GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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COUNCIL
16-17 June 1993

MINUTES OF MEETING

Held in the Centre William Rappard
on 16-17 June 1993

Chairman: Mr. A. Szepesi (Hungary)

Prior to adoption of the Agenda, the Chairman, on behalf of the Council, welcomed St. Vincent and the Grenadines as the 111th contracting party. Also prior to adoption of the Agenda, the Chairman, on behalf of the Council, welcomed Guatemala, St. Lucia, Dominica and Antigua and Barbuda as members, following their requests for membership.

1. Yugoslavia
   - Status as a contracting party

The Chairman said that since the decision by the Council at its meeting on 19 June 1992 (C/M/257 and Corr.1, Item 1), according to which the representative of the Federal Republic of Yugoslavia should refrain from participating in the business of the Council, the United Nations General Assembly had adopted Resolution 47/1. Taking into account this Resolution, and after consultations with members of the Council, he proposed that the decision of 19 June 1992 be modified as follows: "The Council considers that the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the contracting party status of the former Socialist Federal Republic of Yugoslavia in the GATT, and therefore decides that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for accession to the GATT and that it shall not participate in the work of the Council and its subsidiary bodies. The Council further invites other committees and subsidiary bodies of the GATT, including the Committees of the Tokyo Round Agreements and the Committee on Trade and Development, to take the necessary decisions in accordance with the above."

The Council so agreed.

2. Accession of the Russian Federation
   - Communication from the Russian Federation (L/7240)

The Chairman drew attention to the communication from the Russian Federation in L/7240, as well as to a more recent communication in L/7243, concerning its interest in acceding to the General Agreement pursuant to Article XXXIII.

The representative of the Russian Federation said that his Government's decision to request accession was a logical part of its economic reform policy and an essential step towards its integration into the world trading system, which was vital for the success of its unprecedented economic, political and social reforms. During its years as observer in the GATT, Russia had carefully examined the principles and rules of the General Agreement and its related instruments, and had applied them in its national legislation and in trade agreements with other countries. After several years of economic reforms, Russia had become an open economy, based on market principles. It had removed administrative regulation of imports, introduced the custom tariff as a major instrument of trade regulation, liberalized currency regulation, and had moved toward the internal convertibility of the rouble with a single market exchange rate. Russia was interested in a more open, viable and durable multilateral trading system based on GATT rules and disciplines, and supported efforts aimed at strengthening the multilateral trading system. Russia's accession to the GATT would

improve trading opportunities both for itself and for contracting parties, and would contribute to world trade growth. Russia was prepared for a constructive dialogue during its accession process with all interested contracting parties, and hoped the Council would take positive action on its request at the present meeting.

The representatives of Egypt, the United States, Mexico, Turkey, Brazil, Canada, Korea, the Czech Republic, Hungary, Japan, Switzerland, Hong Kong, Norway on behalf of the Nordic countries, Morocco, New Zealand, Australia, Austria, Poland, the European Communities, India, Malaysia on behalf of the ASEAN contracting parties and Pakistan welcomed and supported the Russian Federation's request for accession, which some said was a sign of world confidence in the GATT system. The representatives of Argentina, Colombia, El Salvador, Tunisia, Bangladesh, Côte d'Ivoire, Cameroon, Chile, Israel, Costa Rica, Cuba, the Dominican Republic, Romania, Bolivia, Peru, Venezuela, Malta, Dominica, Jamaica, Nigeria, Uruguay, Senegal, South Africa, and Sri Lanka, among others, wished to be placed on record as also supporting and welcoming the Russian Federation's request.

The representatives of the United States, Mexico, Brazil and Pakistan described the request as a major historical event and a momentous decision. The representatives of Mexico, Brazil, the Czech Republic, Switzerland, Austria and India said that the Russian Federation's accession would contribute to and strengthen the universalization of GATT, which the representative of India said was both necessary and desirable.

The representatives of Egypt, Mexico, Turkey, Korea, the Czech Republic, Japan, Switzerland, Hong Kong, Norway on behalf of the Nordic countries, Morocco and the European Communities said that the Russian Federation's accession would strengthen and further enhance the multilateral trading system. The representatives of Egypt, the United States, Korea, Hungary, Japan, Morocco and Australia said that it would also assist the Russian Federation's integration into the world economy.

The representatives of the United States, Mexico, Korea, Hungary, Switzerland, Norway on behalf of the Nordic countries, Morocco, the European Communities and Malaysia on behalf of the ASEAN contracting parties said that the Russian Federation's economic reforms, which some described as courageous, would be supported and enhanced through its accession.

The representatives of Egypt, Japan, Switzerland, Norway on behalf of the Nordic countries, Morocco, New Zealand, Australia, Malaysia on behalf of the ASEAN contracting parties and Pakistan supported the establishment of a working party to examine this request. The representatives of Egypt and Switzerland said the working party should have standard terms of reference. The representatives of Egypt, the United States, Turkey, Korea, the Czech Republic, Japan, Hong Kong, Norway on behalf of the Nordic countries, New Zealand, Australia, Austria, Poland, the European Communities, India, Malaysia on behalf of the ASEAN contracting parties and Pakistan said that their Governments

looked forward to being closely associated with the accession process and that they would participate actively in the working party.

The representative of the United States said that Russia's accession would contribute to the construction and maintenance of a firm and comprehensive framework for its future trade-led economic development. The United States would take an active rôle in the negotiations to establish Russia's GATT protocol, and looked forward to receiving the Memorandum on Russia's foreign trade régime that would allow the United States to initiate the necessary negotiations.

The representative of Turkey said that Russia's application was a confirmation of its determination to consolidate its reform process and clear evidence of its strong desire to integrate into the international economic community.

The representative of Brazil said that at a conference on the coordination of assistance to the Commonwealth of Independent States held in 1992, Brazil had maintained that the best way to help these economies in the long-run would be their effective integration into the world economy through international trade. At that time, Brazil had extended m.f.n. treatment to all members of the Commonwealth of Independent States and had stressed that its autonomous trade liberalization measures would benefit exports from that region.

The representative of Canada expressed satisfaction that Russia had concluded that it was in its best interest to bring its trade and economic policies into conformity with GATT principles and rules. Canada was conscious of the impact that Russia's presence would ultimately have in the work of the GATT. The transition from 70 years of a command economy was proving to be a huge and complex process. The understanding of the policy changes required to bring Russia's trading system into GATT conformity would require a high degree of transparency and cooperation on the part of the Russian authorities. There were a number of specific issues that Canada wished to see addressed in the working party process, and assumed that other contracting parties shared its interest in a full and complete examination of Russia's current trade and economic system. Canada looked forward to working closely with Russia to ensure that the working party proceeded expeditiously.

The representative of Korea said that Korea had supported Russia's movement towards a market economy in the belief that after a period of transition, the economic and political partnership of both countries would be further strengthened and deepened. The transition to a market economy was not an easy task, and Korea admired the Government and people of Russia for having embarked upon such a courageous path.

The representative of the Czech Republic said that the measures taken by Russia were an important prerequisite for putting the Czech Republic's traditional bilateral trade relations with Russia on a new footing. After Russia's period of observership in the GATT, during which it had made a more profound acquaintance with the General Agreement and its related instruments, Russia was now embarking on the complex process

of defining its terms of accession. The Czech Republic would participate actively in that process.

The representative of Hungary said that Russia's accession would stabilize its reform process by ensuring stability and predictability in its access to foreign markets and also by providing an indispensable reference point in the formulation of its economic and trade policies. The accession process would serve as an additional catalyst for Russia's further moves towards an economy based on free competition.

The representative of Japan said that Japan intended to work with the Russian authorities so as to achieve Russia's full integration into the international trading system.

The representative of Norway, speaking on behalf of the Nordic countries, said that while the Nordic countries would have their own economic and trade interests to raise in the accession process, they would seek to be constructive and reasonable in the interests of an overall balance and a positive outcome for all countries.

The representative of the European Communities said that Russia's request was an important step for international trade and the process of reforms within Russia. It was a confirmation of Russia's commitment to respect GATT rules and principles in its implementation of trade policy.

The Council took note of the statements and agreed to establish a working party with the following terms of reference and composition:

Terms of reference

"To examine the application of the Government of the Russian Federation to accede to the General Agreement under Article XXXIII, and to submit to the Council recommendations which may include a draft Protocol of Accession."

Membership

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

The Council authorized its Chairman to designate the Chairman of the Working Party in consultation with representatives of contracting parties and with the representative of the Russian Federation.

The representative of the Russian Federation expressed his delegation's gratitude to Council members for their support. His Government looked forward to a constructive dialogue with all interested contracting parties in the Working Party process.

The Council took note of the statement.

3. Accession of Paraguay
- Report of the Working Party (L/7210 and Add.1 and Add.1/Corr.1)

The Chairman recalled that at its meeting in November 1974, the Council had established a working party to examine Paraguay's request for accession to the General Agreement. As a result of many changes in the foreign trade régime of Paraguay, the initial process had lapsed and had not been reactivated until early 1989. He recalled also that the report of the Working Party (L/7210 and Add.1 and Add.1/Corr.1) had been before the Council at its meeting in May, and that consideration thereof had been deferred until the present meeting.

Mr. Seade (Mexico), Chairman of the Working Party, recalled that on 6 March 1989, the Council had taken note of Paraguay's request to resume negotiations for its accession to the General Agreement and had established procedures therefor. The Working Party, pursuant to its mandate, had carried out an examination of Paraguay's foreign trade régime and its compatibility with the General Agreement. The main points brought out in the discussion in the Working Party were set out in paragraphs 8 to 39 of its report (L/7210). Matters raised by members of the Working Party had related to Paraguay's tariff, taxation and customs régimes, balance of payments, regulations concerning unfair trade practices, State trading, export régime, free-trade zones and regional agreements. Having carried out its examination of Paraguay's foreign trade régime, the Working Party had reached the conclusion that, subject to the satisfactory conclusion of the relevant tariff negotiations, Paraguay should be invited to accede to the General Agreement under the provisions of Article XXXIII. The Working Party had prepared a draft Decision to this effect. The Working Party had also prepared a draft Protocol of Accession, which had been annexed to its report. The draft Protocol of Accession consisted of four parts, namely: Preamble, General, Schedule and Final Provisions, and contained the standard provisions for these legal texts in GATT. Schedule XCI - Paraguay, which had been annexed to the draft Protocol of Accession of Paraguay, listed the concessions resulting from the tariff negotiations between Paraguay and contracting parties. The Schedule had been circulated as L/7210/Add.1 and Add.1/Corr.1.

