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GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL
4 February 1987

MINUTES OF MEETING

Held in the Centre William Rappard
on 4 February 1987

Chairman: Mr. A. Oxley (Australia)

The Chairman, on behalf of the Council, welcomed Tanzania as a member of the Council.

1. Accession of Morocco
- Further extension of the date for signature of the Protocol
(L/5967 and Add.1, L/6124)

The Chairman recalled that in October 1986, the Council had agreed to amend the date in paragraph 5 of Morocco's Protocol of Accession to 31 December 1986.

The representative of Morocco, speaking as an observer, asked the Council to extend to 1 June 1987 the deadline for signature of his country's Protocol of Accession in order to allow his authorities to fulfill all the requirements for such accession. He informed the Council that all the relevant negotiations with contracting parties had been successfully completed and were reflected in Morocco's Schedule LXXXI, circulated in L/5967/Add.1. He drew attention to the communication in L/6124 concerning the special import tax, and confirmed Morocco's agreement that the CONTRACTING PARTIES carry out in 1990 a review of the progress achieved in the planned gradual inclusion of this tax in the duty rates. He invited contracting parties to cast their vote as soon as possible on Morocco's accession.

The Council took note of the statement and of the information in L/6124, agreed to amend the date in paragraph 5 of Morocco's Protocol of Accession to 1 June 1987, and agreed that in 1990 the CONTRACTING PARTIES would carry out a review of the progress achieved in the planned gradual inclusion of the special import tax in the duty rates applied by Morocco.

2. Japan - Quantitative restrictions on certain agricultural products - Panel terms of reference and composition

The Chairman recalled that in October 1986, the Council had agreed to establish a panel to examine the complaint by the United States, and had authorized the Chairman of the Council to draw up the terms of reference and to designate the Chairman and members of the Panel in consultation with the parties concerned.

The representative of the United States expressed his delegation's grave concern and serious regret that this panel, established in October 1986, still had not been composed. Two factors, among others, which had contributed to the delay in setting up this panel, were symptoms of broader problems facing the GATT dispute settlement system and therefore had wider implications. The first was the Japanese delegation's refusal to agree to the standard terms of reference as set forth in paragraph 16 of the 1979 Understanding[1]. The practice of "negotiating" terms of reference in GATT disputes had become too frequent and should be addressed in the Uruguay Round. The second factor was the difficulty in composing the panel, which had been due not to the failure of the parties to agree to candidates, but to the unavailability of persons to serve as panelists. This was a very serious problem that also deserved attention in the Uruguay Round, but its resolution could not await the outcome of those negotiations. The effective functioning of the dispute settlement system depended both upon the cooperation of the parties to a dispute as well as on the support of all other contracting parties. He hoped that it would be possible to report very soon that a panel had been composed and had begun its work.

The representative of Japan said that since the establishment of this Panel in October, his country had spared no effort to arrive at a mutually satisfactory settlement on the Panel's terms of reference and composition. Concerning the terms of reference, the question was not whether these should be standard terms, but whether they would enable the Panel to make a clear and fair finding. As to composition, he shared the US concern that it had not been possible to designate the members promptly. Many candidates had been unavailable to serve as panelists either because of the demands of the Uruguay Round or an apparent conflict of interest in the matter to be examined.

The representative of Canada recalled that in previous Council consideration of this matter, his delegation had expressed its interest in the complaint and had reserved its right to make a submission to the Panel. He regretted the delay in getting this Panel underway, and shared

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[1] Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/210).

the concern expressed by the United States and Japan that in spite of agreement on two separate occasions, the Panel's composition had yet to be set. Canada attached importance to an effective and efficient dispute settlement system, and delays in the established procedures could only erode confidence in that system. Contracting parties shared a collective responsibility to ensure the effective operation of the system.

