GENERAL AGREEMENT ON

TARIFFS AND TRADE

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CONTRACTING PARTIES
Forty-Seventh Session

SUMMARY RECORD OF THE FIRST MEETING

Held at the International Conference Centre, Geneva
on Tuesday, 3 December 1991 at 3.30 p.m.

Chairman: Mr. Rubens Ricupero (Brazil)

Chairman's opening address

The CHAIRMAN welcomed El Salvador, Macau and Guatemala as the one-hundred-and-first, -second, and -third contracting parties.

The CHAIRMAN made an opening address (GATT/1524).

Adoption of the Agenda

The CHAIRMAN noted that the Provisional Agenda was contained in L/6931 and proposed adding the following items to the Agenda: "Trade measures against Yugoslavia for non-economic reasons" and "Philippines - Rates of certain sales and specific taxes".

The Agenda was adopted, as amended (L/6949).

Order of Business

The CHAIRMAN drew attention to the Proposed Order of Business circulated in W.47/1 which gave an outline of the organization of work during the Session. He proposed beginning with the presentation of reports and the general statements by contracting parties, followed later by consideration of the report of the Council, the trade measures against Yugoslavia for non-economic reasons, and the Philippines' rates of certain sales and specific taxes, and finally the dates for the Forty-Eighth Session and Election of Officers.

The CONTRACTING PARTIES approved the Order of Business as proposed in W.47/1, as amended.

Presentation of reports

Presenting the Council's report (L/6942 and Add.1), its Chairman, Mr. Anell (Sweden) said that this report clearly showed the range and importance of the Council's activities during the year. The Council, as the governing body of the GATT and acting on behalf of the CONTRACTING PARTIES, had remained the forum where governments brought their problems and took up issues arising from the day-to-day handling of their trade policies. As the Uruguay Round approached conclusion, one had to reflect on the future challenges that would face the Council. A strengthened and expanded framework of multilateral rules and disciplines -- the central objective of the Uruguay Round -- was needed to address the changing demands and challenges being posed to the open international trading system as all had known it for the past decades. This was clearly to be welcomed. But it would also mean a substantial increase in the tasks and responsibilities of the Council. Larger participation in the Council's work would inevitably lead to greater expectations from the GATT system. The challenge, therefore, would be to ensure the Council's capacity to discharge its functions smoothly and efficiently and in a manner that future cooperation and growth in international trade was fostered. One would have to come back to these issues at an appropriate time.

A major point of the Council's work in the past year had been its growing involvement in dispute settlement issues. There had been a marked increase in the number of complaints brought to the Council and in the number of panels established. Looking back on the experience of the past year it was possible to draw certain conclusions concerning the functioning of the dispute settlement process in its present form. On the positive side, he believed all would agree that the procedural improvements introduced in 1989 (BISD 36S/61) had considerably streamlined the dispute settlement mechanism. Clearly, however, this task was not complete. The improvements that had been introduced related mainly to the initial phases of dispute settlement proceedings. Other improvements, dealing with the closing stages of work, were yet to be agreed and introduced. On the negative side, some major difficulties could be identified in the functioning of the system and the most serious problem over the past year had been the non-implementation of panel recommendations. The Director-General's most recent report to the Council on dispute settlement (C/180) had referred to nine cases where implementation of panel and Council decisions were still pending. Needless to say, the entire dispute settlement system would be rendered meaningless if the ensuing decisions were not put into effect. It was also obvious that, if not arrested, this trend would have grave implications for the credibility of the trading system. Another problem which had been revealed in dispute settlement cases over the past year was that of "forum shopping". Two specific cases had been brought before the Council in which the problem of coherence in the choice of an appropriate GATT forum for a dispute settlement procedure had become obvious. He hoped that such problems would be settled once the Uruguay Round had been concluded and a strengthened dispute settlement mechanism put into place. The experience of the Council in the past year was eloquent proof of the importance of this matter.

While on the subject of dispute settlement, he wished also to mention that the cholera epidemic which had severely affected Peru in the past year had provided the Council with its first experience in the use of the streamlined mechanism for reconciling interests of contracting parties in the event of trade-damaging acts, adopted in 1989 (BISD 36S/67).

During 1991, the Council had continued to review the trade policies and practices of contracting parties under the new Trade Policy Review Mechanism. Up to September, eight reviews had been carried out, including reviews of the European Communities, Japan and Canada. For many countries, the review had given an opportunity to examine their own trade policy formulation and implementation. The reports provided a comprehensive picture of the facts of trade policies and practices, and increasingly analysed their development and consequences for the economies concerned and the world trading system. The discussions in the Council, however, had often been less satisfactory. During the past year, he had experimented a little with the structure of the meetings in order to try to promote a more lively and pointed discussion. Although a start had been made, delegations needed to go further towards a real debate about the trade policies and practices of the contracting parties under review, which would transcend the normal GATT practice of set statements. In this connection, active participation by delegations in the review meetings was crucial for the credibility of the system.