The representative of Paraguay said that his country's accession would be the culmination of an extended process that had gained impetus with the arrival of a new Government in 1989. Since that time, Paraguay had introduced major reforms aimed at liberalizing its economy, in particular the foreign trade sector. As part of the reforms, exchange rate policies had been modified so as to permit the free movement of the exchange rate, tariff rates had been substantially reduced, and the Harmonized System had been adopted. Furthermore, the tax system had been restructured. Paraguay had also subscribed to several bilateral and multilateral agreements aimed at guaranteeing investments, and had also acceded to international conventions in such areas as intellectual property, labour and human rights. He drew attention to Paraguay's participation in the Treaty establishing the Southern Common Market (MERCOSUR), and also to its participation in the Uruguay Round, in the course of which it had submitted market access proposals for both goods and services.

The vast majority of Council members indicated their support and welcome for the accession of Paraguay.

The Council approved the text of the draft Protocol of Accession and the text of the draft decision, agreed that the draft decision should be submitted to a vote by postal ballot, adopted the report of the Working Party (L/7210 and Add.1 and Add.1/Corr.1) and took note of the statements and of the expressions of support.

4. EEC - Import régime for bananas
- Recourse to Article XXIII:2 by Colombia, Costa Rica, Guatemala, Nicaragua and Venezuela (DS38/6)

The Chairman recalled that at its meeting in May, the Council had considered the request by the Governments of Colombia, Costa Rica, Guatemala, Nicaragua and Venezuela for the establishment of a panel to examine their complaint, and had agreed to revert to this matter at the present meeting.

The representative of Costa Rica, speaking also on behalf of Colombia, Guatemala, Nicaragua and Venezuela, reiterated their Governments' request that a panel be established to examine the matter referred to in document DS38/6. As they had indicated at the May Council meeting, the European Economic Community had been offered every possible opportunity to find a solution to this dispute, but without any success. Given this, and the fact that their request was being made for the second time, the Council should, in compliance with the provisions of the April 1989 Decision on improvements to the GATT dispute settlement rules and procedures (BISD 36S/61), proceed immediately to the establishment of a panel. Furthermore, their Governments believed that given the nature of the measures concerned and the very serious repercussions which had already been felt, it was essential that this request be considered as a matter of urgency and that, in accordance with paragraph F(f)5 of the April 1989 Decision, the panel should aim to provide its report to the parties within three months.

The representative of the European Communities said that while the Community continued to believe that the establishment of this panel was not appropriate, it would abide by the letter of the April 1989 Decision, according to which a panel should be established at the latest at the Council meeting following that at which the request first appeared as an item on the Council's regular agenda. The Community was not convinced, however, by arguments that this matter should be considered as one of urgency. There were many arguments which in fact pleaded against dealing with it as one of urgency. He would recall too that the measures referred to were not yet applied. Furthermore, one was confronted here with an extremely complex situation, and the Community had serious doubts as to the capacity of a panel to be able to work in such a short space of time and to produce a report that would be of sufficiently high quality. There was also the fact that many parties were involved in this dispute. The Community could not therefore accept the idea of urgency in this case. If a panel were to be established at the present meeting, it

should therefore be on the basis of standard procedures, and with standard terms of reference.

The representative of Colombia recalled that at the May Council meeting, his delegation had set out the reasons substantiating the request for a panel. Subsequently, on 10 June, the Community had adopted Regulations 1442/93 and 1443/93. The first set out provisions for the application of the import régime for bananas into the Community, and the second set out transitional measures for the application of the banana import régime in the Community in 1993, which complemented, within the competence of the Commission of the European Communities, the underlying rules for the Common Market Organization. While his delegation supported Costa Rica's statement, it wished to underline its particular interest in this dispute, since amongst the restrictive measures imposed by the new rules in the Community there were some which referred to the actual agents or banana traders. In Colombia, three-quarters of the bananas exported were handled by three fully Colombian marketing enterprises formed mainly by cooperative associations of the growers themselves and which, because of their limited organization, action potential and resources were severely penalized in the new Community regulations. While he would not reiterate the arguments made at the May Council meeting, he wished to emphasize two points. The first was the automaticity of the decision that the Council had to take at the present meeting pursuant to the April 1989 Decision. The second was the need to consider this as a matter of urgency, not only because of the arguments that had already been put forward, but also because, as the United States had said, a prompt decision on this dispute on the basis of the present GATT rules would be of great use to all participants prior to the conclusion of the Uruguay Round. It was essential that trade negotiations should not be used as a substitute for or as a response to the right to resort to the dispute settlement system, because this would lead to the conclusion that the negotiations in fact invalidated essential parts of the General Agreement. Furthermore, the Regulation relating to the Common Market Organization of 10 June had already had devastating effects on trade flows to the Community.

The representative of the United States said that, as his delegation had stated at the May Council meeting, the United States strongly supported the request by the Latin American countries concerned. The United States also continued to support their view that this was a matter of urgency, because of the commercial importance of the dispute to the complainants, its obvious importance to the ACP banana producers and the clear benefits of having a result before the expected conclusion of the Uruguay Round. His delegation welcomed the Community's recognition that from a procedural standpoint the panel in question should be established no later than at the present meeting.

The representative of Jamaica said that his country had a natural interest at stake in this dispute. Banana exports accounted for 25 per cent of Jamaica's foreign exchange earnings, and unemployment levels in its banana-producing areas would rise to over 50 per cent if an attempt were made to resolve this dispute without taking into account its concerns. Therefore, if a panel were established, Jamaica wished to

participate fully in its work with all the rights and privileges enjoyed by full parties. Jamaica was concerned that the panel might be asked to examine this matter pursuant to paragraph F(f)5 of the April 1989 Decision, and have to submit its report within three months. However, the dispute was so complex that the panel would need a full six months to conduct its examination, and the Council should make this point when the final decision was taken. Jamaica also wished to request technical assistance from the Secretariat, and looked forward to full and active participation in the work of the panel. It hoped that any decision by the panel would be reached following an adequate analysis of all aspects of the dispute and of its implications for countries like Jamaica.

As regards the context in which this panel was being requested, he would note that the régime complained of had not yet entered into force. Basic regulations had been published, but the rules which would govern these regulations were not yet known, and the mechanisms essential to the working régime were not yet in place. The Council was therefore being asked to take a decision without having all elements at its disposal to justify it. Furthermore, the disputed régime had as an essential feature the principle of tariffication. For years, contracting parties had negotiated to improve access conditions for agricultural products. The move towards tariffication would be one of the significant achievements of the Uruguay Round. From the outset of the Round, it had been agreed that its results would be evaluated to ensure balance. However, it did not seem appropriate to engage directly or indirectly in a piece-meal examination of proposed Uruguay Round results, and the examination of the proposed banana régime should perhaps await the conclusion of the Round. Also, one needed to consider the reaction of the concerned parties to the recently-issued Panel report on the Community's member States' import régimes for bananas (DS32/R)[1]. It could not be assumed that the case at hand had no link with this report. All parties had not yet completed their examination of the impact of those findings and of the relationship thereof to the Lomé Convention.

The representative of Argentina said that the Community had shown a positive attitude in accepting, albeit with reservations, to abide by the provisions of the April 1989 Decision. However, as his delegation had stated on earlier occasions, this dispute had serious economic repercussions which needed to be taken into account. Therefore, comments that this matter should not be treated as one of urgency because of the complex nature of the issues involved had to be reflected on again. It would be useful to recall in this respect that the Panel established to examine the Community's member States' import régimes had had to consider six different régimes in sixty days, while the panel on the matter at hand would have one régime to examine in ninety days.

The representative of Peru said that there was no doubt that the request for a panel was justified. He emphasized that this matter was urgent, not only for the complaining countries but also for the other countries involved, and in particular the ACP countries. It would be in

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[1] See Item 5.

the interest of all to find a solution which would make it possible to make long-term plans in respect of the Community's banana market. His delegation agreed with Argentina that the examination of a single import régime should not require more time than that required for the examination of several régimes.

The representative of Australia said that Australia had consistently recognized the importance of the trade issues involved in this dispute, and the need for the interests of all exporting countries to be taken into account. Australia believed that the principle of no exporter being made worse off was a cornerstone, not only for the successful conclusion of the Uruguay Round negotiations, but, more generally, in the process of illegal import measures being brought into GATT conformity. Australia continued to believe that a negotiated solution to this problem was possible which would not only meet the legitimate concerns of the Latin American, ACP and Community producers, but also be fully compatible with tariffication as provided for in the Uruguay Round Draft Final Act text on agriculture (MTN.TNC/W/FA). Against this background, Australia had consistently supported the Latin American producers' right to a panel on the new Community régime, and welcomed the Community's spirit of cooperation in agreeing to its establishment consistent with the provisions of the April 1989 Decision. On the question of urgency, both the United States and Argentina had made valid points. Australia would note, in addition, that there was provision in the April 1989 rules for a panel, once established, to decide on the issue of expediting its work on any particular matter.

The representative of Barbados said that while his Government believed this was an inopportune moment to ask for a panel, it recognized the automaticity involved in the April 1989 rules. Therefore, Barbados wished to request full participation in the panel proceedings as well as technical assistance from the Secretariat. While Barbados was not a banana exporter, any fall in the banana exports of its neighbouring island States would considerably affect their trade with Barbados. As to the question of urgency, his delegation could not see how this dispute could be dealt with justly under an expedited process; only a lengthy discussion would enable all of its complexities to be addressed properly.

The representative of Brazil welcomed the Community's statement agreeing to the establishment of a panel. This matter was of importance to all contracting parties and to the functioning of the multilateral trading system, particularly since the Panel on the Community's member States' present import régimes for bananas had found these to be GATT inconsistent. Brazil was concerned with the possible effects of the Community's new import régime on Latin American banana trade. Since Brazil held initial negotiating rights on bananas with the Community, it reiterated its interest in participating in any panel or negotiations concerning the modifications of the Community's concessions on bananas. Also, Brazil supported the view that this case should be treated with the urgency foreseen in the April 1989 Decision.

