

GENERAL AGREEMENT ON

RESTRICTED

C/M/239

7 March 1990

TARIFFS AND TRADE

Limited Distribution

COUNCIL

20 February 1990

MINUTES OF MEETING

Held in the Centre William Rappard
on 20 February 1990

Chairman: Mr. Rubens Ricupero (Brazil)

	<u>Page</u>
<u>Subjects discussed:</u> 1. Accession of Tunisia	2
- Report of the Working Party	
2. Accession of Bulgaria	4
- Consultations on procedural aspects of the Working Party	
3. Protocol for the accession of Poland	5
- Communication from Poland	
4. United States Agricultural Adjustment Act - Thirty-second annual report by the United States under the Decision of 5 March 1955	6
5. United States - Restrictions on the importation of sugar and sugar- containing products applied under the 1955 Waiver and under the Headnote to the Schedule of tariff concessions	6
- Panel report	
6. European Economic Community - Restrictions on exports of copper scrap	8
- Panel report	
7. Thailand - Restrictions on importation of and internal taxes on cigarettes	9
- Recourse to Article XXIII:2 by the United States	
8. Korea - Restrictions on imports of beef	10
- Follow-up on the Panel reports	
9. Committee on Balance-of-Payments Restrictions - Programme of consultations for 1990	13
10. United States - Anti-dumping review on cut flowers from Colombia	13
11. United States - Countervailing duty on pork from Canada	14
- Panel terms of reference and composition	
12. Canada - United States Free-Trade Agreement	15
- Working Party chairmanship	

1. Accession of Tunisia
- Report of the Working Party (L/6277, Add.1 and Add.1/Corr.1)

The Chairman recalled that at their Thirty-Seventh Session in November 1981, the CONTRACTING PARTIES had appointed a Working Party to examine Tunisia's application to accede to the General Agreement under Article XXXVIII. At its meeting in February 1988, the Council had considered the report of the Working Party (L/6277) together with the draft Decision and Protocol of Accession annexed to it, and had agreed to revert to this matter at a future meeting. In introducing the report at that meeting the Working Party Chairman had drawn attention to the consensus in the Working Party that support for the adoption of the report and approval of the texts by the Council would depend upon the satisfactory conclusion of Tunisia's bilateral tariff negotiations. The Council Chairman said that it was his understanding that these negotiations had now been successfully concluded, and he drew attention to the report of the Working Party in L/6277 and to the Schedule LXXXVIII - Tunisia resulting from the accession negotiations, in L/6277/Add.1 and Add.1/Corr.1.

The representative of Tunisia recalled that Tunisia had established a legal, albeit provisional, link with the GATT in 1959, soon after its independence, with the objective of helping to ensure the gradual integration of its fragile economy into the complex and intricate mechanics of the world economy. The economic situation prevailing then, together with the many efforts of orienting and adapting Tunisia's economic policies in searching for a development model appropriate to it, had not enabled Tunisia to complete the process for full accession at the time, apart from the fact that the GATT was not then very receptive to the preoccupations and aspirations of newly-independent developing countries.

He then referred to the many changes which had since taken place in national economic relations which had had an impact on Tunisia's policies, and said that all these factors had led the Tunisian authorities to choose to adhere definitively to the philosophy embodied by GATT. The initiation of the process for Tunisia's full accession to the General Agreement should be placed within the overall framework of the World Bank- and IMF-supported reforms and structural adjustment programmes undertaken by Tunisia in 1986. The various measures that had been implemented by Tunisia were in line with the spirit and the letter of the General Agreement, and Tunisia was determined to pursue this policy and to comply with the commitments and obligations which would be incumbent upon it following accession.

By acceding to the General Agreement, Tunisia was demonstrating its faith in the multilateral system, which had shown its worth in the past and which would enable Tunisia to achieve the necessary experience to adapt to the world economy. Tunisia would continue to work in favour of the implementation, at the end of the present round of trade negotiations, of a multilateral, open, dynamic and more equitable international trading system. The Tunisian Government considered that the economic adjustments it had adopted and the tariff concessions it had accorded within the framework of its accession proceedings constituted its modest contribution to the Uruguay Round negotiations.

He then described the many obstacles which Tunisia had encountered in the implementation of its economic restructuring programme and noted that Tunisia had joined with its Maghreb partners to establish a regional structure based on economic complementarity and open to international cooperation within a framework of mutual respect and common interest -- a project both ambitious and achievable within the overall framework of the dynamics of regional economic integration.