The continued movement in the past year towards economic reform, deregulation and open markets which had been witnessed in many parts of the world had also had an impact on the Council's work. Several governments had come to the GATT to ensure not only that their liberalization programmes were implemented in a GATT-consistent manner, but also that the reform process was actively encouraged by credible international commitments. Thus, three governments had joined the GATT in the past year, and working parties had been established to examine requests by two others. Also, Hungary had proposed to eliminate specific provisions in its Protocol of Accession following its move to a market-based economy, and Romania, also as a market-based economy, had announced its intention to seek renegotiation of its Protocol of Accession. Furthermore, the Council had been informed that three developing countries -- Argentina, Brazil and Peru -- were unilaterally implementing autonomous liberalization programmes and removing import restrictions maintained under Article XVIII, thereby showing their strong commitment to trade liberalization and to the multilateral trading system of the GATT.

A further area of the Council's work in the past year, and one which had taken a relatively large part of its time, related to the question of trade and environment. While a number of issues still remained to be resolved in this area, the Council's discussions, along with the intensive informal consultation process which had accompanied them, had resulted in the activation of the 1971 Group on Environmental Measures and International Trade under the distinguished chairmanship of Mr. Ukawa (Japan). The Group had held a first meeting of an organizational nature on 27 November, and had adopted an Agenda for further work.

In the course of the year the Council had also witnessed a growing trend towards the establishment of free-trade areas and regional trading arrangements. Discussions had touched upon arrangements that were currently under negotiation, and the report of the working party on the Canada - United States Free-Trade Agreement had been examined by the Council in its last meeting of the year. This was an important trend in international trade relations and would undoubtedly have a strong bearing on the course of future activities in GATT. The Council would be called upon again to play a central rôle in the examination and surveillance of such arrangements in order to ensure their consistency with GATT rules and with the multilateral trading system as a whole, and there would be a need to review current procedures for examination of these arrangements in the Council.

He drew attention to two specific issues which had already been flagged by his predecessor and which would need to be addressed, if at all possible, the following year. The first was how to implement improvements in reporting on developments in regional agreements -- as all were aware, the requirements for biennial reporting had not been followed for quite some time and calendars for those reports had not been established by the Council since 1987. The second issue related to the need to streamline the procedures for derestricting documents. These procedures had become inadequate and somewhat out of step with present-day information needs and methods, especially since the GATT had increasingly become of interest to the press, the schools, private enterprises and the public at large.

Finally, he referred to the task that awaited the Council the following year with regard to important administrative and budgetary questions. He recalled that at the most recent Council meeting he had referred to the urgent need to remedy the serious degradation of pension and salary conditions of the professional staff, and said he did not need further to emphasize this preoccupation at the present meeting.

Presenting the report of the Committee on Trade and Development (L/6929), its Chairperson, Mrs. Escaler (Philippines), said that the Committee had held two meetings in 1991, in June and in October. It had pursued its work in relation both to its regular and continuing responsibilities under its terms of reference, and to relevant aspects of the Uruguay Round negotiations of direct interest to developing countries.

Understandably, while there had been valuable discussions on such matters as improving the Generalized System of Preferences, in the course of reviewing the implementation of Part IV, the Committee's work had been permeated by the ongoing Uruguay Round negotiations as had been reflected in its discussions on topics of particular relevance to trade between developed and developing countries such as the interlinkage between trade, money and finance, and credit recognition for trade liberalization measures undertaken by developing countries. It had been generally felt that the exchange of views held in the Committee had been useful. It had enabled Committee members to address these topics with a view to furthering shared perceptions and concerns without any commitment to their negotiating positions in the Round. Such preoccupation with Uruguay Round issues -- particularly as to their impact on the least-developed countries -- had

also characterized the work of the Sub-Committee on Trade of Least-Developed Countries whose Chairman, Mr. Selmer (Norway), had been appointed for a new term of office.

Technical assistance to developing countries in relation to the Uruguay Round had been important in enhancing their participation in the negotiations. The Committee, in reviewing the assistance provided during the past year, had expressed its appreciation for the assistance provided by the Secretariat as well as for the voluntary contributions provided by Governments which had enabled it to carry out a number of additional programmes. Appreciation had also been expressed for the technical assistance provided by the UNCTAD and other international organizations such as the UNDP, the IMF, the World Bank and SELA. It had been emphasized that the GATT technical cooperation programme should be strengthened and intensified after the completion of the Uruguay Round in order to help developing countries assess, make use of and implement the results of the negotiations and further enhance their participation in international trade. It had been suggested that this matter be reverted to at future meetings of the Committee in 1992.