The representative of Mexico recalled that at several previous Council meetings, his delegation had expressed support for the concerns

of the Latin American banana-exporting countries, and its wish that this dispute be resolved satisfactorily as soon as possible. His delegation had also stated on several occasions that it fully recognized the spirit in which the Community provided preferences to the ACP countries, as well as the economic concerns of those countries. Like Australia, Mexico believed that there was a way of finding a solution that would benefit all the parties concerned. The secret was to find more neutral and less trade-distorting means of providing assistance such as through a system of direct payments. His delegation welcomed the Community's agreement to the establishment of the panel under the established procedures. His delegation also endorsed the arguments in favour of considering this matter as one of urgency. In this connection, he would note the crucial importance of this dispute for the trade of other countries concerned, the perishable nature of the product involved, as well as the nature of the investment in this sector, to which he had referred at the May Council meeting. Mexico supported the desirability of settling this matter as soon as possible before the conclusion of the Uruguay Round.

The representative of Chile supported the request for a panel and said that if this case were dealt with as a matter of urgency it would be to the benefit of countries that were already being affected by the Community's proposed new import régime. Chile believed that the ACP countries should participate in the panel process only as third parties, and not in any other capacity. The dispute involved the Community's import régime and its commitments under the GATT, and it was the Latin American banana-exporting countries that had made this appeal for redress. While the outcome of the process could affect the Community's commitments to other countries, such as the ACP States, this was a matter for the Community to resolve directly with them. Chile trusted that the Community, in respecting its commitments under the General Agreement, would find a fair solution for the preferences granted to the ACP States for their banana exports. Finally, Chile believed that since a perishable product was involved, the urgent procedure should be used and a decision taken at the present meeting.

The representative of Senegal said that his delegation was not convinced of the need to establish a panel. However, if such a decision were to be taken by the Council, Senegal reserved the right to participate fully in the work of that panel. Senegal also wished to receive technical assistance from the Secretariat.

The representative of Bolivia supported the request for a panel, as well as the view that this matter be treated as one of urgency.

The representative of Dominica said that his delegation continued to believe that it was premature to establish a panel at this stage. However, should a panel be established, Dominica wished to participate fully in its work, with all rights and privileges. He recalled that bananas accounted for over 90 per cent of Dominica's agricultural exports, all of which were exported to the Community. Furthermore, as an ACP country, Dominica would note from the conclusions of the Panel on the existing banana import régimes of some member States of the Community

that there were implications which went beyond bananas. For this reason, it would be inappropriate to treat this as a matter of urgency. Dominica urged that every opportunity be allowed to all contracting parties wishing to do so to fully represent their interests, and that the panel's mandate not be limited by the provisions of paragraph F(f)5 of the April 1989 Decision. Furthermore, Dominica wished to receive technical assistance from the Secretariat in preparing its submissions to a panel.

The representative of St. Lucia associated his delegation with Dominica's statement. It was regrettable that the Latin American countries concerned insisted on persisting in this matter in a way which threatened to damage the economies of the Caribbean countries as also the growing political and economic cooperation between Latin America and the Caribbean. St. Lucia wished to participate as a full participant in any panel that might be established. On the question of urgency, it agreed with Jamaica on the time that would be needed for effectively dealing with this subject and could not support the call for an expedited procedure. St. Lucia also intended to seek technical assistance from the Secretariat.

The representative of Belize said that his delegation objected to the establishment of a panel, but would accept the Council's decision on this matter. His delegation also endorsed the statements by Jamaica, Barbados, Dominica and St. Lucia. Belize could not agree that this was a matter of urgency, and would note that this dispute involved not only the Community but also the ACP states, many of whose economies would be affected by it. Belize had a substantial interest in this matter, and wished to make submissions to the panel, if one were established. It would also request the panel to grant it access to all submissions by other parties to the dispute. Finally, Belize wished to receive technical assistance to present its case effectively.

The representative of Suriname said that bananas were a major export commodity and foreign currency earner for Suriname. The result of the work of the panel might therefore have important consequences for Suriname economically, socially and politically. While Suriname was opposed in principle to the establishment of a panel, it would respect any decision by the Council to the contrary. Suriname had a vital interest in this matter and requested full participation in a panel if one were established. It would also seek technical assistance from the Secretariat.

The representative of Cameroon recalled that at the May Council meeting, her delegation had spoken against the establishment of this panel. The reasons underlying Cameroon's position had not changed. Cameroon remained convinced that a satisfactory solution to this matter could still be found through the conclusion of the Uruguay Round, and particularly through the continuation of negotiations with the Community. However, if the Council should decide to establish a panel, Cameroon wished to participate fully in its work as an ACP country with an important trade in bananas with the Community. Cameroon would also wish to request technical assistance from the Secretariat in this matter. The

work of the panel, if established, should proceed within the normal timetable, namely six months, and not be rushed.

The representative of Côte d'Ivoire said that bananas were one of his country's main export products, and of primary importance to it. While his delegation would have preferred not to have had a panel established on this matter, this now seemed to have been more or less decided. His Government would wish to participate in the work of the panel with full rights and privileges. It would also wish to receive technical assistance and to request that documents relating to the Panel's work be circulated in all working languages. On the question of urgency, he said that the interests of the ACP countries, which were amongst the least developed countries in the world, should be taken into account in this particular case, and that the panel should be allowed time to study all aspects of the question and not to rush to conclusions and thus harm their interests. It was therefore necessary that the Panel follow normal working procedures.

The representative of El Salvador said her delegation supported the establishment of a panel as a matter of urgency. It should be borne in mind that while one would be deliberating on this matter in Geneva, trading companies in Latin America as well as in other regions of the world would be taking decisions, which were very often irreversible. El Salvador believed that since a recent Panel (see Item 5) had already tackled the complexity of several régimes existing in the member States of the Community at present, it would not be such a problem for another panel to examine a single régime that had not only been recently established, but had been widely discussed in many fora, including in the Community itself. Like the United States, her delegation believed that the solution to this dispute would be of paramount importance for the resumption of the Uruguay Round. She noted that while El Salvador was not a banana exporter, its economy too, like that of Barbados, would be affected by any drop in exports suffered by its neighbouring countries, be they contracting parties or not. However, despite this, El Salvador believed that participation in the panel should be limited to those countries which had a substantial interest in this particular product. As regards the statement by St. Lucia, she would say that El Salvador was a member of the Central American Common Market, and that, despite this fact, it did not impose any ban or quota on the entry of fruit from any part of the world.

The representative of Ghana said that his delegation did not see any merit in establishing a panel on a régime that was not yet operational. Furthermore, it maintained the view that a negotiated solution was the best way to resolve this rather complex issue. The removal of ACP preferences could not bring a viable solution. The Lomé Convention was the cornerstone of the relationship between the Community and the ACP countries, and any attempt to dispute this accord was an attempt to question the right of the ACP countries to survival. The Lomé Convention was not new to the GATT, and ACP countries treasured the trade protection it provided generally, particularly in terms of the banana protocol. Without this protection, ACP producers would be set aside by competition from Latin American plantations, the production costs of which were much

lower as a result of low wages, poor social and environmental provisions and repression. The Latin American plantations were run largely by powerful multilateral food companies which would be the ultimate beneficiaries of an "unholy conspiracy" against the ACP countries. The Latin American countries had steadily increased their share of the Community's market to more than 65 per cent and were simply craving for more. All special trade arrangements reported to the GATT should be respected equally. The Lomé Convention was a special package of economic assistance through trade rather than aid, and its beneficiaries were some of the world's poorest rural populations.

Banana production in Ghana was a vocation for small-scale poor rural farmers, and Part IV of the GATT should be interpreted so as to assist these small rural producers to remain in production and thereby survive, rather than be deliberately manipulated. This should not be the price to pay for the economic reforms and trade liberalization measures that Ghana had painstakingly been going through. If the world trading community had nothing to offer the ACP countries, it should not block their minimal trade channels. However, if the panel had to be established, Ghana wanted to be part of that process. The panel proceedings should not be rushed, however, and should be transparent. Finally, Ghana wished to receive technical assistance in this matter.

The representative of Trinidad and Tobago endorsed the statement by Jamaica and others to the effect that, because of the complexity of the matter, it should not be dealt with in a fast-track manner. His delegation recommended rather that further consultations should be held between the Community and the Latin American banana-exporting countries. However, if the Council decided to establish a panel, Trinidad and Tobago wished to participate fully in its work. Like Barbados, Trinidad and Tobago did not export bananas, but its economy would be directly affected if its immediate neighbours suffered a deterioration.

The representative of Antigua and Barbuda associated his delegation with the statements by Trinidad and Tobago, Jamaica and Dominica. Antingua and Barbuda, like Barbados and others, would be severely affected by any dislocation in the economies of its neighbouring banana-producing countries. Apart from that, as an ACP country and signatory to the Lomé Convention, Antigua and Barbuda had a fundamental interest in this matter, and requested to be accorded the same facilities and rights as were requested by Jamaica and Dominica with respect to its full participation in any panel that might be established.

The representative of St. Vincent and the Grenadines expressed his delegation's concern at the establishment of this panel, which it believed was premature and unnecessary. Given the important of the banana industry to St. Vincent and the Grenadines, and the fact that the principal beneficiaries of the Community's proposed import régime for bananas were the banana-exporting countries of the ACP, his delegation would urge the complainants to withdraw their complaint. St. Vincent was not convinced that this matter could not be solved through dialogue, and would prefer to see it resolved within the context of the Uruguay Round.

He urged the countries concerned to seek further dialogue with the Community with a view to resolving this very complex issue within the context of the Uruguay Round. However, if a panel were to be established, St. Vincent and the Grenadines wished to participate fully in its work in view of its fundamental interest in the dispute. His delegation was opposed to the accelerated procedure requested by the complainants, which would neither allow the ACP countries to prepare their case nor allow the panel adequate time to thoroughly examine the numerous aspects of the difficult and complex case. St. Vincent and the Grenadines also wished to receive technical assistance from the Secretariat to prepare its case.

The representative of Madagascar said that her delegation believed the panel request to be premature at this stage. Madagascar would urge the parties concerned to try to reach a solution through consultations and negotiations in the Uruguay Round. However, her delegation had an interest in this matter and reserved its right to present its views at any discussion which may be undertaken with regard to this particular issue within GATT.

