresh lemons. While Australia would not oppose the proposal for more time to examine this issue, it supported adoption of the report, although the Panel's conclusions and recommendation did not take account of the firmer line taken by Australia on the GATT consistency of the agreements.

The representative of Israel said his delegation had serious doubts whether certain intepretations and conclusions of the Panel regarding Article XXIV, were pertinent or correct. Paragraph 5.1(b) of the report, for example, noted that there had been no consensus on the conformity of the Agreements with Article XXIV. He pointed out that under paragraph XXIV:10 a two-thirds majority of the contracting parties was sufficient to obtain approval of an agreement which failed to meet all the conditions of this Article. Under Article XXV:5 one could even get a full waiver from any GATT obligation by a two-thirds majority provided this majority comprised more than half of the contracting parties. The recent decision of the CONTRACTING PARTIES on the Caribbean Basin Economy Recovery Act (CBERA) (L/5779), which had been supported by Israel, was a case in point. Consequently the Panel's conclusion that under Article XXIV, approval by consensus was needed appeared to be contrary to both GATT rules and practice. Israel's main preoccupation resulted from the fact that the Panel did not take account of the Council's decision of 26 March 1983, which called upon the Panel to provide adequate opportunity for Mediterranean countries to participate in its work as necessary and appropriate. Referring to paragraph 18 of the 1979 Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/210), he said that the Panel's failure to submit the descriptive part of its report to the parties concerned -- which the Council had interpreted to mean, in this case, all the Mediterranean countries -- constituted a serious flaw in its proceedings. This procedural shortcoming put the Panel's work in question and it was not clear how this could be remedied. Israel required more time to consider the legal issues involved and therefore supported the proposal made by the EFTA countries that further discussion be postponed to the next meeting.

The representative of Canada associated his delegation with the statements by the representatives of Korea and Australia and said that the Panel had clearly and properly placed consideration of Article XXIV conformity outside its conclusions. While Canada did not quarrel with Israel's conclusions regarding Article XXIV, the fact was that there had been no decision by the CONTRACTING PARTIES on the Community's

arrangements with the Mediterranean countries. The suggestion that action taken under Article XXIV or elsewhere was legal until and unless specifically challenged was puzzling; such an interpretation would legitimize all grey-area measures not explicitly challenged. He recalled that Canada had reserved its rights on this issue in working parties, in the Council and at the CONTRACTING PARTIES' sessions, and cautioned that an in-depth examination of the question of Article XXIV arrangements should be done on its own merits and not in the context of a single panel report. The Panel's recommendation appeared to be reasonable. Canada would not object if the Council reverted to this matter at its next meeting.

The representative of Japan said his Government had concluded that the Panel report would provide a useful basis for a settlement among the parties concerned and supported its adoption by the Council.

The representative of Uruguay said his delegation felt that the report contained a number of useful elements but others which were questionable. Given the importance of the examination of panel reports, Uruguay agreed that consideration of this matter should be continued at the next Council meeting.

The representative of New Zealand said that it was difficult to see how the agreements involved in this case, whose Article XXIV conformity must be said to be in doubt, could be turned into ones that did conform. The Panel had relied not on an assessment of the conformity of the agreements -- which might well have led to a straight finding of prima facie nullification and impairment -- but on working party reports[1] and on common sense. Regarding the Community's claim that the report introduced an element of uncertainty and permanent conflict for all other free-trade areas and customs unions, New Zealand saw no such implications for well-founded agreements. The working party reports and the information provided by the Community and by the Mediterranean countries showed that the agreements at issue could have been declared inconsistent with GATT at any time. The Panel had decided the issues on the facts of the matter. New Zealand regretted and rejected any attempt to deflect attention from the arrangements in question to generalizations about quite different factual situations. It would be acceptable if the Council reverted to this matter at its next meeting.

---

[1] L/4559 (Algeria), L/4009 (Cyprus), L/4660 (Egypt), L/4365 (Israel), L/4662 (Jordan), L/4663 (Lebanon), L/3665 (Malta), L/4560 (Morocco), L/3579 (Spain), L/4558 (Tunisia), L/4086 (Turkey).