An important topic on which the Committee had initiated an exchange of views in 1991 was its future rôle after the end of the Uruguay Round. Many delegations had been of the view that whatever the final results of the negotiations, the Committee's rôle should be strengthened in the future with a view to making its work more action oriented. It had been generally felt that informal consultations on the future rôle of the Committee should be held after the conclusion of the Uruguay Round. She strongly endorsed strengthening the rôle of the Committee, for the following reasons. Whatever the results of the Uruguay Round, it would be remembered not only for the breadth of its coverage but also for the depth of participation by developing countries. Developing countries had accepted the rôle of trade policy -- principally export orientation as an alternative to import substitution -- and therefore of an open trading system in their development. Whereas they had previously seen GATT as a rich man's club where they had little influence, they saw it now as the last rampart which kept the system open. With this increasing participation of developing countries and the expansion of coverage to new areas -- all of which had an impact on development -- there was an even greater need to find fora for examining problems and issues of particular interest to developing countries in the context of what was for them the brave new world of GATT. The Committee was the standing body of GATT that addressed issues affecting the inter-relationship between trade and development. Regardless of the institutional set-up that would be decided on to implement the results of the Round, the importance of such a body loomed large. That body, however, should be more than just a token debating club and should be action oriented, in keeping with the reality that developing countries were now in the mainstream of GATT and not just bystanders. She urged the CONTRACTING PARTIES to devote the necessary attention to the question of the future rôle of the Committee after the end of the Uruguay Round with a view to finding ways and means to make the Committee improve its contribution to the promotion of trade and development objectives within the new GATT system.

The CHAIRMAN then drew attention to the following reports of the Committees and Councils charged with the implementation of the MTN Agreements and Arrangements: Committee on Trade in Civil Aircraft (L/6937), Committee on Technical Barriers to Trade (L/6935), Committee on Import Licensing (L/6932), International Dairy Products Council (L/6934), International Meat Council (L/6926), Committee on Government Procurement (L/6940 and Corr.1), Committee on Anti-Dumping Practices (L/6938), Committee on Subsidies and Countervailing Measures (L/6936), and Committee on Customs Valuation (L/6941).

Activities of GATT

The following statements were made:

Mr. Ernesto Tironi Ambassador, Permanent Representative of Chile	SR.47/ST/1
Mr. Mounir Zahran Ambassador, Permanent Representative of Egypt	SR.47/ST/2
Dr. A.P. Mahiga Minister-Plenipotentiary, Permanent Mission of Tanzania	SR.47/ST/3

Report of the Council (L/6942 and Add.1)

The CHAIRMAN referred to the report of the Council of Representatives on its work since the Forty-Sixth Session. A list of matters on which the CONTRACTING PARTIES were expected to take action had been circulated in L/6942/Add.1. He stressed that the report was not intended to reflect detailed positions of delegations, since the Council Minutes contained such information and remained the record of the Council's work.

Point 25. Waivers under Article XXV:5

Sub-point 25(c). Czech and Slovak Federal Republic - Renegotiation of Schedule X

The CHAIRMAN recalled that this matter had been considered by the Council at its meeting on 12 November and had been referred to the present Session for further consideration. He also recalled that the Council Chairman had offered his good offices with a view to finding a solution satisfactory to all prior to the present Session, following the concern expressed by some contracting parties in the Council discussion that their interests would not be taken into account when the Czech and Slovak Federal Republic (CSFR) entered into free trade arrangements with the European Community and European Free-Trade Association member countries. He was pleased to inform contracting parties that the CSFR had agreed that, without prejudice to any rights which accrued to the CSFR and other

contracting parties under the General Agreement, it would give due consideration to the interests of all contracting parties when it entered into negotiations and consultations as specified in the draft waiver decision (C/W/685). In the circumstances, it was his understanding that the CONTRACTING PARTIES could proceed to a vote on that decision.

Mr. Trân (European Communities) said that if he had understood correctly, the consultations held on this matter by the Council Chairman had led to a happy conclusion. He would be pleased, therefore, if it were possible to proceed immediately to a vote by a show of hands so that the waiver could be given formal approval by the CONTRACTING PARTIES. He proposed that only those contracting parties that had a reservation on the draft waiver decision be asked to raise their hands.

Mr. Stoler (United States) said that his delegation had no particular difficulty with the Community's proposal, although it was a bit unusual. However, the United States would need to have a way in that process to register the fact that it abstained from voting on this matter.

Mr. Trân (European Communities) said it was his understanding that the United States would abstain on this question because it could not vote thereon.

The CHAIRMAN proposed that the CONTRACTING PARTIES proceed to vote on this matter by a show of hands, and called for a show of hands by those in favour, those against, and those abstaining.