The representative of Morocco said that his country had followed with great attention the process leading to Tunisia's accession. Morocco was bound by many ties to Tunisia and felt deep satisfaction at Tunisia's entry into the large family of GATT. Morocco was pleased with the favourable results of the Working Party and of the tariff negotiations. He congratulated the Tunisian delegation for the high quality of documentation provided and for having made additional information on its trade policy available upon request. Morocco had never doubted the favourable outcome of the accession negotiations, having been fully convinced of the compatibility of Tunisia's foreign trade régime with the principles and rules of the General Agreement, a conviction reinforced by the Tunisian statement made earlier. Tunisia's accession had great significance for Morocco because it foreshadowed the rôle that countries from the Maghreb region could play and the contribution they could make to the collective effort for the expansion of international trade.

The representative of Switzerland said that his delegation wholeheartedly welcomed Tunisia's accession to the General Agreement and the fact that Tunisia was now going to be a full contracting party.

The representative of the European Communities said that it was a great pleasure for the Community to see Tunisia accede to the General Agreement at last. Tunisia's accession would strengthen the interest that the whole of Africa was now showing for the multilateral trading system as embodied by the GATT. He had followed with attention Tunisia's statement and thanked Tunisia for its faith and confidence in the multilateral trading system.

The representative of Tanzania expressed his delegation's gratification at the successful accession of Tunisia to the General Agreement. The friendly relations that existed between their two countries and the fact that Tunisia was a developing country, within a measurable distance ahead of Tanzania's own level of development, enabled his delegation to look forward to Tunisia's contribution to the strengthening of the international trading system as well as to promoting the genuine interest of developing countries.

The representative of the United States said that his delegation joined others in welcoming Tunisia to the GATT. With Tunisia's accession, the GATT as an institution was taking another important step forward, one that would help to strengthen further the General Agreement. Tunisia would be joining with a substantial portion of its tariff schedule bound in GATT, and like some other developing countries that had recently acceded it would become a member of what one might call the "friends of bindings" club: developing countries that had assumed a significant level of tariff

obligations. Like other members of this small but growing club, Tunisia was not only becoming a beneficiary of the system, but also contributing to that system in a very substantial manner.

The representative of Egypt said that it was his country's great pleasure to welcome Tunisia as a contracting party. Egypt had very good trade relations with Tunisia, which were certain to become even closer following Tunisia's accession. Egypt's policy was to encourage its neighbouring countries to participate in the GATT, and it had followed Tunisia's accession process with interest. His delegation had also listened with great interest to the measures that had been adopted by Tunisia for economic reform and for the integration of the Maghreb countries and wished to congratulate the Government of Tunisia for these steps.

The representative of Turkey said that it was a distinct pleasure for Turkey to welcome Tunisia to GATT, not only because of the excellent relations between the two countries stemming from history and from sharing a common culture, but also because Tunisia had always been an exemplary country in international cooperation. Tunisia would be an asset to the GATT and a real partner to contracting parties bearing in mind the strides taken by its economy. Turkey was confident too that Tunisia would also benefit immensely from the multilateral trading system.

The representative of Sweden, on behalf of the Nordic countries, expressed their warm welcome to Tunisia.

The representative of Cuba, on behalf of the Latin American contracting parties, said that they associated themselves with all the others in welcoming Tunisia to GATT.

The representatives of Australia, Austria, Bangladesh, Canada, Côte d'Ivoire, Hong Kong, Hungary, India, Indonesia, Jamaica, Pakistan, Poland, Romania, Yugoslavia, among others, wished to be put on record as welcoming the accession of Tunisia. The Chairman remarked that the welcome appeared to be practically unanimous.

The Council approved the text of the draft Decision and the text of the draft Protocol of Accession, agreed that the Decision should be submitted to a vote by postal ballot, adopted the Working Party's report (L/6277, Add.1 and Add.1/Corr.1) and took note of the statements.

2. Accession of Bulgaria - Consultations on procedural aspects of the Working Party

The Chairman recalled that at the Council meeting in July 1989, the previous Council Chairman had indicated that although some consultations on this matter had been held, the situation was such that further consultations were needed. He informed the Council that following such consultations, agreement had been reached on the following terms of reference:

"To examine the application of the Government of Bulgaria to accede to the General Agreement under Article XXXVIII, and to submit to the Council recommendations which might include a draft Protocol of Accession.