The representative of Chile said that the Panel's findings and conclusions seemed appropriate and adequate. Chile felt that it was important to reaffirm the principle of non-violation nullification or impairment included in the report, and therefore urged its adoption. The Council could revert to this matter at its next meeting.

The representative of Romania said that his authorities felt the two parties to this dispute should continue their efforts to settle it under the rules and procedures of the General Agreement. Romania agreed that consideration of this issue should be postponed to the next Council meeting.

The representative of Morocco, speaking as an observer, supported the statement by the representative of the European Communities and said the Panel report was a time-bomb for all countries and for developing countries in particular. The report ignored the historic links between the Community and some of the Mediterranean countries concerned, as well as the economic and social conditions of these countries. Morocco appealed to the Council not to adopt the report.

The representative of the African, Caribbean and Pacific (ACP) Group, speaking as an observer, said that the CONTRACTING PARTIES' allowance of preferential schemes in favour of developing countries had been a landmark in GATT's history. This Panel report could be a dangerous precedent, putting in question any of the trade liberalization arrangements operated by developed countries in favour of developing countries. He hoped that the Council would find a pragmatic solution to this dispute, which could otherwise have serious implications for the trade liberalization process advocated by the CONTRACTING PARTIES.

The representative of Jamaica said that his authorities' preliminary view was that the Panel's findings and conclusions went beyond its terms of reference. Referring to statements made by some contracting parties which appeared to be based on self-interest regarding the adoption or rejection of the Panel report, he said that ad hoc approaches to dispute settlement were not likely to lead to respect for GATT dispute settlement procedures. Jamaica believed that the Council existed not merely to find economic solutions to economic problems, but to examine the legal implications of GATT rights and obligations in order to ensure a balance between them. He suggested that this matter not be automatically put on the agenda of the next meeting, but that further time be allowed for careful reflection before it was next considered.

The representative of the United States reiterated that his country was seeking an economic solution to an economic problem. It was clear that the Community had not made an offer to the United States in line with the Panel's recommendation. He asked what the implications were of the position that Article XXIV overrode rights under Article XXIII.

Some contracting parties seemed to be developing a world of preferences, market sharing, and no dispute settlement while simultaneously telling the United States not to resort to bilateralism. Developing countries, which had repeatedly argued that the m.f.n. principle was critical, seemed in this case to be reversing their position. Should the principles implicit in these positions be followed, there was nothing to stop the United States or any other contracting party from negotiating preferences bilaterally with any country prepared to do so, or from blocking any consensus in the Council to prevent this.

The representative of the European Communities said this was not merely a bilateral question between the Community and the United States, but one of great concern to a large number of contracting parties. The United States was asking the Community to make an offer based on a recommendation, the very basis of which the Community challenged. Furthermore, the Community was bound by contractual obligations in each of the agreements at issue, and before agreeing to any action -- such as the United States was asking -- which would affect the interests of the parties to those agreements, would have to consult with them within the institutions of those agreements. He said it appeared that the United States, in the Caribbean Basin Economic Recovery Act (CBERA), had the same objective as the Community's in its agreements with the Mediterranean countries, although different paths had been chosen. Consequently, there seemed to be a lack of consistency in the US position on this Panel report. The current debate on the report indicated a divergence of positions sufficient to put in doubt the advantages to be gained from further discussion, and his delegation doubted that this would yield any benefits. He recalled that the Community had initially asked for a working party, which might have led to a more satisfactory situation; his delegation had been perhaps too conciliatory in not challenging the US right to ask for a panel. The Community's position on the Panel report and the legal consequences that its adoption could entail, could be summarized[1] as follows: the precedent that would be set by the report was based on an interpretation of Article XXIV which the Community challenged on the basis of the letter of the General Agreement; Article XXIV did not require positive approval of the agreements it covered. The Community was not arguing that what was not challenged was automatically approved, but rather that what was not challenged under a specific provision of the General Agreement might indeed remain in a sort of limbo. However, this problem did not arise in the context of Article XXIV, as its provisions were absolutely clear, giving the CONTRACTING PARTIES the right to make recommendations on -- but not requiring them to approve explicitly -- agreements examined under this Article. The clear implication of this provision was that Article XXIV agreements had to be presumed to be in

[1] Subsequently issued as C/W/462.

conformity with the General Agreement as long as the CONTRACTING PARTIES had not made a recommendation on them. Regarding Article XXIII:1(b) non-violation nullification and impairment, this provision had been applied only to cases in which tariff bindings were at stake; it would be a dangerous precedent to extend its application to situations in which no such commitment had been infringed.