The representative of the European Communities recalled that the Community, as a large exporter of agricultural products, had already expressed its interest in the matter. The Community, too, found it regrettable that months had been lost in discussing the Panel's mandate since it was for the Panel itself to assess the facts and to make the appropriate recommendations. As to composition, it was a real problem to find individuals with GATT experience and willing to serve on panels; the Community had encountered similar problems. The solution was not necessarily to be found in the Uruguay Round, since it was rather a question of cooperation among contracting parties. Everyone at some point should accept a kind of "civic service" in a panel.

The Director-General said that on the positive side of the issue, there were some people in the room who had shown a great readiness to serve on panels and that note should be taken of that fact. On the negative side was the increasing difficulty of finding persons available to assume the responsibilities involved in panel work. While it was not always popular to serve on a panel, making it possible for individual experts to do so was part of governments' commitment to the functioning of the dispute settlement process. He suggested that in looking for panelists, the choice need not be limited to Geneva-based delegations. On the one hand, one could look outside the limited circle of government delegates; on the other, there were suitable candidates in capitals. The advantages of having a much wider circle of qualified candidates would, in his opinion, more than outweigh the practical disadvantages of using panelists not based in Geneva. He recalled that for over a year there had been a roster of non-governmental panelists from which persons had already been chosen as panelists through the usual selection procedure. Recourse could be had more frequently to this source, even outside the special procedure for which the roster had been established.

The Council took note of the statements and agreed to revert to this item at its next meeting unless the Chairman had informed delegations in the meantime that the Panel's terms of reference and composition had been agreed after consultations with the parties concerned.

3. Japan - Restrictions on imports of herring, pollock and surimi - Recourse to Article XXIII:2 by the United States (L/6070)

The Chairman recalled that this matter had been considered by the Council at its two meetings in November 1986, and that there had been discussion on it at the CONTRACTING PARTIES' Forty-Second Session later that month.

The representative of the United States informed the Council that on 30 January 1987, the United States and Japan had concluded a fourth round of bilateral consultations under Article XXIII:1 in an effort to resolve their complaint. He recalled that the United States had already requested the establishment of a panel on three occasions, and said that on the basis of progress made in discussions held in the previous week, the two parties had agreed to continue consultations for one more month in an effort to reach a satisfactory solution. Therefore, the United States would not ask that a panel on fisheries be established at the present meeting, but would re-instate its request at the March Council meeting if bilateral consultations had not produced a satisfactory adjustment by that time. The United States understood that Japan, in turn, would not request or impose any delays in the formation of the panel or in subsequent proceedings, in the event that bilateral consultations failed to produce a mutually satisfactory solution.

The representative of Japan expressed the hope that a mutually satisfactory solution could be reached as promptly as possible within the Article XXIII:1 consultations.

The Council took note of the statements and agreed to revert to this matter at its next meeting, should either party so request.

4. Customs unions and free-trade areas; regional agreements - biennial reports
   - Agreements between the European Communities and Austria (L/6110), Finland (L/6115), Iceland (L/6116), Norway (L/6117), Portugal (L/6118), Sweden (L/6119) and Switzerland (L/6120)

The Chairman drew attention to documents L/6110 and L/6115 through L/6120, containing information furnished by the parties to the Agreements between the European Communities and the member States of EFTA.

The representative of New Zealand drew attention to the third paragraph in each of the documents and noted that while the parties to the Agreements considered that the measures involved were in accordance with GATT provisions concerning the establishment of free-trade areas, none of the working parties on the respective Agreements had reached any unanimous conclusion on that subject. It was his delegation's view that subsequent events had not changed the status of the Agreements; New Zealand therefore reserved its rights in this respect. Regarding the parties' assumption that it would not be necessary to submit further biennial reports, he recalled the 1971 Decision of CONTRACTING PARTIES (SR.27/12, p.167) instructing the Council to establish a calendar fixing dates for the examination every two years of reports on regional agreements. Accordingly, New Zealand reserved its rights on the parties' statement of intent regarding both the 1971 Decision and the claim that free-trade areas had been achieved and that these were in conformity with the General Agreement.