It is understood that in its examination, the Working Party will consider the compatibility of Bulgaria's foreign trade régime with the General Agreement with regard, inter alia, to the provisions concerning national treatment, non-discrimination, State-trading, subsidies and safeguards."

He added that it had further been agreed that the designation of the Chairman would be taken up at the next Council meeting, and that the questions and answers process could begin now, while the customary six-week period would be counted from the time Bulgaria submitted the additional information it had undertaken to make available.

The Council took note of the information by the Chairman, approved the terms of reference of the Working Party and further took note that the designation of the Chairman of the Working Party would be taken up at the next Council meeting.

The representative of Bulgaria, speaking as an observer, thanked the Chairman, the Secretariat and the previous Council Chairman for their efforts which had made it possible to start the substantive discussion of Bulgaria's accession to GATT.

The Council took note of the statement.

3. Protocol for the accession of Poland
- Communication from Poland (L/6634)

The Chairman recalled that at its meeting on 25 January, the Council had asked him to hold, in the interval before the present meeting, informal consultations with interested delegations with a view to deciding on the terms of reference and chairmanship of a working party which might examine Poland's request to renegotiate its Protocol for accession to the General Agreement. On the basis of the results of these informal consultations, he suggested that the Council establish a working party as follows:

Terms of reference:

"To examine the request of the Government of the Republic of Poland to renegotiate the terms of accession of Poland to the General Agreement on Tariffs and Trade as embodied in the Protocol for the Accession of Poland¹ of 30 June 1967, and to submit to the Council recommendations which may include a draft Protocol of Accession."

¹BISD 15S/46.

Chairman: Mr. P. van de Locht (Netherlands)

The Council so agreed.

The representative of Poland thanked the many delegations that had expressed their support for Poland's request to renegotiate its Protocol for accession and for their words of sympathy and support for the efforts being undertaken by the new Polish Government to restructure Poland's economy and move towards a market-based system. Poland was preparing a memorandum on its foreign trade régime which it hoped to transmit to the Secretariat by mid-April for appropriate action.

The Council took note of the statement.

4. United States Agricultural Adjustment Act - Thirty-second annual report by the United States under the Decision of 5 March 1955 (L/6633)

The Chairman recalled that under the Decision of 5 March 1955 (BISD 3S/32), the CONTRACTING PARTIES were required to make an annual review of any action taken by the United States under the Decision, on the basis of a report to be furnished by the United States. The thirty-second annual report by the United States was now before the Council in document L/6633. He also recalled that the thirty-first annual report under the waiver (L/6442) had been submitted to the Council in February 1989 and that consideration of that report had been deferred until the Working Party established in November 1987 to examine the 29th and 30th annual reports had concluded its work.

He had been advised that the Working Party had now concluded its work and that its report (L/6643) would be before the Council for consideration at its next meeting. He suggested accordingly that the Council defer consideration of this item until the next meeting so that the Working Party report and the thirty-first and thirty-second annual reports by the United States could be considered together.

The Council so agreed.

5. United States - Restrictions on the importation of sugar and sugar-containing products applied under the 1955 Waiver and under the Headnote to the Schedule of tariff concessions - Panel report (L/6631)

The Chairman recalled that at its meeting in June 1989, the Council had established a panel to examine the complaint by the European Economic Community regarding United States sugar quotas and the implementation of the waiver for import restrictions on sugar and sugar-containing products. The report of the Panel was now before the Council in document L/6631.

Mr. Jaramillo, Chairman of the Panel, introducing the report, said that the Panel had held meetings with the parties to the dispute on 25 July

and 2 November 1989, had met with interested contracting parties on 13 October 1989 and had submitted its conclusions to the parties on 5 January 1990. The Panel report had been subsequently circulated to contracting parties on 30 January 1990. He then read out the Panel's conclusions in Section 6 of L/6631, adding that the Panel had reached its conclusions unanimously and in compliance with the agreed timetable for discharging its task.

The representative of the European Communities said that the Community appreciated the hard work of the Panel members in what had been a very difficult and complex case. In fact, this had been the first case in which a Panel had had to examine the scope and meaning of a waiver granted many years earlier under Article XXV:5. Unfortunately, the Panel report posed a host of questions and problems. The Community was still examining all these questions and their implications, and it suggested that the Council revert to this item at its next meeting.