The representative of the United States said that when he heard a contracting party say that it was participating in a panel proceeding with no intention of doing anything about the panel's conclusions, this called into question the vitality of the system. It was clear that, from the beginning, the Community did not intend to make a pragmatic offer to the United States on this matter. He recalled that the United States had spent a year negotiating the waiver for the Caribbean Basin Economic Recovery Act (CBERA), and that this waiver fully safeguarded third contracting parties' Article XXIII rights. He suggested that the Council revert to this item at its next meeting.

The Council took note of the statements and agreed to revert to this item at its next meeting.

5. European Economic Community - Production aids granted on canned peaches, canned pears, canned fruit cocktail and dried grapes

- Panel report (L/5778)

The Chairman recalled that in March 1982, the Council had established a panel to examine the complaint by the United States. In June 1982, the Council had been informed of the Panel's composition and terms of reference. The Panel's report had been circulated in document L/5778.

Mr. MacNeil, Chairman of the Panel, introduced the report. He noted that the Panel had concluded that the production aids granted by the European Economic Community since 1978 to processors of peaches, and since 1979 to processors of pears, nullified or impaired benefits accruing to the United States from tariff concessions granted by the Community in 1974 on canned peaches, canned pears and canned fruit mixtures, and in 1979 on canned pears. The Panel could not conclude that the production aids granted to processors of dried grapes in the Community had nullified or impaired any tariff concession. In the final paragraph of its report, the Panel had suggested that the CONTRACTING PARTIES recommend to the Community that it consider ways and means to restore the competitive relationship between imported US and domestic EEC canned peaches, canned pears and canned fruit mixtures which derived from the tariff concessions granted on these products in 1974 and on canned pears in 1979.

The representative of the United States said that his delegation, while disappointed at the Panel's conclusion concerning dried grapes, considered that the report contained sound legal reasoning. The United States would not press for adoption of the report at the present meeting, and proposed that the Council revert to this item at its next meeting.

The representative of the European Communities agreed with the proposal to revert to this item at the next meeting.

The Council took note of the statements and agreed to revert to this item at its next meeting.

6. United States - Restrictions on imports of certain sugar-containing products

- Recourse to Article XXIII:2 by Canada (L/5783)

The representative of Canada noted that in L/5783 his delegation had placed two requests before the Council. The first was that the Council immediately establish a panel under Article XXIII:2. The Panel's task would be to examine the impairment caused to Canada as a result of US restrictions imposed on 28 January 1985 on certain sugar-containing products, to assess the appropriateness of the suspensions to be proposed by Canada with respect to imports from the United States, and to recommend, on the basis of these findings, that the Council authorize the implementation of the Canadian suspensions. He recalled that in granting the Section 22 waiver to the United States in their 1955 Decision (BISD 3S/32), the CONTRACTING PARTIES had recognized that import restrictions applied under the waiver could "... adversely affect the trade of a number of contracting parties, impair concessions granted by the United States and thus impede the attainments of the objectives of the General Agreement", and had declared that the waiver "... shall not preclude the right of affected contracting parties to have recourse to the appropriate provisions of Article XXIII". It had been under these terms that in 1952, on the basis of an assessment by a working party (BISD 1S/62), the CONTRACTING PARTIES had authorized the Netherlands to suspend concessions affecting US exports in response to US import restrictions imposed under Section 104 of the Defense Production Act (BISD 1S/32). In 1972, in response to a request from the United States for authorization to suspend concessions under Article XXIII:2 with respect to trade with France, the Council Chairman had stated that "... the Council normally would wish to seek the recommendations of a panel of experts on the question of the appropriateness of the US proposal, in particular as to the amount of trade coverage involved" (C/M/80, page 5). He added that Article XXIII:1 consultations with the United States on its recent import restrictions had not yet resulted in a satisfactory adjustment of the matter, but the consultations were continuing. However, in light of the immediate, damaging effect that the US restrictions were having on Canadian interests, Canada was asking for an immediate decision by the Council to establish a panel as proposed above.