The representative of Australia endorsed the statement by New Zealand.

The representative of Chile associated his delegation with the statements by New Zealand and Australia and reserved Chile's rights in this matter. His delegation asked for further reports on these Agreements. While the formation of customs unions and free-trade areas had made international trade more multilateral, his country was concerned that this involved the most industrialized countries and further aggravated the gap between North and South.

The representative of Argentina shared the views expressed by New Zealand, Australia and Chile with regard to reserving its rights on this matter, pending further reports on the establishment of free-trade areas among contracting parties. He stressed Argentina's concern over the erosion, resulting from these Agreements, of preferences granted to developing countries under Part IV; in fact, these countries were facing a situation of negative preferences.

The representative of the United States said his delegation believed that in taking note of these reports, the Council would not be endorsing the views contained therein. It should be clear that the Council took note of them without prejudice to the views of third parties not party to the Agreements, including the United States, as to whether the Agreements had fulfilled the terms of Article XXIV. The United States reserved its rights with respect to that question, and would also object to the discontinuation of biennial reports in the absence of a more comprehensive GATT review of the justification for that change. His delegation endorsed New Zealand's approach to the latter question.

The representative of Canada reserved his delegation's rights regarding the unilateral statements made by the parties to these Agreements and regarding the discontinuation of reporting on them.

The representative of Nicaragua agreed with previous speakers, in particular New Zealand and Argentina.

The representative of the European Communities said his delegation did not contest the fact that in the working parties in question, some contracting parties had reserved their rights regarding the compatability of the Agreements with Article XXIV. However, the Community maintained the opinion it had expressed at that time. Regarding biennial reporting, the purpose was to confirm to contracting parties that the provisions of the Agreements were in fact being applied. This point had been clearly underlined in the Working Party's report on ANZCERT, for which the Working Party had been unable to reach conclusions on its GATT compatability (L/5664). In that case, it had been agreed that the parties should submit biennial reports up until the time when transitional measures were concluded. It was in this context that the parties to the Agreements under discussion had indicated in the

respective reports that further reporting did not seem necessary. It was hard to know what information the parties concerned would put in subsequent reports where there was nothing substantial to report. Should there be any substantial modification to the Agreements, the parties would naturally submit full information on such to contracting parties.

The representative of Switzerland, speaking on behalf of the EFTA countries, said that those countries confirmed the views expressed by the Community. He stressed that the EFTA countries' interpretation of this matter was very different from that of New Zealand, Australia and those holding similar views. He said that procedures should not be mixed up with substance, and that the question of biennial reporting had to do with procedure. The procedure suggested, which was the same as that proposed for the comparable agreement between Australia and New Zealand, aimed at simplifying the review of the Agreements in question without in any way affecting their substance, since their objectives had been met. His delegation supported that procedural suggestion.

The representative of New Zealand said that procedural problems often masked those of substance. New Zealand was merely reserving its rights on the question of the need for further reports on these agreements.

The Council took note of the statements and of the reports.

5. Committee on Balance-of-Payments Restrictions

Mr. Girard (Switzerland), Chairman of the Committee on Balance-of-Payments Restrictions, said that on 10 December 1986 the Committee had conducted a full consultation with the Philippines under Article XVIII:12(a) and had completed its simplified consultation with Nigeria under Article XVIII:12(b). The relevant reports were contained in BOP/R/164 and 165 respectively.

The Committee had noted that since the most recent consultation, the Philippines had pursued a balanced package of domestic and external adjustment policies which had led to a considerable improvement in the balance-of-payments situation. Restructuring of the external debt had also made a major contribution to this evolution. Remaining import restrictions covered by the present program were limited in scope, and the Government had undertaken to notify in detail all such remaining measures. The Committee had encouraged the Philippines authorities to maintain their adjustment, liberalization and flexible exchange rate policies, and had expressed the hope that these policies would bring about a sustainable improvement in the country's balance of payments. It had also recognized the importance to the Philippines of continuing external financial support, and looked forward to the phasing out of remaining restrictions by end-April 1988. Since the consultations, the Philippines had notified products subject to import licensing which would be liberalized between now and 1988 (BOP/269/Add.2).