The representative of Malaysia, speaking on behalf of the ASEAN contracting parties, welcomed the Community's decision to abide by the provisions of the April 1989 Decision, which they believed would give credibility to the dispute settlement system. The ASEAN contracting parties hoped that a satisfactory solution could be found in view of the wide-ranging interests in this issue. As regards the question of urgency, they believed that there was sufficient provision in the April 1989 rules to deal with this matter. He indicated the interest of the Philippines in participating as a third party in the work of the panel, with the possibility of making written submission thereto.

The representative of the Dominican Republic supported earlier statements by other ACP countries indicating that they did not agree to the establishment of this panel. Nonetheless, if a panel were established, as seemed to be the general desire on the part of the Latin American countries, her delegation would request full participation as an ACP country. Furthermore, her delegation would not accept a fast-track approach in the panel, but rather would urge that the normal time-frame be maintained, thus allowing ample opportunity for full consideration of all the different issues. The Dominican Republic intended to seek technical assistance from the Secretariat, and hoped that the documents relating to the panel's work would be made available to ACP country participants in the relevant language.

The representative of Cuba supported the establishment of a panel at the present meeting given the perishable nature of bananas and the immediate consequences for the producing countries, and because of the impact of this dispute on the Uruguay Round.

The representative of Japan said that this was an issue with important ramifications for the GATT, and that Japan had an interest in it. Japan supported the establishment of a panel at the present meeting

because this was in line with the multilateral trading rules and particularly with the April 1989 Decision. Japan also supported the consideration of this case as one of urgency, again in accordance with the April 1989 Decision.

The representative of Uganda said that many small ACP countries depended heavily on bananas for their survival and should be provided with maximum support. While these countries would clearly have preferred otherwise, if a panel were to be established, they should be assisted to participate fully in order to defend their case. Uganda was particularly concerned because there appeared to be a creeping movement towards eroding the limited preferences accorded to the very weak economies. The sudden removal of ACP preferences would create greater problems for the international community. While Uganda was not a significant banana exporter, it would want in future to consider the possibility of export. As a result of these concerns, Uganda requested technical assistance to participate fully in the work of any panel to be established.

The representative of Tanzania said that while Tanzania would have preferred not to see a panel established on this matter, it recognized the automaticity of the April 1989 rules. If a panel were established, it should have standard terms of reference and not be asked to work under expedited procedures. As an ACP country, Tanzania was interested in participating fully in the work of the panel. It would also seek technical assistance from the Secretariat, as necessary.

The representative of Guatemala emphasized that this was a dispute between the Community and five Latin American banana-exporting countries. It was the Community that had taken the measure complained of, and the Community would have to revoke the measure or bring it into GATT conformity. The ACP countries could not be full parties to this dispute. They were certainly interested parties, and the April 1989 rules provided for their adequate participation as such, giving them the opportunity to protect their interests. This dispute was not between two groups of developing countries, which needed to be clearly understood. GATT rules should be respected, for the benefit of all, and socio-economic arguments should not be invoked to thwart the application of these rules.

The representative of Ecuador, speaking as an observer, expressed his Government's satisfaction that the Community had decided to honour its commitments under the General Agreement, and had agreed to the establishment of a panel. This provided credibility to the multilateral system. However, his delegation was concerned at the Community's arguments against this matter being considered as one of urgency. He recalled, as had Argentina, that the Panel on the member States' import régimes had examined six different régimes in two months and that the panel presently being requested would examine a single régime. He believed that the Community had therefore erred in saying that in an expedited procedure under the April 1989 rules, the Panel would not have enough time to examine all issues and to produce a good report. As to the Community's statement that its new régime was not yet operational, he said that the effects of the proposed régime had already begun to be felt in Ecuador in a devastating way. This matter was therefore urgent, and

this aspect could not be open to discussion. His delegation had also been struck by arguments from third parties to the dispute wishing to participate fully in the work of the Panel. The April 1989 rules were very clear in this respect, and it would be a distortion of these clear and precise rules to permit these parties to participate in this way.

The representative of Panama, speaking as an observer, said that her country was also a large banana exporter, and supported the statements by Costa Rica and Colombia regarding the establishment of a panel.

The representative of Costa Rica, speaking also on behalf of Colombia, Guatemala, Nicaragua and Venezuela, expressed his satisfaction that the Community had agreed to act in conformity with the April 1989 rules. However, he regretted that the Community, as well as certain other delegations, had refused to recognize the clearly urgent nature of this matter. This refusal, however, would not limit the right of their Governments to take up this point again once the panel had begun its work. As regards the wish of some Governments to participate fully in the work of the panel -- certain of which had requested the same rights and privileges as the parties to the dispute -- he said that the participation of all third parties should be strictly in accordance with the provisions of paragraph F(e) of the April 1989 Decision. The Governments that had requested the right to participate fully were neither complainants nor defendants or respondents in this case. The measures complained of had been proposed by the Community, and clearly only the latter could be the respondent. Furthermore, third party participation should be limited only to governments having a "substantial interest" in the matter, pursuant to paragraph F(e) of the April 1989 Decision. He noted, in this conection, that certain delegations such as Barbados, Trinidad and Tobago, Antigua and Barbuda and Uganda, had admitted to not having a substantial interest in this matter. It would be an unacceptable precedent if the equality of rights of all third parties as provided for in the April 1989 Decision were to be altered.

The representative of the European Communities said he had been struck by the appeals by several delegations that the parties concerned negotiate further. It was clear that such negotiations conducted in good faith by the parties would, indeed, have been preferable to a decision to establish a panel. The Community, for its part, had been willing to negotiate with the Latin American countries concerned. If a panel were to be established at the present meeting, it should be on the basis of standard terms and procedures, and without any reference to urgent proceedings. As regards third parties, the Community attached fundamental importance to the full and complete participation of all countries having expressed the wish to participate as such. He drew attention to certain precedents in this respect. If full participation of the countries concerned were not made possible, the Community would draw conclusions therefrom as regards its own commitment and involvement in this panel. This was an extremely important matter for the GATT, and his delegation had clearly expressed its position thereon. He trusted that the Council would take a balanced decision.

The Council took note of the statements and agreed to establish a panel with the following standard terms of reference unless, as provided for in the Decision of 12 April 1989 (BISD 36S/61), the parties agreed on other terms within the next twenty days:

> "To examine, in the light of the relevant GATT provisions, the matter referred to the CONTRACTING PARTIES by the Governments of Colombia, Costa Rica, Nicaragua, Guatemala and Venezuela in document DS38/6 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."

The Council authorized its Chairman to designate the Chairman and members of the Panel in consultation with the parties concerned.

5. EEC - Member States' import régimes for bananas - Panel report (DS32/R)

The Chairman recalled that at its meeting in February, the Council had established a panel at the request of the Governments of Colombia, Costa Rica, Guatemala, Nicaragua and Venezuela to examine this matter in accordance with the requirements of the 1966 Decision on Procedures under Article XXIII (BISD 14S/18). The report of the Panel was now before the Council in DS32/R.

Mrs. Saiki, a Member of the Panel, introducing the report on behalf of its Chairman, Mr. Patel, recalled that contracting parties had been informed of the composition of the Panel on 12 March. The Panel had subsequently met twice with the parties. Following an agreement reached between the parties, and accepted by the Panel, five other contracting parties with particular interest in trade in bananas had been invited to be present throughout the meetings with the parties. The Panel had received submissions from these five participating contracting parties as well as from three other third parties. The report of the Panel had been presented to the parties and to the participating contracting parties on 19 May, and circulated to contracting parties on 3 June. As a result of its findings, the Panel had reached the following conclusions and recommendations. It had concluded that the quantitative restrictions maintained by France, Italy, Portugal, Spain and the United Kingdom on imports of bananas were inconsistent with Article XI and not justified under Article XI:2(c)(i), Article XXIV, or the existing legislation clauses in the protocols through which these member States of the Community had become contracting parties. The Panel had therefore recommended that the CONTRACTING PARTIES request the Community to bring these restrictions into conformity with the General Agreement. The Panel had also concluded that the tariff preference accorded by the Community to imports of bananas originating in African, Caribbean and Pacific (ACP) countries was inconsistent with Article I and that a legal justification for the preference could not emerge from an application of Article XXIV to the type of agreement described by the Community in the Panel's proceedings, but only from an action of the CONTRACTING PARTIES under Article XXV. The Panel had therefore recommended that the CONTRACTING

PARTIES request the Community to bring the preference into conformity with the General Agreement unless, in accordance with the provisions of Article XXV, the Community was authorized to maintain the preference. The Panel had been aware that the issue before it was of critical importance to a wide range of contracting parties, both developed and developing, which was part of the reason for which it had agreed, as an exceptional provision, to the participation in its work of certain developing contracting parties. The task given to the Panel had been defined by its terms of reference. In arriving at its conclusions, the Panel had borne in mind the decision by the CONTRACTING PARTIES that decisions in the dispute settlement process "cannot add to or diminish the rights and obligations provided in the General Agreement" (1982 Ministerial Declaration, BISD 29S/13, paragraph X). However, as the Panel had pointed out in its report, its findings did not foreclose the possibility of an application of the procedures of the General Agreement that permitted changes in these rights and obligations, such as Article XXV. In conclusion, she recalled that the procedures of the 1966 Decision had not been used before in the GATT. While such procedures existed to enable issues of an exceptional nature, like the present case, to be investigated promptly within a specified and short time frame, these procedures could not work without the full cooperation of all concerned. The Panel was grateful that this cooperation had been present throughout all stages of its work.

The representative of Costa Rica, speaking also on behalf of Colombia, Guatemala, Nicaragua and Venezuela, voiced these countries' satisfaction with the Panel report, not only because its conclusions resulted from a sound and logical analysis of the régimes concerned in the light of obligations under the General Agreement, but also because its recommendations would need to be complied with, which would resolve a trade problem that had led to serious consequences for their countries. The Community's compliance with the Panel recommendations would demonstrate that the GATT dispute settlement system truly guaranteed the development of international trade relations with due respect for multilateral trade rules. It would also demonstrate that GATT rules were respected by all contracting parties regardless of their level of participation in world trade. He recalled that their Governments had resorted to the dispute settlement mechanism after having exhausted all other possibilities for a solution. They had invoked the 1966 procedures because these had been drawn up to expedite resolution of disputes of this nature that arose between developing contracting parties and a developed contracting party. On the basis of the reasons that had prompted the 1966 procedures, their Governments requested that the Council adopt the Panel report immediately, and that the Community be urged to take the necessary steps to bring the régimes in question into conformity with its GATT obligations, thus abiding by the Panel's recommendations.