The representative of the United States said that while the United States urged adoption of this report, it acknowledged that such adoption would not be possible at the present Council meeting. Although the United States was not completely satisfied with the Panel's findings -- the Panel had rejected certain arguments made by the United States -- it believed that on balance, the report was legally correct, very sound, and well-reasoned. The Panel had done a very valuable service by separating the facts and the legal issues involved from what might be the sentiments of contracting parties about this issue. He noted that although it was not directly relevant to the question of adoption of this report, the United States had proposed in the Uruguay Round to negotiate both on its waiver and on all other waivers and derogations in the agriculture sector. The United States believed that this ultimately was the only appropriate way to create a balanced system of rights and obligations in the field of agriculture. It would continue to negotiate in good faith in that vein regardless of the disposition of others on this matter. It was the United States' earnest hope that all contracting parties would review this report and find it sound, and that a consensus to adopt it would be reached at the next Council meeting.

The representative of Canada said that Canada had been an interested third party in this dispute and had made a submission to the Panel. It was reflecting on the implications of the report, including those related to the Panel's interpretation of prohibition and restriction in the context of the validity of implementing a zero quota under Section 22 of the US Agricultural Adjustment Act. In this respect, Canada noted that in the period preceding the implementation of the zero quota, the United States had imported the products in question from other sources, primarily Canada. Canadian imports had been valued at approximately US\$25 million during the period May 1982 through June 1983. If, however, the waiver were used to cut off trade by choosing the most advantageous representative period from which to take action, this would cause Canada to reflect on the Panel's findings and comments as detailed in paragraph 5.16 of its report. In this paragraph, the Panel brought into contrast the expectations of the contracting parties at the time of the granting of the waiver, particularly with respect to the assurances provided by the United States, with the

current policies pursued by the United States on sugar. The Panel raised the important question as to the continued appropriateness of the waiver, on which Canada thought reflection was needed. His delegation understood the request to revert to this matter at the next Council meeting and reserved its right to make additional comments following further review of the issues.

The representative of Japan said that Japan considered it appropriate that the Panel had noted in its examination that waivers were granted only in exceptional circumstances and, therefore, that their terms and conditions needed to be interpreted narrowly. Japan was concerned with certain implications of this Panel report in light of the fact that the United States, regarded as one of the most efficient farm producers and the top net farm exporter of the world, had maintained for over thirty years a waiver authorizing it to restrict foreign agricultural imports for the purpose of protecting its domestic agriculture. Was this conducive to promoting international trade on the basis of equity and would it enhance credibility in the functioning of the GATT system? Japan hesitated to give positive responses to such queries and, in this connection, wished to note the Panel's conclusions in paragraph 6.2 of its report. Japan noted and welcomed the readiness of the US Government to discuss the issue of the waiver in the Uruguay Round. However, if the United States were to relinquish the waiver on its own initiative and place the trade restrictive measures under the waiver on the same basis as the similar measures imposed by other countries, and then take part in the joint work under the Uruguay Round, this would greatly promote the cause that all were engaged in.

The representative of Australia noted that the issue was of close interest to his country, but in view of the wish of one representative to defer the matter to the next Council meeting, he preferred to hold his remarks until then.

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

6. European Economic Community - Restrictions on exports of copper scrap - Panel report (DS5/R)

The Chairman recalled that at its meeting in July 1989, the Council had established a Panel to examine the complaint by the United States concerning quantitative restrictions imposed by the European Economic Community on the exports of copper scrap. The report of the Panel, which noted that the United States had withdrawn its complaint, was now before the Council (DS5/R).

The Council adopted the Panel report in DS5/R, and agreed that in accordance with the procedure adopted by the Council in May 1988 (BISD 35S/331), the report was thereby derestricted.

7. Thailand - Restrictions on importation of and internal taxes on cigarettes
- Recourse to Article XXIII:2 by the United States (DS10/2)

The Chairman drew attention to document DS10/2 containing a communication from the United States concerning Thailand's restrictions on importation of and internal taxes on cigarettes.

The representative of the United States said that as set forth in document DS10/2, the United States believed that Thailand's policy of prohibiting imports of cigarettes was in clear contravention of that Government's obligations under the General Agreement, including Article XI. In addition, Thailand's laws and practices relating to the internal taxation of cigarettes were inconsistent with Article III. Representatives of the two governments had been consulting for more than four years on Thailand's de facto ban on importation of foreign cigarettes and conditions on importation. Those discussions had occurred at an accelerated pace over the last year. Despite detailed and extensive Article XXIII:1 consultations held in Geneva on 5 February 1990, no mutually satisfactory solution had been reached. Consequently, the United States believed that it had to seek the establishment of a panel to examine the matter.