Regarding Nigeria, the Committee had considered that full consultations were not necessary, and was recommending to the Council that Nigeria be deemed to have fulfilled its obligations under Article XVIII:12(b) for 1986.

As for the Committee's tentative schedule of consultations for 1987 (C/W/511), full consultations with Greece and Peru, as well as simplified consultations with Colombia and Turkey, were expected to be held in June. A notification (L/5945/Rev.1/Add.2) had been received recently from the European Economic Community and Greece, concerning products for which the Greek prior import deposit requirement had been eliminated as of October 1986. A second meeting in October was expected to comprise full consultations with Egypt, Korea and Israel as well as simplified consultations with Brazil, Ghana, Pakistan, Sri Lanka and Tunisia. The date for the full consultation with India was still under discussion.

The Council took note of the statement.

(a) Consultation with the Philippines (BOP/R/164)

The Council adopted the report.

(b) Consultation with Nigeria (BOP/R/165)

The Council adopted the report and agreed that Nigeria be deemed to have fulfilled its obligations under Article XVIII:12(b).

(c) Schedule of consultations for 1987 (C/W/511)

The Council took note of the information in C/W/511.

6. United States - Trade measures affecting Nicaragua
- Panel report (C/W/506, L/6053)

The Chairman recalled that at their Forty-Second Session, the CONTRACTING PARTIES had referred this matter back to the Council. He had been informed that the delegations principally interested in this matter did not wish to speak on it at today's meeting, and accordingly suggested that the Council defer consideration of this item.

The Council so agreed.

7. Japan - Customs duties, taxes and labelling practices on imported wines and alcoholic beverages
- Recourse to Article XXIII:2 by the European Economic Community (L/6031 and Add.1, L/6078)

The Chairman recalled that this matter had been considered by the Council at its two meetings in November 1986, and that there had been discussion on it at the CONTRACTING PARTIES' Forty-Second Session later

that month. Following consultations between the interested delegations, he proposed that the Council agree to establish a panel as follows:

Terms of reference

"To examine, in the light of the relevant GATT provisions, the matter referred to the CONTRACTING PARTIES by the European Communities in document L/6078 and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided for in Article XXIII:2."

Composition

Chairman: Mr. M. Tello

Members: Mr. D. Bondad
Mr. C. Kauter

The Council so agreed.

The representative of Japan said that his delegation had no objection to the establishment of a panel in accordance with GATT dispute settlement procedures, and would accept the proposed terms of reference and composition. He then outlined measures taken by his Government in December 1986 in response to the specific requests made to Japan. With regard to the liquor tax, the measures included the abolition of the ad valorem tax, the reduction of the specific tax and the abolition of the rating system for whisky. Regarding the customs tariff on alcoholic beverages, Japan had informed the Community of its intended unilateral tariff rate reduction of 30 per cent in principle. As for labelling, a self-imposed standard covering various items had been established by the Japanese wine industry in response to the Community's requests. He added that despite having been repeatedly asked, the Community had yet to explain the extent to which these new measures were satisfactory and what matters it still considered unsolved. Japan asked the Community to make such an explanation as early as possible, prior to or at the beginning of the panel proceedings.

The representatives of Canada, Finland, the United States, Chile, Australia, Yugoslavia and Argentina reserved their delegations' right to make a submission to the Panel.[1]

The representative of Canada said that the changes announced by Japan in December had solved a number of problems but had not completely solved those involving whisky. Canada was the third largest exporter of whisky to Japan after the Community and the United States. Under the

[1] See Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance, paragraph 15 (BISD 26S/213).

changes proposed, the top two grades of the current three-grade system would be merged to form one grade called "whisky", and the lowest grade would be reclassified as "spirits". While taxes on the lowest grade would be lowered in January 1988, producers did not have to change the labelling of the product from "whisky" to "spirits" until January 1990. The tax difference would be substantial, and "whisky" would continue to be taxed at a higher rate than most other types of liquors. Canada was concerned that this was inconsistent with Article III of the General Agreement.