The Decision (L/6968) was adopted by 57 votes in favour, none against and 9 abstentions.

Mr. Stoler (United States) said that, having received appropriate assurances from the CSFR, the United States looked forward to negotiating bilaterally to achieve appropriate compensation for the tariff increases foreseen as part of the CSFR's tariff restructuring. While it recognized the technical right of the CSFR under GATT rules to invoke Article XXVIII to restructure its tariffs, the United States remained concerned that to do so at the same time as establishing a free-trade area brought into serious question the substantive protections of Article XXIV for the rights of third parties. All contracting parties had a stake in the integrity of Article XXIV, and indeed of Articles I and XXVIII. This was even more so in light of the increase in the establishment of regional preferential trade arrangements. The United States' concerns on this point remained despite the granting of the waiver to the CSFR.

Mr. Ukawa (Japan) said that Japan had supported the CSFR's request for this waiver because it strongly supported that country's efforts to reform its economic and trade structure. Japan hoped that the CSFR's objectives would be achieved successfully. At the same time, Japan expected that the CSFR would give due consideration to the interests of all contracting parties including Japan, when it entered into negotiations and consultations.

Mr. Park (Korea) said that Korea had voted in favour of the waiver because it strongly supported the CSFR's transformation efforts toward a market economy and understood the difficulties that that country might face in the reform process. Korea recognized clearly that the CSFR had the right to seek a waiver. In Korea's understanding, the granting of a waiver under Article XXV:5 and the obligations incurred under Article XXIV:5(b) were two separate issues. As a country with a substantial trade interest with the CSFR, Korea was apprehensive that this waiver was being granted to the CSFR before it entered into free-trade arrangements with the European Community and European Free-Trade Association member countries, which could affect adversely the interests of countries such as Korea that had been increasing their trade with the Central European countries recently. Korea hoped that the interests of contracting parties that were not party to the free-trade agreement with the CSFR would fully be taken into consideration when the CSFR entered into negotiations and consultations under Article XXVIII.

Mr. Trân (European Communities) said that he had been a little surprised at the United States' statement, coming as it did from a contracting party that had invoked non-application of the General Agreement against the CSFR. The Community could not agree with that statement and believed that its orientation was a dangerous precedent. He emphasized that Article XXIV was self-sufficient. Under it parties entering into a free-trade agreement undertook to settle the consequences thereof vis-à-vis third parties. To link Article XXIV with Article XXVIII was unacceptable.

Mr. Protec (Czech and Slovak Federal Republic) expressed his Government's gratitude to all contracting parties that had supported its waiver request. He also expressed the CSFR's readiness to have fair contacts with all contracting parties, and to proceed in accordance with its undertaking during the time period provided in the waiver Decision.

Point 1. Work Program resulting from the 1982 Ministerial meeting

Sub-point 1(a)(ii). Roster of non-governmental panelists

The CHAIRMAN drew attention to document W.47/20 containing a proposed nomination by the United Kingdom to the the roster of non-governmental panelists.

The CONTRACTING PARTIES approved the proposed nomination.

Point 2. Trade Policy Review Mechanism

Sub-point 2(b). Country reviews

The CHAIRMAN recalled that the Decision of 12 April 1989 on the Functioning of the GATT System (BISD 36S/403: para.I.D.(vi)) provided for the reports by the contracting parties under review and by the Secretariat, together with the minutes of the respective Council meetings, to be forwarded to the next regular Session of the CONTRACTING PARTIES, which would take note of them. Accordingly, the relevant documents pertaining to the reviews of the European Communities, Hungary, Indonesia, Thailand, Chile, Norway, Switzerland and Nigeria were before contracting parties.

Mr. Trân (European Communities) recalled that the Trade Policy Review Mechanism (TPRM) had been implemented on a provisional basis and that at the end of the Uruguay Round negotiations the CONTRACTING PARTIES would have to decide on its fate. In the period since the mechanism had been implemented, the path towards the desired régime whereby it would become an integral part of the GATT had been rather long. In his view, this experimental process had been influenced by the earlier surveillance mechanism that had arisen out of the 1979 Understanding and the 1982 Ministerial meeting[1], and by the extension of the Uruguay Round negotiations beyond December 1990 which had captured and captivated all the energy and attention of the participating countries with the result that rather less priority was being given to this mechanism which, nevertheless, was working quite well. The extension of the Uruguay Round had, however, resulted in the tight scheduling of the reviews, which had caused a certain bottleneck that made it particularly difficult both for the contracting parties under review and the other parties to have an in-depth and serious consideration during the Council review. He recognized, however, that through this mechanism an exceptional internal effort had been made within governments with the result that those who decided on domestic policies now had a stronger overall view of the country's policies. This was a positive point. Despite this, he had noted a certain slippage when the policy of one contracting party or another was reviewed in the Council. Also, on more than one occasion, the Council Chairman had had to call participants to order and to say that they had not been giving the attention that would have been desirable during the review of any given contracting party. He added that the points he had touched on should be given in-depth consideration in due course, and as soon as possible, so that this irreplaceable instrument could provide a kind of guiding light in the work of the GATT. Above and beyond any trade disputes, which were handled within the context of the dispute settlement system, there should be some complement at the level of the design and implementation of policies by contracting parties. In the conduct of the review itself emphasis should not be placed on any contracting party's particular policies because the TPRM had been conceived in order to have an overall review of the multilateral trading system and not to focus on one particular contracting party or on its particular trade policy. Serious thought would need to be given to these points. The TPRM was an important mechanism and should not be brushed aside simply due to lack of attention. It should be strengthened and implemented appropriately and correctly within the GATT.