The representative of the European Communities said that the Community was willing to discuss the Panel report at the present meeting without prejudice to its position regarding procedural rules and the time period to be respected before consideration of a panel report by contracting parties. Since this Panel report had been circulated only a

short while earlier, the Community was still in the process of conducting an in-depth analysis of its legal implications. The Panel had dealt with a subject, namely preferences under the Lomé Convention, which posed a major problem in light of the implications that its conclusions and findings could have not only on the Community but also on other contracting parties in terms of non-reciprocal preferential agreements between developed and developing countries. His authorities were giving careful consideration to this matter. In the light of this, the Community believed it would be more productive for the Council to hold a substantive discussion on the report at its next meeting.

The representative of Colombia said that at the time the majority of the developing countries had acceded to the General Agreement, the more prosperous countries had already created the complex, legal framework and a number of dispute settlement procedures which the former had accepted. It was due to the former countries' full acceptance of these rules and respect for the decisions arising out of the proper functioning of the dispute settlement procedure that their accession could be justified. Colombia believed that full acceptance by all contracting parties of the decisions of various committees, working parties and panels would strengthen the multilateral trading system and encourage all to work towards gradual trade liberalization. The system would be further enhanced if it was seen to serve all and not just the interests of a few, particularly if those few were the most powerful. Referring to the Panel report under consideration, he said that on very few occasions had there been a dispute such as this which placed a group of industrialized countries against a smaller number of developing country exporters of a commodity. The decision of the Council on this report was being very closely awaited by the public in developing countries, and would undoubtedly have repercussions on the credibility of the institution and on the strength of their countries' commitment thereto. Colombia therefore urged adoption of the Panel report.

The representative of Jamaica said that his Government, among others directly involved in exporting bananas to the Community, had participated fully in the Panel proceedings. Jamaica had always been committed to maintaining the integrity and strength of the GATT system, including its dispute settlement procedures. It was convinced that there should be confidence in the operation of the dispute settlement system, so that all contracting parties would continue to respect the rules of the General Agreement. With this in mind, his delegation had studied the Panel report and had sent it for further study by legal experts and those involved in trade policy. The report appeared to have attempted to resolve several issues that had confronted the GATT over the past year. This had led to some serious errors and strange conclusions by the Panel, for which reason Jamaica strongly recommended that the findings and conclusions be rejected. Providing examples, he said that in paragraph 355, the Panel had misdirected itself on the way an obligation to act as against discretionary powers was conveyed in national legislation. In paragraph 368, an essential reference to the m.f.n. clause submitted by one participant had been ignored in that the Panel had noted that there was no reference to this matter. Also, in paragraph 367, the Panel had determined for itself whether an agreement

prima facie fell under Article XXIV, and had used this to make an important finding about certain agreements, and in this process had exceeded its mandate. In paragraph 370, some very complicated arguments had been raised about the applicability of the GATT in relations between contracting parties and non-contracting parties. Apparently, the Panel had overlooked that the end result of its finding would be to give a major advantage to a non-contracting party. Finally, the Panel had refused to examine the very issue that had been put before it, namely whether benefits enjoyed by certain contracting parties were nullified or impaired. A major flaw in the report was that it exceeded its mandate and not only discussed but reached some conclusions regarding the tariff preferences accorded to ACP countries under the Lomé Convention, when three previous working parties with more time and ample information had not been able to reach this stage. His delegation had already indicated the importance of the banana industry to Jamaica and to the other ACP countries concerned, and would not dwell on the immeasurable sociable, economic and political repercussions of this report. While the ACP countries were aware of the importance of the banana business to the complainant countries, they would find it difficult to explain why the international trading system would wish to transfer benefits from countries working hard to maintain their position in the market to those that had demonstrated their ability to survive economically and already controlled 77 per cent of the world banana business. Jamaica would therefore not be in a position to agree to adoption of the Panel report. While information might come to light which would lead it to take another view, Jamaica would at present strongly recommend that the Panel report be rejected, because it would be dangerous for this report to be quoted or to be the basis for any guidance or conclusions in future disputes.

The representative of Argentina said that at issue in this dispute were the rules of the GATT and how they should be interpreted. It would be an error for the entire system if one were simply to take a short-term view, particularly for those countries such as Argentina which were the weakest in the system. Argentina acknowledged that this report could be controversial. However, it was important that the dispute settlement system be fully operative. Argentina believed that the Panel had provided a correct interpretation regarding the basis of the Community's legislation and how that legislation should be brought into GATT conformity. While the socio-political arguments put forward by some countries were very valid, one also had to keep in mind economic arguments. The objective of the GATT was to ensure, through trade, the best allocation of the world's resources so that efficient producers could sell their products on the international market.

The representative of Peru said that his delegation had always emphasized the importance of strengthening the GATT dispute settlement system, so that all were made to respect their obligations rather than have a situation where the might of the stronger trading powers prevailed. This Panel report was an opportunity for one of the larger trading partners to show that it respected a system that bound all. Peru urged the Community to allow adoption of the Panel at the present meeting, and thereby send a clear message to developing contracting parties that it was willing to work together with them towards freer

trade. In addition, Peru wished to emphasize the importance of taking into account the situation of the Lomé Convention countries. In this connection, Peru welcomed the information it had received that the Latin American countries concerned would be holding talks with some of the Lomé Convention countries. Peru was surprised by the Community's view that the Panel report could have implications for preferential advantages for developing countries. Peru believed that this was not the case, because the Panel had recognized the validity of the obligations of developed countries to developing countries as long as these were additional to those negotiated within the GATT.

The representative of Senegal said that the Panel report had only recently been circulated, and had been sent to his authorities for consideration. On the basis of a preliminary reading of the report, however, Senegal found its conclusions to be unsatisfactory. Senegal therefore wished to have more time to analyze the report, and would revert to it at the next Council meeting.

The representative of St. Lucia said that the banana industry was the mainstay of his country's economy, accounting for 60 per cent of its exports. St. Lucia was therefore alarmed that the Panel had ruled against the trade on which the very livelihood of his country rested. A preliminary reading of its conclusions suggested that these were fundamentally flawed, and appeared to contradict GATT principles dealing with developing countries. The Lomé Convention was undeniably the most successful and comprehensive framework of North-South cooperation. It was inconceivable that the GATT would condemn the trading dimension of that arrangement through which the Community made it possible for some of the weakest countries in the world to continue their long-standing historical trade links which, in general, pre-dated the GATT itself. St. Lucia wondered whether the Panel had been able to consider all the aspects of this matter; given the severe time limitations under which it had been obliged to operate, this might not have been possible. Had there been an adequate opportunity for a comprehensive assessment of all relevant factors, a more sensitive and appropriate conclusion would have been reached. The Panel appeared also to have exceeded its mandate by condemning non-reciprocal trade advantages awarded by developed countries to selected developing countries. For these reasons, St. Lucia requested that the Council not adopt the Panel report.

The representative of Guatemala said that the Panel report reaffirmed its trust in the GATT system. For all those countries that believed in the GATT, this report was very important, as was its adoption by the Council. For the Council not to adopt the report would be a demonstration that the system had failed all.

The representative of Belize associated his delegation with the statement by Jamaica. Belize believed that the Panel had not had the full benefit of the views of the affected ACP banana-producing states. Belize had requested participation in the Panel but had been denied because of a technicality, and could not, in principle, accept the

Panel's conclusions and recommendations. The matter involved was complex and could result in severe injury to many of the ACP countries' economies. His delegation needed more time to assess the implications of this report for the Lomé Convention, and urged that it not be adopted.

The representative of St. Vincent and the Grenadines said that his delegation had not had time to analyze the report. On a preliminary reading, it appeared that the report had not only condemned the banana-trading arrangements of some Community member States, but by implication the entire trading arrangement of the Lomé Convention. The implications of unravelling such an arrangement were so awesome that his delegation believed they had not been carefully considered by the Panel. For example, there were implications for other regional preferential trading arrangements. Also, of the ACP states which benefited in one way or another from the Lomé Convention trading arrangements, 44 were GATT contracting parties. Therefore, there were implications for the GATT. Furthermore, in condemning the non-reciprocal nature of the Lomé trading arrangements, the Panel seemed to have missed a fundamental point, namely that the ACP countries were the only beneficiaries of that régime. The Community did not seek reciprocity for that arrangement which was purely development assistance provided to the ACP countries in the form of preferential treatment. It was unfortunate, therefore, that the report sought to condemn the Community for extending such assistance to some of the poorest and least-developed countries. For these reasons, his delegation recommended, at least at this stage, that the report not be adopted.

The representative of Dominica joined others in urging more time for consideration of the Panel report, because the issues raised therein were wide-ranging and controversial. He said that the effect of the findings of the Panel would be felt in the Caribbean and other ACP banana-exporting countries, and wondered whether the Panel had given any consideration to the impact on a country like Dominica if its conclusions were adopted by the Council. Already, there had been such an erosion of prices in the Community's market as to cause farmers in Dominica to take to the streets. In the Tokyo Round, the CONTRACTING PARTIES had provided for a right to development assistance which allowed for derogations from the principles of the General Agreement. They had not wished to impose an obligation on the developed countries, but had made sure that they allowed those who so wished the possibility of contributing to the development of the most impoverished countries. The Panel report at hand was inflexible and did not allow for such a concept of development aid. Aid donors, however, must be able to select the instrument of their aid. If this aid were granted to all countries at the same time and indiscriminately, it would lead to the situation prevailing without the aid, namely competition, with the weakest being sacrificed.[2] The principle of aid underlying the Enabling Clause system presupposed that in a sector such as bananas preferences could be granted to certain developing countries provided the situation of countries not receiving

[2]Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries (BISD 26S/203).

aid was not aggravated as a result. The aid granted to ACP countries in the framework of the Lomé Convention met the needs of those countries. The Panel report was contrary to this spirit, and Dominica urged that contracting parties be allowed more time to examine it in greater detail.