The representative of the European Communities said that Canada's statement had replied to many of the questions raised by Japan regarding the measures in question. The Community did not consider that it had received satisfaction, and it would be for the Panel to examine this matter and to judge on it. The Community would not respond to the request made by Japan regarding explanation of its argument, as this would also be done in the Panel.

The representative of the United States expressed concern that Japan's policies on taxes and tariffs gave preferential treatment to domestic products and discriminated against imported products. Both the Community and the United States had discussed these matters bilaterally with Japan over the past few years. While Japan had proposed some changes that would result in more equal treatment of imported and domestic products, other issues -- most importantly the whisky tax classification -- had not been resolved. His delegation hoped that all parties involved in this dispute would approach it with a spirit of cooperation.

The Council took note of the statements.

8. United States - Tax on imported petroleum and petroleum products[1]
   (a) Recourse to Article XXIII:2 by Canada (L/6085, L/6121)
   (b) Recourse to Article XXIII:2 by the European Economic Community (L/6080, L/6123)
   (c) Request by Mexico for the Good Offices of the Director-General (L/6114)

The Chairman suggested that the Council consider the three sub-items at the same time, stressing that each sub-item related to a separate complaint.

The representative of Canada recalled that his delegation had first raised this issue in GATT at the Council's October 1986 meeting. Thereafter, consultations had been held under Article XXII:1 on

[1] Earlier considered by the Council on 27 October 1986. See C/M/202, item 8 - United States Superfund Reauthorization and Amendments Act.

21 November, in which Canada had raised concerns over certain provisions of the Superfund Amendments and Authorization Act of 1986 which had introduced a discriminatory tax by the United States on imported petroleum and petroleum products. The tax was 3.5 cents per barrel higher than that imposed on domestic products, and the tax on imported chemical derivatives provided, inter alia, for the arbitrary imposition of a five per cent tax if the importer did not provide sufficient information. In Canada's view, these provisions were inconsistent with the GATT obligations of the United States. Moreover, benefits accruing to Canada under the General Agreement were being nullified and impaired. As the Article XXII:1 consultations had not resulted in a satisfactory resolution of this matter, Canada requested the establishment of a panel to examine its complaint. Two other contracting parties envisaged the establishment of such a panel, and Canada agreed to cooperate with the parties to this dispute in establishing terms of reference -- on the understanding that these would cover both the tax on petroleum products and on chemical derivatives --, in designating panelists and in determining the panel's schedule. However, Canada reserved its full rights under the General Agreement and with respect to panel procedures. His delegation preferred that the panel make three separate reports but was willing, in the interest of efficiency, to consider procedural proposals that would not impair Canada's rights or limit Canada's options in this case.

The representative of the European Communities said that a procedural solution should be found so that a single panel could deal with the three complaints, on the understanding that the Panel would look at the specific details of each complaint. As Canada had said, each complainant would protect his own rights, as these might differ among the parties. The Community, like Canada, wanted the panel to deal both with petroleum products and with petrochemical products as both involved a violation of Article III, even though the tax on petrochemical products would be applied later. Whether there should be separate reports would be decided in the course of the panel procedure, but it was the right of each complainant to ask for a separate report.

The Director-General said that, as indicated in document L/6114, Mexico had requested his good offices under the 1966 Procedures (BISD 14S/18) in connection with its complaint against the United States related to the US tax on imported petroleum and petroleum products. As a result of his consultations on this matter with the interested delegations and taking into account that two requests for a panel in the same matter were before the Council, he could inform contracting parties that Mexico and the United States had agreed that this matter be pursued in a panel.