The representative of Thailand said that his delegation had taken note of the United States' request for a panel. Thailand had responded favourably to the earlier US request for Article XXIII:1 consultations and had held one such consultation on 5 February 1990. Although this had not led to a mutually satisfactory solution, Thailand believed that further consultations might be needed. As this issue was complex, he had been instructed to request more time for his Government to complete internal preparations. Thailand, therefore, was not in a position to accept the establishment of a panel at the present meeting, but would continue to follow the procedures established in document L/6489². He asked that consideration of this matter be deferred to the next meeting.

The representative of the Philippines said that her delegation had listened with sympathy to the statement by Thailand's representative. Having experienced a similar situation in the GATT, her delegation was keenly aware of the difficulty for a developing country in marshalling internal preparations to respond to issues raised by contracting parties concerned with certain sensitive trade policies. For that reason, her delegation supported Thailand's request for additional time in the hope that a mutually acceptable solution would be found.

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

²Improvements to the GATT dispute settlement rules and procedures, Decision of 12 April 1989.

8. Korea - Restrictions on imports of beef
- Follow-up on the Panel reports (L/6641, L/6503, L/6504, L/6505)

The Chairman drew attention to the communication from Korea in L/6641 containing a progress report on its consultations concerning its restrictions on imports of beef. The item was on the Agenda at the requests of Australia, New Zealand and United States.

The representative of Australia recalled that in accordance with the Panel report on Korea's restrictions on beef imports from his country, (L/6504), Korea was required to: eliminate or otherwise bring into conformity with the provisions of the General Agreement the import measures on beef introduced in 1984/85 and amended in 1988; hold consultations with Australia and other interested parties to work out a timetable for the removal of import restrictions on beef justified since 1967 by Korea for balance-of-payments (BOP) reasons; and to report on such consultations within a period of three months following the adoption of the Panel report. In the context of disinvoking Article XVIII:B, Korea had also undertaken to eliminate its remaining balance-of-payments restrictions or otherwise bring them into GATT conformity by 1 July 1997. Beef was one of the commodities covered by that undertaking.

Australia had held one round of consultations with Korea and a second one was presently under way in Seoul. In the current round of discussions Korea had again indicated that it was unable to agree on any timetable for liberalizing its beef régime and that the most it could do was to determine an import level for 1990, while access for subsequent years could be the subject of future discussion based on industry studies. Australia's position had been to seek some agreement on the base point from which liberalization should take place and an understanding on the timetable to be followed, bearing in mind that Korea had already given the CONTRACTING PARTIES an assurance that irrespective of what was agreed under discussions on the Panel report, quantitative restrictions on beef would be fully phased out by July 1997. On the first point, it had not been possible to agree on a figure for the growth in imports which would have occurred had they not been prohibited in 1984. The suggested level only approximated current import performance and was lower than the level immediately preceding the suspension of imports in 1984. Of further concern was that, without recognition of import growth, reaching the 1997 liberalization target appeared unlikely.

Australia was also unable to accept the statement (paragraph 5 of L/6641) that Korea was not prepared to engage in consultations on a timetable pending an in-depth study of Korea's livestock industry. Australia could not accept Korea's right to impose such a condition on its obligations, and urged Korea to give a commitment to enter into substantive consultations on a timetable for the removal of its quantitative restrictions on beef. Australia agreed, however, that more time was needed for discussion on this important issue. The discussions to date had been undertaken in good spirit but Australia could regrettably only conclude that, without some significant movement by Korea, the Council's intent when it had adopted the Panel report could not be fulfilled. Australia, therefore, called upon the Council to urge Korea to

make a greater effort in its consultations to reach agreement on a timetable for the removal of import restrictions on beef and to keep contracting parties informed of progress.

The representative of New Zealand recalled that at the 25 January Council meeting, New Zealand had noted that it had held one round of bilateral consultations with Korea -- in Wellington on 18 December 1989 -- pursuant to the Council's adoption of the Panel report on Korea's restrictions on beef imports from his country (L/6505). The purpose of those consultations had been to work out a timetable for the removal of the import restrictions. Although New Zealand had put forward a number of positive proposals designed to achieve the objective set out in the Panel's recommendations, the consultations had, unfortunately, been inconclusive. Both parties had agreed, however, to hold a second round at a mutually convenient date, and these consultations would now take place in Seoul during the course of the present week.