The representative of Côte d'Ivoire said that the Panel report dealt with a matter of paramount importance to his country, and there were various legal aspects which needed to be looked at carefully. A preliminary review of the report had caused his delegation great concern, and its consideration and adoption now would create a difficult situation for his country. Côte d'Ivoire's production and marketing of bananas was not as efficient as compared to that of the complainants in this dispute, and there was therefore great risk to its exports. The report, in its conclusion, also challenged the Lomé Convention, which was of paramount importance for his country's access to the Community's market. It would appear from the report that a group of developing countries which had benefited largely from the multilateral trading system was seeking to reduce even the few advantages accruing to another group of developing countries. In fact, those that held more than two-thirds of the market wanted to reduce the advantages for others that held less than one-third of the market. For these reasons, Côte d'Ivoire wished to see consideration of this report deferred to a later stage.

The representative of Cameroon said that the Panel report seemed to be challenging aspects of the Lomé Convention by its conclusion that the tariff preferences granted by the Community to banana imports from the ACP countries was incompatible with Article I. Such a conclusion was unacceptable to Cameroon and was sufficient reason to reject the Panel report independently of any further, more detailed examination. However, Cameroon wished to be objective in its consideration of the report and believed that given its dense nature, more time would be needed for a more complete analysis of the report.

The representative of Mexico said that the dispute settlement mechanism was the cornerstone of the multilateral trading system, and that one of its essential elements was adoption of and respect for panel reports. Mexico supported the adoption of this Panel report. The Community should demonstrate its readiness to be guided by the provisions of the multilateral trading system and to respect the Panel's recommendations. Mexico noted that there was a general trend in agriculture at present towards the application of direct payments for support. Diversification of production into more competitive areas was also being advocated. Given these trends, Mexico would urge the Community to search for new ways to channel its support both to domestic producers as well as to other countries, in a more direct manner, and thereby ensure that its assistance was not only more effective but had a less distortive effect on international trade in the products concerned. He emphasized that the concept of development assistance was not being challenged in this debate, and that the concerns expressed by Jamaica, Dominica, Belize, among others, were fully understandable. Mexico was not suggesting that the Community halt or cease its assistance to the ACP developing countries, but rather that it provide such assistance in a manner consistent with the principles of the GATT and less detrimental to the interests and aspirations of other developing countries. Mexico

urged the Community to demonstrate its respect for both the letter and the spirit of the General Agreement, and to initiate an identification of forms of support for the ACP banana-exporting countries in accordance with the provisions of the General Agreement. It also urged adoption of this Panel report.

The representative of Morocco said that a preliminary reading of the Panel report showed that some of its findings and conclusions were controversial, and that its adoption would be detrimental to the rights and interests of many contracting parties. It was of concern that the Panel had, without any justification, excluded the applicability of Part IV to the provisions of Article XXIV. Did the Panel want to push the Community to asking for reverse compensation from the ACP countries? Morocco believed serious thought should be given to the consequences of this type of reasoning. Excessive legalism which disguised political and social realities could be dangerous for the GATT, which had always taken into consideration certain balances necessary for its smooth functioning. Noting that some reference had been made to preferences, he said that tariff concessions did not constitute a trade advantage but an economic advantage. Such concessions made it possible to improve the revenue for the producer but did not come into play as a regulatory element on the market. Given this, Morocco believed that attacks against the Lomé Convention were inappropriate and could not be justified from the trade point of view.

The representative of Nigeria said that his delegation was regrettably unable to support adoption of this Panel report. Given the deteriorating economic situation of many developing countries and their continued dependence on the export of commodities, the adoption of this report would compromise a number of bold initiatives put in place in the context of economic reforms and structural adjustment. The case at hand was much more than an ordinary trade dispute between a developed contracting party and a group of developing countries. It was a carefully conceived strategy to redefine international economic relations in an unfavourable way. The GATT should not be seen to be in favour of such a development. His delegation urged that more time be allowed for consultations among all the parties to this dispute with a view to arriving at an amicable settlement in the days ahead.

The representative of Antigua and Barbuda said that the conclusions of the Panel report were detrimental to the continued economic viability of all developing countries signatories to the Lomé Convention, and not only of those that were banana producers. By extending its conclusions to beyond the question of bananas, the Panel has proceeded to condemn the whole Lomé Convention, with the result that all the ACP countries found themselves facing the awesome prospect of being deprived of a long-standing arrangement which had served as the basis of trade as well as aid. His delegation believed that the Panel might not only have exceeded its mandate but also, in doing so, might have pre-empted the deliberations of the Working Party currently examining the Fourth Lomé Convention. His delegation also feared that the Panel's condemnation of the Lomé system might place in jeopardy other international arrangements designed to help developing countries on a non-reciprocal basis. It was

objectionable that an ACP country such as Antigua and Barbuda was not even aware that the Panel had been discussing and pronouncing upon its economic fate, while appearing to be only engaged in the investigation of a commodity in which it did not trade. Against that background, his delegation felt obliged to join those that had raised objections to the adoption of the report.

The representative of Uruguay expressed his delegation's satisfaction with the work of the Panel and with its report, which contained a careful and extensive analysis of delicate and far-reaching topics. Uruguay agreed with the Panel's conclusions, and considered it necessary that the report be adopted. This would be important for the proper functioning of the dispute settlement system. Uruguay also urged the Community to take the necessary measures to comply with the Panel's recommendations.

The representative of Kenya said that on a preliminary reading of the Panel report it was clear that the matters it dealt with were complex and had far-reaching implications, not only for the countries directly involved in the dispute, but also for others. Panels and their recommendations were important, and played a vital rôle in the resolution of trade disputes. However, one should take into account that beyond the facts and figures, beyond the legal arguments and the conclusions, there were men, women and children whose welfare had to be considered. Development and international cooperation was not a question of law alone, and other factors had to be taken into consideration. The Panel report was full of such considerations advanced by some of the interested parties and which apparently had not been taken into consideration. The Panel report and its conclusions raised some fundamental issues relating to the definition and interpretation of some key Articles of the General Agreement. It appeared too that the Panel might have exceeded its mandate by adjudicating on an issue relating to the Fourth Lomé Convention, the competence for which belonged to a Working Party set up by the Council in February. For these reasons, his delegation believed that the report required further analysis and evaluation before a decision was taken by the Council.

The representative of Barbados said that the conclusions of the Panel appeared to be tendentious, mean-spirited and that the report should best be set aside. His authorities, however, were still examining the Panel report, and his delegation would request the Council to defer consideration and action on this report until its next meeting.

The representative of Suriname supported deferring consideration of this report until the next Council meeting. Adoption of the report and implementation of its recommendations would imply the destruction of the Protocol on bananas in the Lomé Convention. Protection afforded to ACP banana producers under the Fourth Lomé Convention would be seriously undermined and the very existence of the Lomé Convention called into question. The complex legal and economic issues in the report, as well as their dimensions and effects against the general background of the right to development required careful analysis and proper consideration.

The representative of Madagascar expressed concern at the speed with which the Panel had concluded its work. A panel established under standard terms of reference should have sufficient time to examine the matter before it in order to draw conclusions following careful consideration. Contracting parties would thus not run the risk of taking a hasty decision, and be able to measure the political and socio-economic dimensions of a dispute. Her delegation believed that in order to avoid the risk of adopting contradictory recommendations, the Council should not take action on this report until the report of the Working Party on the Fourth Lomé Convention had been circulated. The Council was competent to judge the political as well as the socio-economic dimensions of the problem, and it should therefore take its time and not lose sight of all the considerations involved in this dispute.

The representative of Brazil said that Brazil had made a submission to the Panel indicating that it had been adversely affected by trade diversion as a result of the Community's non-tariff measures on Latin American banana exports. Brazil considered the Panel's findings to be correct and that the Community's quantitative restrictions were inconsistent with the relevant GATT provisions. The Panel's report should therefore be adopted without further delay.

The representative of the United States said that while it was clear that the Panel report would not be adopted at the present meeting, his delegation strongly urged that it be adopted by the Council at a future meeting. The United States had read the report carefully, and had found it to be legally sound in all respects, which was important. The report could not be more clear on the legal status of contractual obligations among contracting parties under the GATT and the relation of such obligations to other subsequent contractual arrangements which were entered into by certain contracting parties pursuant to the Lomé Convention. In the GATT, it should be clear that the legal obligations among the contracting parties should be given precedence. This dispute was not about the Lomé Convention or whether ACP countries should receive development assistance from the Community. Rather, it was about whether non-ACP banana exporters that had entered into a GATT contract with the Community were to be permitted to enjoy their legal rights of non-discrimination and GATT-legal access to the Community's market. The developmental aspirations of ACP countries, no matter how numerous those countries were in the GATT today could not be recognized as an excuse to trample the legal rights of other contracting parties. Nothing could be more damaging to the GATT's legal system than to see its basic contractual underpinning ignored in the way some speakers had advocated in the case of this report. The Panel report was legally sound, and although it was clearly not a universally popular report, that was to be expected. The Council should not make the mistake of allowing the report's unpopularity in some quarters to tarnish the legal reasoning of the panelists.

The representative of Tanzania said that the Panel report raised a number of fundamental issues that required examination before his delegation could take a definitive position on it. Tanzania shared the concerns expressed by several ACP countries. In its consideration of the

Panel report, the Council had to attach adequate weight to the fact that the Community had equally important contractual obligations to fulfil in the context of the Lomé Convention, whose membership involved some 40 contracting parties in the GATT. This point had been correctly argued before the Panel, including in paragraph 14 of the report. He underlined that successive Lomé Conventions, including the relevant Protocol concerning bananas, had been notified to the GATT and had fulfilled the requirements of the General Agreement. Regarding the GATT-inconsistency of the tariff preferences granted to the ACP countries, the latter countries had rightly maintained, including in their submissions to the Panel, that these preferences were justified uner Article XXIV taken in conjunction with Part IV. Finally, the question as to why the Panel had chosen to address the broad question of the Lomé Convention while knowing that a Working Party was presently examining the Fourth Convention, had to considered before the Council pronounced itself on the Panel report.