Canada's second request had been that the Council agree, in principle, that the circumstances of this case could be serious enough to warrant the authorization of immediate suspensions on an interim basis, pending the result of the Panel's deliberations. Such an authorization would complement the US restrictions, which had been imposed on an interim basis pending the finding of the US International Trade Commission as to whether or not they were justified. A panel process took time; furthermore, the United States had not met the notification/consultation requirements of the 1955 Decision, but had simply extended the scope of its sugar restrictions. The restrictions applied to any sugar-containing product entering under the tariff items in question, no matter how small a proportion of the total product or total product cost was made up of sugar. In Canada's view, the restrictions went well beyond what was necessary under Section 22 to ensure that imports did not render ineffective or materially interfere with the US domestic support program for sugar cane and beets. They had also resulted in an immediate impairment of Canadian trade interests, since the quotas had been or soon would be exhausted, and imports of the products affected would be embargoed until 1 October 1985. In the light of these considerations, his delegation concluded that the Council should consider immediately authorizing interim suspensions. However, following consultations with the United States, Canada had decided not to press its second request at this time. His delegation was not withdrawing that request, even though such a withdrawal might later be possible if the bilateral consultations concluded satisfactorily.

The representative of the United States said his delegation believed that Canada's request for a panel was regrettable and premature. Bilateral consultations in this matter were continuing in an effort to find a mutually acceptable solution. Nevertheless, if Canada insisted that a panel be established, the United States would follow customary GATT practice and would not object. However, the United States believed that the actions against which Canada had complained were consistent with the terms and conditions of the Section 22 waiver, which provided for emergency action to be taken as provided by US law; the Panel would have to consider that point.

The representatives of Brazil and Colombia supported Canada's request for establishment of a panel.

The representative of the European Communities said that his delegation had an interest in this matter and reserved its right to make a submission to a panel.

The representative of New Zealand said that while products from his country had so far not been affected to any marked degree by the US action, the broader trade principles involved did concern his authorities. The twenty-seventh annual report (L/5772) by the United States included no details of significant progress, and the imposition

of further import restrictions placed the removal of the waiver still further in the future. While his delegation remained optimistic that the United States might be persuaded to work towards a commitment to alter the agricultural programs which had given rise to the waiver, possibly but not exclusively through the Committee on Trade in Agriculture, and that some progress might be made through the 1985 US Farm Bill, this would not provide a solution to the immediate problems faced by Canada and others. His delegation therefore supported Canada's request for establishment of a panel, and reserved its GATT rights to make submissions to it.

The representative of Australia said that his delegation hoped that continued bilateral discussions would solve this matter, but would not object to Canada's request for a panel.

The representative of the United States said his delegation agreed that given the world price of sugar, problems of trade in this sector needed to be addressed. Turning to the general issue of dispute settlement in GATT, he said that until the United States reached a better understanding with the European Community on other disputes, the dispute settlement process in GATT was all but dead between those two parties, as far as he was concerned.

The Council took note of the statements, agreed to establish a panel, and authorized the Chairman of the Council to draw up the Panel's terms of reference and to designate its Chairman and members in consultation with the parties concerned.

The representative of Jamaica referred to the issue of dispute settlement generally and asked if the Director-General could, at the next Council meeting, report on the status of work in panels and on the implementation of panel reports adopted by the Council.

The Chairman said that this request would be taken into consideration.

7. India - Auxiliary duty of customs (L/5780)

The Chairman recalled that by the Decision of 15 November 1973 (BID 20S/26), the CONTRACTING PARTIES had waived application of the provisions of Article II of the General Agreement to the extent necessary to enable the Government of India to apply its auxiliary duty of customs on certain items included in its Schedule XII. The waiver, which had been extended a number of times, was due to expire on 31 March 1985. He drew attention to a communication (L/5780) from India on this matter.

The representative of India said that his authorities had recently been considering whether it would be necessary to continue the levy of auxiliary customs duty beyond March 1985; such a decision would have to be approved by Parliament, which was due to consider the relevant Finance Bill on 16 March. In these circumstances, he proposed that the Council might agree to revert to this matter at its next meeting, when his delegation would be able to announce the Government's decision on the auxiliary customs duty: either that it would be terminated or, in case it was to be continued, to request a further extension which would be retroactive to 31 March 1985, so that there would be no interruption in the waiver. His delegation would respond to any request for further information concerning this matter which other delegations might want.