The representative of the United States said that his delegation would not object to the establishment of a panel at the present meeting because the arrangements worked out with the other parties to this dispute would fully protect US rights under the General Agreement. The establishment of a panel in this case was without prejudice to the US

position that the effect of the petroleum tax was nil or minimal. The Superfund tax was not intended to, and would not, affect trade adversely; it was intended to contribute to the important objective of cleaning up environmental pollutants. His delegation expected the panel to consider these points fully in its deliberations. He said that the United States was free to take the position in the panel that its findings should not cover the proposed future tax on chemical derivatives mentioned by Canada and the Community in their respective complaints. That tax was not currently in effect and had to be implemented through regulations as yet not drawn up. In the absence of specific provisions to address, his delegation believed there was no reason for the panel to rule on that issue.

The representatives of Nigeria, Kuwait, Norway, Indonesia, Australia, Colombia, Malaysia, Argentina and Chile[1] reserved their delegations' right to make a submission to the Panel.

The representative of Nigeria said his delegation regretted that the procedures initiated by Mexico on this matter had not yielded a satisfactory result. Nigeria, as an oil exporter to the United States, had an interest in this matter and hoped that some agreement might be reached with the United States in the shortest time possible. His delegation supported the suggestion that for efficiency and expediency, a single panel might deal with all the issues involved.

The representative of Norway expressed the hope that the parties involved could agree on a procedure to facilitate the panel's proceedings and to avoid duplication in its work.

The representative of Australia welcomed the spirit of cooperation that had prevailed in the establishment of this panel, and in particular, the US willingness to agree to a panel.

The Chairman then proposed that the Council take note of the statements and of an understanding which he would read out, and agree to establish a panel with the following terms of reference:

> "To examine, in the light of the relevant GATT provisions, the matters referred to the CONTRACTING PARTIES by
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> (a) Canada in document L/6085,
> (b) the European Economic Community in document L/6123, and
> (c) Mexico in document L/6114,
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> and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided for in Article XXIII:2."

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[1] See Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance, paragraph 15 (BISD 26S/213).

The Chairman then read out the following Understanding on the organization of the Panel's work.

"1. The Panel will organize its examination and present its findings to the Council in such a way that the procedural rights which the parties to the dispute would have enjoyed if separate panels had examined the complaints are in no way impaired. If one of the complainants so requests the panel will submit a separate report on the complaint of that party.

"2. The written submissions by each of the complainants will be made available to the other complainants and each complainant will have the right to be present when one of the other complainants presents its views to the Panel."

He then proposed that the Council authorize him to designate the Chairman and members of the Panel in consultation with the parties concerned.

The Council so agreed.

The representative of Mexico thanked the Director-General for his good offices. His delegation was also grateful for the United States' cooperation in this matter, and hoped that the Panel would find a satisfactory solution and that the procedure used would be a good precedent in the GATT dispute settlement system.

The Council took note of the statement.

9. Committee on tariff concessions
- Designation of the Chairman and Vice-Chairman

The Chairman recalled that at its meeting on 25 January 1980, the Council had established the Committee on Tariff Concessions and had authorized the Council Chairman to designate the Chairman and Vice-Chairman of the Committee in consultation with interested delegations. He informed the Council that Mr. F. Montgomery (United States) and Mr. F. Morales (Chile) had been designated, and had agreed to serve, as Chairman and Vice-Chairman respectively for 1987.

The Council took note of this information.

10. Dispute settlement procedures - Roster of non-governmental panelists
- Proposed nomination by Peru (C/W/510 and Corr.1)

The Chairman recalled that in November 1985, the Council had approved a list of non-governmental panelists in document L/5906 and had agreed in November 1986 to extend the list for an additional year.

The representative of Peru gave additional information on the nominee proposed in C/W/510 and Corr.1. Peru's intention in proposing this nomination was to respond to the Director-General's invitation that all contracting parties contribute to the dispute settlement process.