The CHAIRMAN recalled that he himself had chaired the first part of the trade policy review meetings in the Council, and said that in his view the mechanism, as well as the conduct of the reviews, indeed required particular consideration by the CONTRACTING PARTIES.

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[1] See paragraph 24 of the Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/210), and the minutes of the fifth special meeting of the Council in July 1983 (C/M/169 and Corr. 1 and 2), at which it was agreed that these meetings would also serve to monitor paragraph 7(i) of the 1982 Ministerial Declaration (BISD 29S/9).

Mr. Ramsauer (Switzerland) said that he had listened with keen interest to the Community's statement and shared to a great extent its views, in particular the fear that one might perhaps be moving towards a situation where one might not appreciate sufficiently the usefulness of this mechanism which had been set up on a trial basis. As representative of a country that had recently had its first experience with this mechanism, he wished to stress the importance and usefulness that he saw in this new instrument. Switzerland had seen that the effect of this review on internal discussions of trade policies must be considered in a very positive light. Nevertheless, it was obvious, and Switzerland was aware of this as well, that the credibility of the mechanism depended to a great extent on the quality of the research and analysis done by the Secretariat. In this respect, he had to admit that the work done by the Secretariat had undoubtedly been the best guarantee for the quality of the results. The work done by the Secretariat had been of an outstanding quality. The experience thus far had been highly conclusive and therefore Switzerland had a much greater interest in this exercise than they had had in the past and wished to see it perfected in the future. In particular, the coverage of these reviews should be reviewed in light of the upcoming results of the Uruguay Round. Switzerland hoped that in future this mechanism would apply to all the elements constituting the final package in the Uruguay Round, i.e., including services, intellectual property protection and the effects of trade-related investment measures.

The CONTRACTING PARTIES took note of the reports by the contracting parties under review and by the Secretariat, and of the minutes of the respective Council meetings.

Sub-point 2(c). Programme of reviews

The CHAIRMAN drew attention to the communication from the Council Chairman in document W.47/21 in which he proposed that the trade policy reviews scheduled for December 1991 be postponed until the first half of March 1992. It would be understood that this postponement would not affect the scheduling of the future reviews of the six contracting parties concerned.

The CONTRACTING PARTIES agreed to the proposal (L/6701/Add.2).

Point 3. Tariff matters

The CHAIRMAN drew attention to the report of the Committee on Tariff Concessions on its work since the last session (TAR/219), and proposed that the CONTRACTING PARTIES adopt the report.

The CONTRACTING PARTIES so agreed.

Mr. Morales (Chile) said that his delegation wished to reiterate, in identical terms, the reservations it had made at an earlier Session of the CONTRACTING PARTIES[2] regarding its rights in the Harmonized System negotiation process.

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[2]See SR.45/2, page 3 and C/M/237, item 16.

Point 16. Recourse to Articles XXII and XXIII

Sub-point 16(a)(i). Canada - Import, distribution and sale of certain alcoholic drinks by provincial marketing agencies

The CHAIRMAN recalled that the Council had considered this matter at its meeting on 6 February and had agreed to establish a panel as requested by the United States. The report of the Panel was before the CONTRACTING PARTIES in document DS17/R.

Mr. Haran (Israel), Chairman of the Panel, introduced its report. He noted that the composition of the Panel, notified on 8 March 1991, was the same as that of another Panel which, in 1988, had examined a complaint by the European Community with regard to some of the same practices of Canadian provincial liquor marketing agencies (BISD 35S/37).

The Panel had met with the parties to the dispute on 23 April, 23-24 May and 29 July, and Australia and the Community had made presentations to the Panel in the presence of the parties on 23 April. Due to the numerous specific practices applied variously in some or most of the Canadian provinces, the Panel had not been able to complete its examination within the period of six months envisaged in paragraph 5, section F of the 1989 Decision on improvements to the GATT dispute settlement rules and procedures (BISD 36S/61). However, the Panel's report had been submitted to the parties to the dispute on 18 September and had been circulated to contracting parties on 16 October, within the time-limit set by the above-mentioned Decision.