The representative of Guyana said that the Panel report was flawed in a number of ways and its conclusions and recommendations therefore erroneous. For example, the Panel had failed to address a central issue and thereby to establish whether or not injury had indeed been done in trade terms to one party or group by the measures proposed or adopted by another party or group. For this and other reasons advanced by previous speakers, Guyana believed that the report should not be adopted. At the same time, Guyana recognized some merit in the case for deferred consideration of the report, if only to allow for a more in-depth assessment of its implications. While Guyana was not itself a banana exporting country, it was concerned at the threat posed to the trade benefits it presently enjoyed under the Lomé Convention, which could not be taken lightly. One had heard several statements on the legislative nature of the decisions of the Council and the findings of panels; however, one could not lose sight of the real implications of such decisions, be they social, economic or political. Laws and regulations existed, after all, for the benefit of society. The decisions of the GATT did not simply end with the regulation of the trading system, but continued with far-reaching impact on society. The potential negative impact of the Panel report on the Lomé Convention and the ACP countries, and particularly on the banana-producing states, by itself warranted a rejection of its findings.

The representative of Trinidad and Tobago said his delegation endorsed the reasons put forward by several previous speakers for not adopting this Panel report. His delegation believed too that more time was needed to study the report since it had very serious implications for the Lomé Conventions and the philosophy underlying them.

The representative of the Dominican Republic said his delegation could not agree to adoption of the Panel report, since his Government had not yet had sufficient time to examine it in detail and to assess its repercussions on his country's economy. His delegation shared the concerns that had been voiced by other ACP countries.

The representative of Zimbabwe said that while his country did not export bananas to the Community, the Panel report raised some fundamental

issues which called into question the preferences under the Lomé Convention. His delegation therefore requested that the report be considered by the Council at its next meeting.

The representative of Australia said that this debate had shown the divisive and disturbing nature of this issue. Australia believed that the Latin American banana producers had been vindicated in their arguments by the Panel report and indeed in their recourse to the dispute settlement process. The Community now had clear obligations arising from the report to bring its import arrangements for bananas into GATT conformity. In doing so, the Community had to ensure that the interests of all exporting countries, including the ACP countries and the Latin-American producers, were properly taken account of so that no supplier to its market was any worse off than under the previous arrangements. Australia believed there was nothing in the Panel report that threatened the existence of the Community's relationship with the ACP countries or the existence of its present arrangements with those countries. He hoped that when the Council reverted to this issue at its next meeting, there would be a more focused technical discussion on the issues concerned rather than the political discussion that one had had thus far. Australia believed that the Community should now initiate negotiations with all suppliers aimed at achieving the objective of no exporter to its market being worse off under the new arrangements implemented by the Community than under the previous arrangements, and that those negotiations be aimed at producing a speedy and satisfactory resolution to this issue.

The representative of Ecuador, speaking as an observer, said that the Panel's findings and conclusions were legally sound. However, his delegation was concerned that it had virtually been decided that the Council would revert to this Panel report at its next meeting, and that procedural as opposed to substantive issues were constantly being raised in order to gain time. As a result, when the Council next discussed adoption of this Panel report, the régimes concerned would no longer be in effect. In his delegation's view, this would certainly diminish the actual effect of the report, although it would not in any way diminish the legal value of its findings and conclusions which called on the Community to respect the principles of the GATT. Several ACP countries had raised the question of the Lomé Convention in the debate on this Panel report. However, this was a manoeuvre which should be considered very carefully by contracting parties, and the legal aspects of this case should be respected by the Council. The Latin American countries identified themselves with the ACP countries as developing countries with common problems. However, they were concerned at the impression being given that this dispute was a south-south conflict while, in fact, the parties that were really involved were quite different altogether. He would call on the ACP countries to give very careful thought to this, and also to discuss with the Latin American countries their problems. All should compete fairly and have equal access to markets. The Community should fulfil its commitment to the ACP countries on bananas, which could be done through the use of tariffs, the levels which, however, should be the same for Latin American banana-exporting countries and the ACP

countries. But the Community should honour its GATT commitments too. He hoped that the Panel report would be adopted at the next Council meeting.

The representative of Japan said that his delegation had examined the Panel report on an urgent basis, taking fully into account that the report was of great importance to the multilateral trading system and that as such there should be no undue delay in its consideration. Japan believed that the report was well reasoned, sound and a positive contribution, and could support its adoption. His delegation could understand that some others might need more time to examine the report and that difficult decisions would have to be made. However, in as much as the prompt adoption of panel reports and full implementation of their recommendations was essential to restore the balance of interests among contracting parties and to preserve the credibility and functioning of the multilateral trading system, Japan expected that the Council would be ready to adopt the report at its next meeting.

The representative of India said that, on the basis of a preliminary examination of the Panel report, his delegation believed it was of great systemic interest. The report was still being considered by his authorities, and his delegation would wish to revert to it at a later stage.

The representative of Costa Rica, speaking also on behalf of Colombia, Guatemala, Nicaragua and Venezuela, regretted that the Panel report could not be adopted at the present meeting. This frustrated the objectives and the spirit of the 1966 procedures which had governed the work of the Panel. It was contradictory that those procedures should set a 60-day time limit for a panel to submit its report and that contracting parties then had to wait almost the same amount of time to adopt the report. He urged the Community to avoid unnecessary delays in the adoption of the Panel report. In concluding, he noted that all contracting parties had voluntarily accepted obligations under the General Agreement; it was these obligations which should guide any discussion in a panel and which should be considered when the time came to decide on the adoption of a panel report. In this particular case, the Community had not complied with its GATT obligations, as had been proven clearly by the Panel; consequently, the Community should agree to adoption of the report and comply with its recommendations as soon as possible. The multilateral trading system would be seriously weakened if the results of the GATT dispute settlement procedures were to be adopted à la carte.

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

6. EEC - Countervailing charge on apples
- Communication from Chile (L/7241)

The Chairman recalled that the Council had considered the matter of the European Economic Community's import régime for apples at its meetings in March and May. He drew attention to the communication from

Chile in L/7241 regarding the Community's countervailing charge on apples.

The representative of Chile[3] recalled that at the March Council meeting, his delegation had expressed concern at the application of Regulation (EEC) No. 384/93, and its fear that the licensing system established therein might lead, as had occurred in 1988, to quantitative restrictions and to a suspension of the issuance of import licences. His delegation had also recalled that the Panel established in 1988 at Chile's request had found the regulations and measures then applied by the Community to be GATT inconsistent.[4] As his delegation had informed the Council at its May meeting, it was still awaiting a reply from the Community for further consultations on this matter. As Chile and other countries had feared, the Community's measures were not aimed solely at monitoring imports since, on 7 April, the Community had also adopted Regulation (EEC) No. 846/93 which established a countervailing charge on imports of apples from Chile aimed at implementing the "reference price" system established in Regulation (EEC) 1035 of 1972. This system constituted a restriction on trade and operated, in practice, as a kind of "minimum customs value" that the Community applied unilaterally to imports regarded as threatening domestic production.

The system for fixing the countervailing charge was technically complex[5], and had several negative features: it discriminated between exporting countries; it made no distinction between consignments from the same country; it was also unfair in that sales of certain exporters affected both other exporters making later sales and the country as a whole; it impaired trade predictability; and it disregarded the principle of proportionality between action and effect. A preliminary legal analysis indicated that the countervailing charge, because of its similarity to a minimum customs value, was inconsistent with Article VII and with the Customs Valuation Code.[6] Furthermore, the charge exceeded the Community's bound tariff of 6 per cent and was therefore incompatible with Article II. At the time the Community had bound its tariffs, it had made no reservations or mention of applying a system of reference prices. Accordingly, regardless of the amount involved, the system appeared to be inconsistent with Article II. Chile also considered that the charge violated Article I as well as other relevant Articles to which it reserved the right to revert to in due course.

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[3]The text of Chile's statement was subsequently circulated as Spec(93)22.

[4]European Economic Community - Restrictions on imports of dessert apples (BISD 36S/93).

[5]An Annex to Spec(93)22 describes the functioning of the system.

[6]Agreement on Implementation of Article VII (BISD 26S/116).

To justify its use of the system, the Community had relied solely on the fact that it had been in force since 1972. This argument had no legal merit, because duration alone could not give legitimacy to such a system. The Community had also argued that the current apple production season was exceptional, with much higher production than in the past few years, falling prices, excessive stocks, and the possible effects of imports in this context. While Chile understood the Community's difficulties, it could not accept that the Community should address the problem by taking unilateral measures which, in Chile's view, were GATT inconsistent. Chile considered that the Community's surveillance measures and the imposition of countervailing charges linked to reference prices were complementary elements of a system aimed at protecting its market in a manner that was GATT inconsistent. While Chile had held bilateral meetings with the Community throughout this period, these had been to no avail. Chile, therefore, was now formally requesting Article XXIII:1 consultations with the Community to address Regulation (EEC) No. 846/93 of 7 April 1993, and subsequent Regulations introducing a countervailing charge on apple imports from Chile. Chile would continue to do its utmost to find a mutually-satisfactory solution at the earliest possible date.

The representative of the European Communities said that the Community had established a countervailing charge on apples originating in Chile to implement the relevant Community Regulation regarding imports of apples, which provided for the automatic introduction of surcharges when the entry price of imports remained below the reference price for two consecutive days. As Chile had stated, this charge applied only to apples from Chile and, at ECU's 6 per 100 kilogrammes, was relatively low. The current year's import licences for Chilean apples had already amounted to 150,000 tonnes, a level similar to that in previous years and also higher than imports from other sources. The Community concluded, therefore, that apple imports from Chile into its market were not being impeded. The Community remained willing to hold further consultations with Chile on this question.

The representative of Brazil noted that several contracting parties, including Brazil, had recently complained in the Council that the Community had been adopting a series of measures -- mainly import licensing measures -- with regard to certain agricultural products. The Community's reason for these measures was that they facilitated the monitoring of imports. In respect of apples, the measures had been expanded and had adversely affected Chile's products in particular. Brazil did not believe these recent measures could be considered to be of a surveillance nature. In fact, the countervailing charge was trade restrictive and unfairly penalized competitive producers. Although not directly affected by this charge, Brazil shared Chile's concerns, not only as a matter of principle but also because it had an interest in the Community's market for apples. Brazil urged the Community to comply with its GATT obligations and hoped that through existing GATT procedures both parties would find an appropriate solution. Brazil noted the Community's willingness to consult further on this matter.

The representative of Canada said his Government shared many of Chile's concerns regarding the effect of the Community's measures and their lack of transparency. While not directly affected by theses measures, Canada, as a major exporter of agricultural products to the Community, had seen the effects of other Community policies on its exports. His delegation had noted the Community's statement and urged it to reach a satisfactory solution with Chile on this matter as soon as possible.