New Zealand sought resolution of this issue and did not want it to become a regular feature of every Council agenda. He noted that Korea had submitted a report on progress made to date on this matter; this report was clearly intended to be an interim one and could not be seen as fulfilling the requirements of the Panel's recommendations. New Zealand welcomed Korea's assurance in the report that it remained willing to engage in further consultations to bring about a mutually satisfactory solution within the shortest possible time. Like Australia, New Zealand encouraged Korea to enter into a genuine dialogue with interested contracting parties and urged it to make progress with New Zealand in resolving this issue at the current round of talks.

The representative of the United States recalled that at the 25 January Council meeting, his Government had also expressed its serious concern at the lack of progress in implementing the Panel recommendations (L/6503) on Korea's beef restrictions. Since that time, there had been no progress in the consultations with Korea. The United States remained disappointed that Korea continued to refuse to propose or to accept a timetable for the liberalization of its beef import régime. Moreover, the United States took exception to the implication in Korea's report that the United States was holding up progress on this issue. To be specific, paragraph 7 of the report indicated that the Republic of Korea had invited the United States to suggest a date for the next consultation at its own convenience. His Government had indicated its willingness to meet if there was a substantive proposal to discuss; however, thus far no such proposal had been presented. He reiterated his Government's willingness to meet with Korea on the basis of a substantive proposal which addressed all the concerns outlined in the Panel report and its recommendations. The United States reserved all of its GATT rights in this matter.

The representative of Canada said that his delegation was pleased that Korea had confirmed in its report that it recognized Canada's direct interest and its right to consult in this matter. He expressed concern,

however, that no such consultation had actually taken place. Canada looked forward to early discussions on this matter. While it recognized the complex nature of Korea's domestic problems, Korea had nonetheless to move seriously and without delay to remove its GATT-inconsistent measures.

The representative of Korea recalled that in accordance with the recommendations of the three Panel reports, Korea had submitted on 6 February 1990 a report on the result of the consultations (L/6641). As recommended by the Panels, and with a view to working out a mutually acceptable resolution of the dispute, his Government had held consultations with the three parties to the disputes since the adoption of the reports -- with New Zealand on 18 December 1989, Australia on 21 December 1989 and the United States on 11 January 1990. However, no solution had been found so far. Given the complexity of the issue, the three-month period recommended by the Panels for consultations had been insufficient. Korea had pointed out at the Council meeting on 7 November 1989 and on earlier occasions that the issue involved substantial political, social and economic problems arising from the fragile and difficult conditions surrounding Korea's livestock farming and that it would be difficult to reach a mutually satisfactory solution within the period recommended by the Panels.

Korea believed that the timetable for the removal of its import restrictions on beef should be workable, and considered that an in-depth study of Korea's livestock industry was necessary before such a timetable could be established. Korea had proposed, in this regard, to set up a joint study group with the complaining parties to consider what would be a reasonable period of time for restructuring Korea's livestock farm sector. Meanwhile, under the circumstances, Korea had proposed to increase beef import quotas for the coming years pending a final agreement on the timetable, but no agreement had been reached. He said that Korea would carry out the consultations with the parties to the dispute and other interested contracting parties, and noted that further consultations with Australia and New Zealand were scheduled to take place in Seoul on 20-21 February and on 23 February respectively. His Government had also invited the United States to suggest a date for their next consultations. Korea would continue to engage sincerely in further consultations and hoped that a mutually satisfactory solution would be found within the shortest possible time.

The representative of the European Communities said that the Community was disappointed at the apparent lack of progress with respect to the implementation of these important Panel reports. Korea benefited greatly from the multilateral trading system and, while it could claim GATT rights, it also had to carry the burden of its GATT obligations. The Community was aware of Korea's internal difficulties but could only urge it to take a responsible attitude in this matter. Otherwise, there would be a risk of serious imbalance which could only backfire.

The Council took note of the statements and of the information in document L/6641.

9. Committee on Balance-of-Payments Restrictions - Programme of consultations for 1990 (C/W/621)

The Chairman drew attention to the proposed schedule of consultations contained in document C/W/621.

The Council took note of the information in C/W/621.