The Panel had examined a variety of practices of the ten Canadian provincial liquor boards, some of which had been examined by the 1988 Panel and had, on that occasion, been found to be inconsistent with Canada's obligations under the General Agreement. Other practices had been submitted to the GATT dispute settlement procedures for the first time. He drew attention to the Panel's findings and conclusions in parts 5 and 6 of the report, and in particular to paragraph 6.2 where the Panel had concluded that Canada's failure to make serious, persistent and convincing efforts to ensure observance of the provisions of the General Agreement by the liquor boards in respect of the restrictions on access of imported beer to points of sale and in respect of the differential mark-ups, in spite of the finding of the CONTRACTING PARTIES in 1988 that these restrictions and mark-ups were inconsistent with the General Agreement, constituted a violation of Canada's obligations under Article XXIV:12, and consequently a prima facie nullification or impairment of benefits accruing to the United States under the General Agreement. These findings and conclusions had Agreement. These findings and conclusions had been unanimously agreed upon by the Panel members. The Panel had recommended that, with respect to measures already found in 1988 to be contrary to Canada's obligations under the General Agreement, Canada be requested to take such further reasonable measures as might be available to it to ensure observance of the provisions of the General Agreement by the provincial liquor boards, and to report to the CONTRACTING PARTIES before the end of March 1992. With respect to the other measures found to be contrary to Canada's obligations under the General Agreement, the Panel had recommended that Canada be requested to

take such reasonable measures as might be available to it to ensure observance of the provisions of the General Agreement by the provincial liquor boards, and to report to the CONTRACTING PARTIES before the end of July 1992.

Mr. Stoler (United States) underlined that thirty days had passed since the report had been circulated to contracting parties and, in accordance with the provisions of the April 1989 Decision on improvements to the GATT dispute settlement rules and procedures, the United States requested that the report be adopted by the CONTRACTING PARTIES at the present Session.

Mr. Gosselin (Canada) said that Canada and each of its provinces were reviewing carefully the Panel report with a view to determining how best to implement the Panel's recommendations with respect to each of the provincial systems concerned. Canada intended to agree to adoption of the report at the first meeting of the Council in 1992, and to report to the CONTRACTING PARTIES on the measures taken by Canada to ensure observance of GATT provisions by its provincial liquor boards before the end of March and July 1992, as had been recommended by the Panel. He noted that the Panel had dealt with Articles II, III, X, XI, XVII and XXIV and had made important rulings with respect to the application of GATT Articles to the operation of state-trading enterprises. The Panel had recognized the right under the GATT for a contracting party to establish and maintain an import monopoly, and to establish and maintain a sales monopoly provided it operated in a manner consistent with Article III. According to the Panel's findings, national treatment, as defined in Article III:2 and III:4, applied to the sales of imported products by a state enterprise in its domestic market. He noted that this issue had been discussed in the Uruguay Round negotiating group on GATT Articles. Other important conclusions by the Panel in respect of Article III had been that "national treatment" was the most favourable treatment provided by a contracting party at the sub-national level in question, and that the words "treatment no less favourable" in Article III:4 called for effective equality of opportunities for imported products vis-à-vis domestic products. In Canada's view, Article III did not require more favourable treatment to be given to imports. The national treatment obligation was the minimum and maximum standard which a contracting party was obliged to provide. It was from this perspective that Canada was proceeding in its work with the provinces on implementing the Panel's recommendations.

He drew attention to a Notice published in the US Federal Register which indicated that in the absence of a mutually satisfactory resolution of this matter by 29 December, the United States Trade Representative (USTR) would take action within the scope of Section 301(c) of the United States Omnibus Trade and Competitiveness Act of 1988. Among the actions the USTR was considering was the suspension of duty bindings and increase in duties on Canadian beer and other alcoholic beverages. He underlined that such action without prior authorization of the CONTRACTING PARTIES would be in violation of Article XXIII and would be contrary to the Panel's recommendations, which required Canada to report to the CONTRACTING PARTIES on measures taken in respect of access to points of sale and differential mark-ups by 31 March 1992, and on measures taken in respect of other

inconsistent practices by 31 July 1992. The United States had established arbitrary deadlines for implementation of this Panel report, backed up by threats of retaliatory trade action to be taken unilaterally under Section 301, even before the CONTRACTING PARTIES had had an opportunity to discuss the report. These deadlines, furthermore, had been established by a contracting party which had recently blocked adoption -- during seven successive Council meetings -- of a Panel report finding its own practices to be inconsistent with the GATT. Canada hoped that at the present Session, the CONTRACTING PARTIES would send a clear and strong message that unilateral measures taken by the United States under Section 301 were neither warranted nor appropriate in the present circumstances.