The representative of the United States congratulated India for respecting GATT provisions and procedures in this matter. His delegation hoped that at its next meeting the Council would either hear that the auxiliary customs duty had been terminated, or have a discussion on the reasons for a further extension being requested.

The Council took note of the statements and agreed to revert to this matter at its next meeting.

8. Committee on Balance-of-Payments Restrictions

(a) Statement by the Chairman of the Committee on consultations concerning proposals by Chile and Colombia

The Chairman recalled that in November 1984 the Council had agreed that the Chairman of the Committee on Balance-of-Payments Restrictions would hold consultations concerning the proposals by Chile and Colombia.

Mr. Feij (Netherlands), Chairman of the Committee, said that the purpose of these consultations had been to provide an opportunity for Chile and Colombia to present their arguments more fully, and to determine what practical implications might be drawn in the light of the reactions of other contracting parties. Pending the circulation of a full report[1], he made some personal observations on the background to the present proposals as well as to the earlier proposals by Brazil and the study by Korea. An increasing number of developing countries had recently taken or intensified balance-of-payments measures, leading to new calls for full consultations. At the same time, there seemed to be a widespread perception in consulting countries that market access had an important bearing on the restoration of confidence and the search for lasting solutions to balance-of-payments problems. From data in International Trade 1983/84, it was evident that the balance-of-payments

[1] Subsequently circulated as C/132.

difficulties of many developing countries, particularly in Latin America and Africa, had led to a marked decline in their imports from industrialized countries in 1981-1983. Moreover, the trade of 16 particularly indebted countries in 1984 showed a continued decline in imports from all sources (including other developing countries which themselves had balance-of-payments problems). The need for re-expansion of the import capacity of indebted countries was therefore also a question of the self-interest of their trading partners. In view of the size and likely duration of the debt problem, and the fact that the trade aspects of this situation had attracted much attention from several international organizations as well as GATT, he suggested that apart from the examination of these aspects in balance-of-payments consultations with individual countries, across-the-board consideration might also be given to this question by the Council or in some other appropriate GATT forum.

The representative of Chile said that her delegation would give its fullest co-operation towards ensuring that the report on the Chairman's consultations could be circulated as soon as possible and that it should be considered by the Council at its next meeting.

The representative of Colombia said that his delegation's proposal was supplementary to those made by Chile, Brazil and Korea, and went beyond the framework of the Committee. The aim of Colombia's proposal was to bring about a greater symmetry between the obligations of developed and developing contracting parties in the examination of import restrictions. Many restrictive measures taken by developed countries fell outside the scope of the General Agreement and were not the object of consultation in any GATT body. The Sub-Committee on Protective Measures had not produced the results expected of it, and the consultations under Part IV had been slow and without prospect of any result. Import restrictions adopted by countries such as his own were often taken because they faced closed markets for their products in developed countries. He quoted an UNCTAD study which showed, for example, that between 80 and 90 per cent of Colombia's exports faced non-tariff barriers in the European Community, Japan and Sweden. He believed that the matter should be looked at not only in the Committee but also in a broader forum.

The representative of Jamaica said his delegation supported the proposals by Chile and Colombia, and that the questions raised should be looked at in a broader context than the Committee. Such discussion should go beyond the linkage with indebtedness and should address the situation of the general imbalance in international trade.

The Chairman of the Committee said it was very difficult to distinguish exactly between the effects of balance-of-payments measures taken by severely indebted countries and of those taken by countries with balance-of-payments difficulties of a more or less ad hoc nature. Debt problems would not go away in the short run; and import restrictions for balance-of-payments reasons affected exports from developed and developing countries alike. He would not suggest that attention should be focussed exclusively on balance-of-payments measures taken by or affecting indebted countries, but wanted to stress the wider implications of measures taken for balance-of-payments reasons.

The representative of the European Communities said his delegation hoped that the remaining points which needed clarification, and which seemed to be essentially procedural, could soon be resolved. He cautioned that many aspects of the method used to obtain the figures cited by the representative of Colombia were open to challenge. The Community would not oppose a broader examination of problems involved in balance-of-payments restrictions, but such discussion would have to be well prepared, and careful thought would have to be given on which GATT forum would be appropriate.