10. United States - Anti-dumping review on cut flowers from Colombia

The representative of Colombia, speaking under "Other Business", introduced this matter with a detailed description of the developments which had occurred in Colombia's flower export industry from its early days to the recent and current anti-dumping investigations of its cut flowers exports by the US authorities. He said that over the preceding 20 years, there had arisen an industry that was entirely export-oriented and which had created 600,000 jobs, directly and indirectly. It had become Colombia's fifth largest exporter, with about 80 per cent of Colombia's output going to the United States. Regrettably, these exports had suffered the adverse effects of a policy of trade harassment on their main market, where there had been four investigations on the grounds of alleged subsidies, two of which had led to agreements to suspend the Colombian programmes under investigation. That had left Colombia's flowers with virtually no state support. Following that action, the US Commerce Department had begun an anti-dumping investigation, which had led in 1987 to an anti-dumping duty of 4.4 per cent. An administrative review in 1989 had raised the dumping margin to 8.51 per cent in a preliminary determination.

Such trade harassment violated the status quo commitment that accompanied the launching of the Uruguay Round. He said that the US anti-dumping legislation had opened the way for investigations into perishable products, with markets in which perfect competition existed, where prices were determined by those markets and therefore highly volatile, so that anyone might be in a dumping position at some point in time. As for methodology, the United States had not taken into account the long preparation and production periods; to assess the existence of dumping, it had compared the export price with the price to a third country, in this case Europe, without taking into account the specific features of the latter market. The error was compounded by the flawed statistical sample, which was not representative of the real population of flower producers under investigation, given that there were 204 of the latter while the sample population was only 15. That did not meet the requirements of statistical representativeness, certainty and reliability, which would have called for a sample of at least 50-60 per cent of exporters, possibly not less than 100 enterprises.

In these circumstances, Colombia reserved the right to return to this matter, and if need be, to have recourse to the GATT dispute settlement procedures. His delegation trusted that the US authorities would be inspired by the spirit of the Uruguay Round and the Punta del Este declaration in their final determination in this case, and hoped that that

determination would be fair and therefore favourable to Colombia's interests.

The representative of the United States said that the action in question was a preliminary administrative action taken under the authority of the US anti-dumping law by the Department of Commerce on 29 December 1989. Official notice of the action had been published in the US "Federal Register" on 5 January 1990. Under US law -- and Article VI of the General Agreement -- the decision was based on evidence on the record of the proceeding. Like all other decisions under US law, it was subject to judicial review based on the record established during the administrative proceeding. The United States had stressed to Colombia's authorities that the decision was preliminary. Before issuing its final decision, the Department would carefully consider any comments and arguments raised by all interested parties to the proceeding. That was part of the regular, transparent process mandated by the US anti-dumping law. He emphasized that the United States had urged Colombia to encourage the Colombian parties to the proceeding to participate fully in the review process. The review process was expected to be completed in April 1990. Until the final decision was made, there would be no change in the amount of estimated anti-dumping duties collected on entries of cut flowers from Colombia subject to this proceeding. He concluded by providing statistics on US imports of cut flowers.

The representative of Chile said that, as a flower exporting country, Chile had been confronted in the past with identical restrictions on its exports. His country favoured the elimination of that type of restriction.

The Council took note of the statements.

11. United States - Countervailing duty on pork from Canada
- Panel terms of reference and composition

The Chairman, speaking under "Other Business", recalled that at their Forty-Fifth Session in December 1989, the CONTRACTING PARTIES had agreed to establish a panel to examine Canada's complaint regarding this matter. The Council Chairman had been authorized, in consultation with the parties concerned, to decide on the composition of the panel. He informed the Council that standard terms of reference had been agreed and that, following consultations, agreement had been reached on the Panel's composition as follows:

Chairman: Mr. Peter Hussin

Members: Mr. Anthony Dell
Mr. Rudolf Ramsauer

The Council took note of this information.

12. Canada - United States Free-Trade Agreement
- Working Party chairmanship

The Chairman, speaking under "Other Business", recalled that at its meeting on 8-9 February 1989, the Council had established a Working Party to examine this matter. The Working Party's terms of reference and chairmanship had been announced at the Council meeting on 12 April 1989. As Mr. Fortune (New Zealand), the appointed Chairman of the Working Party, had recently departed from Geneva, Mr. Hawes (Australia) had kindly accepted to replace him and chair the Working Party.

The Council took note of this information.

The representative of the European Communities, expressed appreciation to Mr. Hawes for having accepted to chair the Working Party and hoped that the latter could now proceed to speed up its work.

The Council took note of the statement.