Mr. Beck (European Communities) said that for more than twelve years now the Community had been having its own difficulties with Canada over the operation of the latter's provincial liquor boards, marketing agencies and similar outlets for alcoholic beverages. The Community, therefore, was an interested party in this dispute, and had made a submission to the Panel. It had studied the findings and recommendations of the Panel with particular interest, and believed that its report was well argued and balanced. Accordingly, the Community supported adoption of the report at the next meeting of the Council. Nevertheless, he added that the threat of unilateral measures was totally inappropriate in this case.

Mr. Stoler (United States) said that the United States welcomed Canada's intention to adopt the Panel report at the first Council meeting in 1992, and to meet the Panel's recommended reporting deadlines of March and July 1992. With respect to the question of trade retaliation under Section 301, he noted that the United States had taken no trade action against Canada in this matter, and said that adoption of the report and its implementation by Canada would ensure that no such action would ever become necessary.

The CONTRACTING PARTIES agreed to refer this matter to the Council for further consideration.

Sub-point 16(b)(i). European Economic Community - Payments and subsidies paid to processors and producers of oilseeds and related animal-feed proteins

The CHAIRMAN recalled that this matter had most recently been before the Council at its meeting on 12 November, and had been referred to the CONTRACTING PARTIES at the present Session for further consideration.

Mr. Stoler (United States) recalled that at the November Council meeting, the United States had indicated its intent to request approval of a draft decision regarding this matter at the present Session. This draft decision had been reported verbatim in the Minutes of the November Council meeting (C/M/253) and had also been made available separately to contracting parties (W.47/22). The essence of the draft decision was that the members of the Panel on this matter should be reconvened for the purpose of examining whether the measures taken by the Community in its new oilseeds regulation complied with the recommendations and rulings of the Panel report (BISD 37S/86). The United States was now asking that the CONTRACTING PARTIES adopt this draft decision.

Mr. Trân (European Communities) said that while he would stand firm on the principle, he would be conciliatory on the practice. The Community's legislation on oilseeds had not yet been adopted, contrary to his delegation's expectation at the time of the November Council meeting. The Community was not in a position to agree to the United States' request to reconvene the Panel members for as long as the Community's oilseeds régime had not been determined. In this respect, one had to abide by the "golden rule" that for as long as a contracting party's proposed measure had not been decided upon, enacted or implemented, the CONTRACTING PARTIES should refrain from taking any action in that regard. However, in view of the United States' continued and understandable impatience, and in order to emphasize the Community's good faith, he could state that once the Community's regulation had been adopted, it would be ready to agree to the United States' request to reconvene the members of the Panel for the purpose of examining the conformity of the Community's measures with the recommendations in paragraphs 155 to 157 of the Panel's report adopted by the Council on 25 January 1990, as stated in the draft decision in W.47/22.

He emphasized that the Community would agree to this only when its regulation had been adopted. This was because the Community had its own internal legal procedures and, like any such procedures, these represented a very delicate institutional balance, involving in this case the European Parliament. The Community's regulation would have to be presented to this body and its opinion sought. As with any internal procedure, there was a certain element of uncertainty involved. However, he would add that the European Parliament would not like to feel that external pressure was being exercised upon it. Hence his statement that only once its regulation had been adopted, would the Community accede to the United States' request, and furthermore, agree to the terms of reference suggested by the United States at the November Council meeting. He suggested that the Chairman of the CONTRACTING PARTIES, or the Chairman of the Council, stand ready to reconvene the Panel as soon as the Community had informed them that its regulation had been adopted.

Mr. Stancanelli (Argentina) welcomed the Community's readiness to agree to the reconvening of the Panel once its internal legal formalities had been completed and its oilseeds regulation adopted. However, Argentina wished to indicate its concern at the Community's delay in bringing its measures into conformity with the Panel's recommendations. The Community's persistence in letting this situation continue, which constituted an impairment and nullification of others' rights, was a serious detriment to the contracting parties affected by this régime. Argentina believed it to be of the utmost urgency for the Community to comply with the Panel's recommendations. As it had stated on several occasions in the past, Argentina was concerned with the non-implementation of panel reports as this affected the very credibility and strength of the GATT.

Mr. Stoler (United States) said that in light of the Community's statement, it was his delegation's understanding that no further action would be required by the Council and that the Panel members could begin work immediately after the Community had informed contracting parties that its regulation was final.

Mr. Gosselin (Canada) supported the United States' request, and shared its concerns over whether the Community's proposed oilseeds régime would meet the latter's obligations under the GATT. Canada had a strong long-term interest in access to the Community's market for oilseeds. He recalled that Canada had reserved its third-party rights in the original Panel and had made a presentation thereto, and reserved Canada's rights to make a submission to the Panel when it was reconvened. His delegation also welcomed the Community's statement, and hoped that the delay in the passage of the latter's regulation would be short.