The representative of Japan said that opinions diverged as to where such discussion should be held. For the time being, Japan considered it would be premature to hold such discussion either in the Council or in a GATT forum other than the Committee. He added that his delegation questioned the figures which had been cited by the representative of Colombia.

The Council took note of the statements.

(b) Designation of a new Chairman

The Chairman noted that Mr. Feij (Netherlands) was stepping down as Chairman of the Committee. Following informal consultations with delegations, he proposed that the Council appoint Mr. Girard (Switzerland) as the new Chairman of the Committee.

The Council so agreed.

9. Japan - Quantitative restrictions on imports of leather footwear

The representative of the United States, speaking under "Other Business", said that his authorities had asked for Article XXIII:1 consultations with Japan to discuss Japanese restrictions on imports of leather footwear. He noted that Japan's system of restrictions on such imports was virtually identical to those features of the system on leather imports which had been found to be inconsistent with the General Agreement.

The representative of Japan said that his Government was ready to accept the US request for such consultations.

The representative of the European Communities said that Community exporters were competitive in this sector. For many years the Community had held bilateral contacts with Japan to ask for enlargement of Japanese quotas for footwear imports, but in vain. The Community would thus follow with interest the consultations between the United States and Japan on this matter, and would look forward to results which would benefit all contracting parties.

The Council took note of the statements.

10. United States - Imports of automobiles

The representative of the United States, speaking under "Other Business", referred to calls which had been made for confidence-building moves that might lead to a new round of multilateral trade negotiations in GATT. He believed that one such move had been made by the President of the United States in announcing on 1 March 1985 his decision not to urge Japan to extend its voluntary export restraints on automobiles to the United States; in taking this action, the President had expressed the hope that the United States could look forward to reciprocal treatment by Japan. The representative of the United States added that a number of other countries still maintained automobile restraints which were stricter than those referred to in the President's announcement. His delegation was looking forward to equivalent trade-liberalizing action by the European Community.

The representative of Japan welcomed the decision by the US President, and noted with satisfaction that the US automobile industry had recently scored successes. Japan saw the decision as a confidence-building step for the GATT system.

The representative of the European Communities said that the US decision was encouraging. He did not exclude the possibility that the US example might be followed by other moves taken by the United States' trading partners, but he stressed his delegation's view that each major trading partner would have to contribute its fair share to such efforts.

The representative of the United States reiterated the hope expressed by the President that the United States could look forward to reciprocal treatment by Japan.

The Council took note of the statements.

11. Training activities

The representative of India, speaking under "Other Business", recalled that at the Council meeting in November 1984, the Director-General had said that he would hold consultations with delegations concerning the GATT commercial policy training courses. He

said that developing countries in GATT wanted to know what arrangements the Director-General was making for an in-depth discussion of the content, objectives and organization of the courses, so that the results of these discussions could be given to the Committee on Budget, Finance and Administration when it examined the budgetary and financial implications of the courses. It would also be useful if the Secretariat could circulate a background note explaining current policy for the courses.

The Director-General said that the Secretariat had prepared such a background note, and that he intended to hold consultations in the near future. The consultations would, in the first stage, examine the courses independently of financial considerations; the budgetary aspects could later be examined and decided upon by the Committee on Budget, Finance and Administration.

The Council took note of the statements.

12. Tentative program of meetings

The representative of India, speaking under "Other Business", noted that the Secretariat was preparing a tentative program of meetings for the coming months. He suggested that it would be useful for the Secretariat to consult with delegations on this process, so that they could see the tentative program in its entirety and allocate their resources in the best possible manner.

The Director-General pointed out that he had consulted with the chairmen of the various GATT bodies in the preparation of a tentative program of meetings designed to help both delegations and the Secretariat organize their work in a rational way. Another concern, which had been expressed by the Committee on Budget, Finance and Administration, was to avoid scheduling meetings simultaneously whenever possible, which increased costs for interpretation. The tentative program would serve as a basis for any consultations among delegations concerning its content.

The representative of Egypt supported the statement by the representative of India.

The representative of Argentina said that the various points in the 1982 Ministerial Work Program did not enjoy the same degree of transparency.