The representative of the European Communities welcomed the proposed nomination and informed the Council that for technical reasons the Community would soon propose the addition of new names and the withdrawal of others from the roster.

The Council took note of the statements and approved the proposed nomination by Peru.

11. United States - Customs user fee (L/6113)[1]

The representative of the European Communities, speaking under "Other Business", said that concerning the new US customs user fee legislation, consultations had been held with the United States under Article XXII:1 in December 1986 and under Article XXIII:1 in January 1987. These consultations had clarified some points but had not allayed the Community's fears that these taxes, which went beyond what GATT allowed in this respect, would have an impact on trade, and in particular the Community's trade. The Community reserved its right to request the establishment of a panel at the next Council meeting.

The representative of the United States, referring to the text of the customs user fee legislation notified by his delegation in L/6113, said that additional factual information regarding these fees had been provided in the plurilateral consultations held in December with a number of contracting parties, and repeated some of the points made in those consultations. It had been the clear intention of the US Congress to enact a user fee that was consistent with US obligations under the General Agreement. Articles II:2 and VIII clearly permitted a contracting party to impose at any time on the importation of any product, fees or other charges commensurate with the cost of services rendered, as long as the fee was limited to the approximate cost of services rendered and was not indirect protection to domestic products or a tax on imports for fiscal purposes. He then explained how the United States had fulfilled these criteria. Some contracting parties had maintained in the consultations that a customs fee assessed on the basis of value was per se inconsistent with the General Agreement. In the US view, that was flatly incorrect. A 1986 US Customs Service survey had indicated that 47 contracting parties, as well as Morocco and Tunisia,

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[1] Earlier considered by the Council on 27 October 1986. See C/M/202, item 9 - United States - Omnibus Budget Reconciliation Act.

charged some type of user fee. Seventeen contracting parties imposed user fees on an ad valorem basis or a basis that was related to the value of goods, namely France, Greece, Brazil, Egypt, Hong Kong, Hungary, Iceland, Mexico, New Zealand, Peru, Rwanda, Senegal, Switzerland, Tanzania, Turkey, Yugoslavia and Zambia. Almost all such fees were significantly higher than the US fees on a nominal basis, and were levied on the basis of CIF rather than FOB value. He was confident that a panel would find that the United States had met the criteria of Article VIII in this case, and believed a panel could not and should not find that ad valorem user fees were per se inconsistent with the General Agreement. He asked all delegations, including the Community's member States, to reflect on this matter carefully before it came up again in the Council.

The representative of Canada said his delegation did not agree that 18 contracting parties could not be wrong. Canada remained concerned that the new legislation was inconsistent with US GATT obligations. In the Article XXII:1 consultations, Canada had raised questions to which it was awaiting a reply in continued consultations with the United States before considering further recourse.

The representative of Australia said his delegation supported the Community in seeking a decision to solve this issue once and for all.

The representative of Japan reiterated his delegation's concern and interest in this matter and said the situation should be clarified.

The representatives of India, Switzerland, Singapore, Mexico, Chile, Thailand, Peru, Malaysia, Indonesia and New Zealand said that their delegations wanted to participate in the consultations.

The Council took note of the statements.

12. State trading
- Japan - Livestock Industry Promotion Corporation

The representative of Australia, speaking under "Other Business", recalled that at the 21 November 1986 Council meeting, his delegation had raised several questions concerning Japan's notification of the Livestock Industry Promotion Corporation (LIPC) as a state-trading body responsible for beef imports. His delegation had been exploring this matter bilaterally with the Japanese and was expecting answers to its questions in the near future. His delegation would, as appropriate, keep the Council informed of developments.

The representative of Japan said that his authorities were still studying some of Australia's questions and were exploring them bilaterally. His Government had been examining how best to furnish information on the LIPC's import mark-up and was prepared to inform contracting parties on this matter as promptly as possible.

The Council took note of the statements.