The CHAIRMAN proposed that the CONTRACTING PARTIES agree that without further action on their part (a) their Chairman would reconvene the members of the original Panel as soon as the Community had informed the Director-General that the oilseeds regulation was final and (b) the CONTRACTING PARTIES further understand that the members of the original Panel could begin work on the basis of document W.47/22 immediately after having been reconvened.

The CONTRACTING PARTIES so agreed.

Point 21. Customs unions and free-trade areas; regional agreements - Canada - United States Free-Trade Agreement

The CHAIRMAN said he had been informed that the United States and Canada requested that the report of the Working Party on their Free-Trade Agreement (L/6927) be derestricted by the CONTRACTING PARTIES at the present Session.

The CONTRACTING PARTIES agreed to derestrict the report in L/6927.

Point 25. Waivers under Article XXV:5 (continued)

Sub-point 25(a). Uruguay - Renegotiation of Schedule XXXI

The CHAIRMAN drew attention to a communication from Uruguay in document W.47/17 requesting an extension of its waiver, and to the draft decision which had been annexed thereto to facilitate consideration of this matter by the CONTRACTING PARTIES.

Mr. Lacarte-Muró (Uruguay) said that the request by Uruguay for an extension of its waiver was self-explanatory. Contracting parties were aware that Uruguay's renegotiations of Schedule XXXI were linked to events in the Uruguay Round negotiations. It had not been possible to complete the renegotiations in the time foreseen originally precisely because the Round had not been completed in the original time frame. Uruguay was therefore requesting a short extension of its waiver on the understanding that the renegotiations would end with the conclusion of the Uruguay Round.

Mr. Beck (European Communities), speaking with regard both to the request at hand and to requests by Turkey and Zaire, recalled that the Community had consistently opposed open-ended waivers on the one hand, and

the repeated automatic extensions of time-bound waivers on the other. In the present circumstances, however, the Community understood the difficulties of the requesting countries. While it would agree to accept these requests, the Community wished it to be understood that such consent was not to be taken as a change in its views on the question of waivers, particularly on the automatic extensions thereof.

The CONTRACTING PARTIES agreed that the draft decision annexed to W.47/17 be submitted for adoption by a vote.

The Decision (L/6965) was adopted by 66 votes in favour and none against.

Romania - Establishment of a new Schedule LXIX

The Chairman drew attention to the communication from Romania in documents W.47/19 and Add.2, and to the draft decision in W.47/19/Add.1 which had been circulated to facilitate consideration of this matter by the CONTRACTING PARTIES.

Mr. Neagu (Romania) said that under the programme of economic reform for transition toward a market economy, fundamental legislative measures had been adopted in Romania, including measures concerning its new trade policy. In this context, his Government had recently decided to introduce a new customs tariff based on the Harmonized System as from 1 January 1992. This tariff sought to provide adequate protection and to stimulate the integration of Romania's economy into international trade on a competitive basis. The global level of protection in the new tariff was about 17 per cent, calculated as a simple arithmetic average of the roughly 5,000 tariff lines, compared to 16.3 per cent for the roughly 1,500 tariff lines of the present tariff. About 11 per cent of the tariff lines of Romania's present tariff were bound and represented about 7.4 per cent in terms of its import volume. With regard to the levels of the duties in Romania's Schedule LXIX -- which comprised 175 CCCN tariff headings -- every effort had been made to maintain their values. A preliminary evaluation indicated that tariff rates were unchanged or lower for 140 of the 175 headings of the existing Schedule. Nevertheless, as a result of the need to establish necessary protection for Romania's new economic régime and to transport concessions into the Harmonized System, some increases in tariff rates had been made on 35 tariff headings. In document W.47/19/Add.2, his Government had provided further information on the proposed changes in Romania's Schedule, as well as data on import values and principal suppliers for the products therein.

In view of the exceptional circumstances which required the urgent implementation of a new custom tariff and the time required to prepare the relevant documentation, Romania would be unable to conclude the negotiations and consultations required under Article XXVIII by the planned date for the implementation of the tariff changes. Therefore, pursuant to Article XXV:5, Romania requested that it be temporarily waived from its obligations under Article II until 31 December 1992 in order to enable it to implement the modified rates of duty as from 1 January 1992, the date on

which the new customs tariff would enter into force. Romania was willing to engage in negotiations and consultations with interested contracting parties pursuant to Article XXVIII.

The CONTRACTING PARTIES agreed that the draft decision in W.47/19/Add.1 be submitted for adoption by a vote.

The Decision (L/6967) was adopted by 63 votes in favour and none against.

The meeting adjourned at 6.15 p.m.