The representative of the United States saw the tentative program of meetings as an effort to move discussion on the various points in the Work Program beyond procedure to substance, and said that some additional meetings might be needed.

The Council took note of the statements.

13. United States - Agricultural Adjustment Act

The Chairman recalled that on 29 January 1985, the Council had established a working party to examine the twenty-seventh annual report by the United States, and had authorized him to draw up the terms of reference and to designate the Chairman of the Working Party in consultation with interested delegations.

As a result of those consultations, he announced the following terms of reference and composition for the Working Party:

Terms of reference: "To examine the twenty-seventh annual report (L/5772) submitted by the Government of the United States under the Decision of 5 March 1955, and to report to the Council."

Membership: Membership would be open to all contracting parties indicating their wish to serve on the Working Party.

Chairman: Mr. Lacarte (Uruguay)

The Council took note of this information.

14. Consultative Group of Eighteen

The Director-General gave a brief account of the February 1985 meeting of the Consultative Group of Eighteen, noting that the Group would report on its activities to the Council at the end of the year in the normal way. He noted that he had put the following three questions to members of the Group in advance of the meeting: (i) what were the concrete results which each member would wish to see emerge from the Work Program and over what time-scale? (ii) what actions would each member's government be prepared to consider as a possible contribution to the achievement of these results? (iii) what could be done to give a sense of urgency and forward movement to the work, bearing in mind the pressing and generally recognized need to strengthen and restore confidence in the trading system? He said that his purpose in putting these questions had been to focus attention on what he considered to be the essential issue confronting GATT at present, i.e. what practical objectives did contracting parties hope to achieve through pursuit of the Work Program, and by what means did they expect to attain them?

There had been agreement in the Group that the present state of the trading system was a matter for serious concern. The degree of concern expressed naturally varied as between speakers, and there had been warnings against the danger of excessive pessimism, but there had been no disagreement about the need for action to restore confidence in the trading system and in the capacity of governments to follow coherent and mutually supportive trade policies. He had been conscious that the three questions put to the Group were difficult and that members would probably not be able, in a first discussion, to reach common views on them, or even perhaps be very explicit as to their individual views.

But he had appreciated their readiness to speak frankly, because it was necessary to confront the fact that the present trend of trade policy was not satisfactory and was not likely to become so in the absence of a purposeful and concerted effort. This debate would have to be pursued further, and he hoped that the Group would meet again to do so at an early date.

He added that there had also been some discussion of the fact that trade policy would be discussed in the coming weeks in other fora, and particularly in a number of high-level meetings. He had informed the Group that at the forthcoming special meeting of the Development Committee of the World Bank and the International Monetary Fund he would give a short account, on his own responsibility, of the state of trade and trade policy, and of current work in GATT as they related to the wider context of the monetary and resource transfer operations, which were the essential preoccupation of the Development Committee.

The representative of Jamaica hoped that the Director-General would give such reports to the Council after each meeting of the Group in future. His delegation wanted to stress, in the context of the forthcoming meeting of the Bank-Fund Development Committee, that finance should serve trade, and not vice-versa. Also, he wanted to reiterate the need for urgent consultations aimed at making the Group more representative.

The representative of the United States questioned the usefulness of highlighting one or other aspect of the Director-General's reports on the Group's discussions. He agreed that the Group should be made more representative, and to that end it was necessary to use the value or volume of each contracting party's trade as a major determining factor to see which contracting parties should be represented in the Group.

The Council took note of the statements.

15. Study Group

The Director-General recalled his announcement at the thirty-ninth session of the CONTRACTING PARTIES in November 1983 that seven eminent persons had accepted his invitation to examine the problems facing the international trading system, and to consider how these might be overcome during the remainder of the 1980s. The Chairman of the Study Group, Mr. Leutwiler, had now informed him that the Group would publish its report on 27 March 1985; on that date, he would formally transmit the report to the Director-General and would also introduce it to the press in Geneva. Because the Group had looked at trade policy issues in the wider context of economic policy as a whole, the report had an obvious relevance to the special session of the World Bank/International Monetary Fund Development Committee to be held in April 1985; copies would therefore be sent to the members of the Committee in time for that meeting.

The Council took note of this information.