The representative of Colombia said that his delegation found it difficult to understand the rationale behind the Community's measures regarding Chilean apples. The Community had justified these actions by the particular conditions of the current season's apple production, a drop in prices and an excessive accumulation in stocks. In order to remedy a problem of domestic origin, and in disregard of its GATT commitments, the Community had simply decided to impose restrictions on imports by means of technically-complex mechanisms as described by Chile and which impaired GATT rights of other contracting parties with respect to bound tariffs. Colombia was concerned at the protectionist trend in the Community with regard to certain agricultural products originating in Latin America. His delegation, therefore, fully endorsed Chile's statement, and its request for consultations. It urged the Community to fulfil its GATT obligations and to remove the measures in question. In this connection, Colombia noted with satisfaction the Community's willingness to continue its dialogue with Chile.

The representative of Australia said that as a Southern Hemisphere food producer and exporter, Australia supported Chile in raising this issue, and shared its concerns. As his delegation had stated at the May Council meeting, the general level of protection in the Community for horticultural imports was high; a wide range of measures was used to afford this protection, and these were normally less than transparent, as had been adequately demonstrated by Chile. As a number of contracting parties had stated in recent months, there was a discernible trend in the Community's system for import surveillance mechanisms to evolve into trade restrictions. Although Chile had first raised the introduction of such surveillance measures for apple imports at the March Council meeting, there was as yet -- at the height of the Southern Hemisphere's export season -- no satisfactory resolution to the issue. Exporters required predictability in conditions of access, which the Community's horticultural régime did not provide for Southern Hemisphere exporters. Its import régime was instead increasingly manipulated for the benefit of European producers already receiving high levels of domestic support. Australia therefore urged the Community and Chile to pursue bilateral consultations on this issue with a view to a satisfactory solution.

The representative of Argentina recalled that at previous Council meetings his delegation had stated that the mechanisms of market organization in the Community, as applied to apples, had specific effects on access to the Community's market. The Community's measures were implicitly aimed at more than bringing about order in the market, since they constituted quotas. The Community's statement that the approximate level of import licences issued for this season was equivalent to that

for the previous year pointed in that direction. Argentina supported Chile's request for Article XXIII:1 consultations and considered it a positive sign that the Community had agreed to continue the dialogue.

The representative of Bolivia said that the Community's measures were of concern in light of Bolivia's interest in ensuring an open trading system without restrictions, and its rejection of systems which impeded access for products of particular interest to developing countries. Bolivia therefore shared the points made by Chile and supported its request for Article XXIII:1 consultations. Bolivia hoped that an appropriate solution would be found soon.

The representative of Guatemala said that the measures referred to by Chile were of great concern, and were part of a generally restrictive policy for agricultural products in the Community. The measures were, in substance, quantitative limitations which brought about price and, more generally, trade distortions. As such, these measures violated GATT rules and principles. Guatemala therefore believed that the Community should introduce changes to bring these measures into GATT conformity, and firmly supported Chile's position.

The representative of Uruguay said that Latin American countries were once again having to pay for the Community's agricultural policies. Apples were just one more product to be added to an already long list of restricted agricultural products from the temperate and tropical zones. Uruguay shared Chile's concerns regarding the Community's measures on apples, and agreed that the regulation which established this mechanism was GATT inconsistent and constituted one further step towards managed trade. Uruguay urged the Community to give serious consideration to Chile's request and hoped that a mutually-satisfactory solution could be found.

The representative of Mexico said that his delegation firmly supported Chile's concerns. Although not a large exporter of apples, Mexico, like Chile, had export interests in a variety of fruits and vegetables, which seemed to be the favourite sector for the Community's application of reference prices. These prices had the effect of isolating the Community market from international price signals, since there was a higher countervailing charge imposed on low import prices. The list of products subject to the system was now very long and included, in particular, fruits and vegetables. He expressed satisfaction at the Community's readiness to maintain a dialogue on this issue, and urged the latter to eliminate as soon as possible this protectionist system which was impeding access to its market.

The representative of New Zealand said that as his delegation had noted at the May Council meeting, the matter raised by Chile was of concern to a number of contracting parties, including New Zealand. New Zealand was pleased to hear that Chile and the Community were continuing bilateral efforts to resolve the situation. New Zealand continued to believe that the only way to fully resolve the situation was to eliminate the measures concerned, and it looked to the speedy conclusion of the Uruguay Round to facilitate such elimination.

The representative of El Salvador added her delegation's concern at the Community's measures. The method used to calculate the countervailing charge seemed to be arbitrary in nature and designed to achieve a protectionist goal, while the measure itself appeared to be GATT inconsistent. Her delegation welcomed the Community's readiness to pursue consultations.

The representative of Costa Rica expressed his delegation's concern at the Community's unilateral measures. The measures on apples were inconsistent with the Community's GATT obligations and were causing obvious injury to Chilean apple exporters. His delegation urged the Community to remove these measures and hoped that in the course of consultations a solution would be reached.

The Council took note of the statements.

7. Status of work in panels and implementation of panel reports - Report by the Director-General (C/183)

The Chairman drew attention to the report by the Director-General in document C/183.

Mr. Lindén, Special Adviser to the Director-General, introducing the report on behalf of the Director-General, said the report showed that over the past twelve months requests for consultations had increased substantially. This was due mainly to requests for consultations under the Tokyo Round Agreements, which had increased from five to ten. Requests for consultations under the General Agreement had increased only slightly, from six to seven. The total number of panels established had fallen somewhat, because the number of panels established under the Tokyo Round Agreements over the past twelve months had fallen, from ten to five. Panels established under the General Agreement over the same period had increased from one to three. The Director-General's biannual reports provided the Council an opportunity to evaluate the effectiveness of the GATT dispute settlement procedures. There were many standards by which one could judge their effectiveness. One was the time taken to produce final decisions. Panels had in most cases been established and constituted without delay and had submitted their reports within the prescribed time limits. The Panel on the European Economic Community's member States' import régimes on bananas had been able to submit its report to the parties within nine weeks of its constitution -- faster than any other previous panel. Delays, however, had occurred in the process of adopting panel reports. There were still ten panel reports that remained unadopted even though the initial request for adoption had been made more than six months earlier. Two of these concerned disputes under the General Agreement, and the remainder under the Tokyo Round Agreements.

The effectiveness of the procedures could also be judged by looking at the policy changes that followed the adoption of panel reports. Here, the assessment would have to be more critical because of the implementation problems to which the Director-General had frequently drawn attention in his past reports. The Director-General had been very

concerned that there were still eleven reports which, in the past twelve months, had been claimed not to have been implemented, or at least not fully implemented, and that in five of these cases non-implementation had been linked to the conclusion of the Uruguay Round. The effectiveness of GATT's dispute settlement procedures should be judged not only by looking at cases recently handled but also by looking at the disputes that had not been brought to the GATT for settlement even though they concerned the interpretation or application of GATT law. Governments sometimes chose not to bring such disputes to the GATT for reasons that reflected positively on the GATT dispute settlement procedures. Of the requests for consultations notified to the GATT in recent years, only about one-quarter had been followed by a request for the establishment of a panel. The wealth of case law which had accumulated during the past forty-five years might explain in part why a bilateral settlement was possible in three-quarters of all these cases. Also, the special procedures adopted by the CONTRACTING PARTIES in 1966 for disputes between developing and developed countries (BISD 14S/18) had been invoked in respect of a dispute between Brazil and the United States regarding the latter's imports of wool suits, in which the Director-General's good offices had contributed to a mutually-satisfactory settlement. In other words, the value of the GATT dispute settlement procedures could not be denied. At the same time, negotiators in the Uruguay Round had demonstrated that a number of improvements could be made to those procedures.

The representative of the European Communities voiced the Community's frustration with the insufficient implementation by Japan of the Panel report concerning its customs duties, taxes and labelling practices on imported wines and alcoholic beverages, adopted on 10 November 1987 (BISD 34S/83). More than five years had elapsed since adoption of the report, and the time was more than ripe for Japan to fully implement its recommendations. This was a serious matter for the Community, especially in view of the high export potential of alcoholic beverages in the Japanese market, provided that an open and level playing field existed. This matter should also be seen against the background of Japan's persistent and increasing trade surplus. The Community acknowledged that Japan had revised its liquor tax law in 1989, and that the grading system for whisky and brandy, the ad valorem taxes on wines, spirits and liquors imported from the Community and the distinctions in tax based on extract content had been abolished. Nevertheless, the Community considered that these reforms had not fully implemented the Panel report, and had repeatedly made this clear to Japan. In particular, the present taxation system for like products and directly competing or substitutable products did not follow the GATT obligation that imported products should not be taxed in excess of like domestic products or should not be subject to internal taxes affording protection to domestic production or directly competing or substitutable products. There remained substantial tax differentials between Japanese shochu and other distilled liquors which brought about a fiscal distortion in their competitive relationship amounting to a penalization of the latter.

The Community was concerned that in spite of a number of bilateral approaches it had made in the past months, Japan had not yet agreed to

implement fully the Panel report by eliminating these tax differentials in the wine and spirit sector. The Community insisted that Japan take the necessary steps in the framework of the tax bill for 1994, and would revert to this issue at a future meeting to assess whether any progress had been made.

The representative of Pakistan, referring to item 14 in Section A of the Director-General's report, said that consultations with Turkey on this matter had resulted in a satisfactory adjustment, and that Turkey had decided in January to withdraw the measures concerned. He hoped that this matter would therefore be deleted from future reports.

The representative of Sweden, referring to item 22 in Section B of the Director-General's report, noted that Sweden had requested adoption of this Panel report on eight occasions in the Anti-Dumping Committee. Sweden regretted that the report had not yet been adopted, and continued to urge the United States to agree to adoption without further delay. It had been agreed that the Chairman of the Anti-Dumping Committee would hold consultations with all interested members on the stumbling block that had thus far made adoption impossible, namely the nature of the remedy suggested by the Panel. Sweden welcomed this and hoped that these consultations would help to settle the dispute once and for all.

The representative of Argentina said that his Government's constant concern had been the adequate functioning of the dispute settlement system on which the credibility and the viability of the whole GATT system was based. While there had been a significant increase in recourse to the dispute settlement system, there had also been an increasing difficulty for many contracting parties in implementing panel recommendations when these were not favourable to their short-term interests. Non-implementation of panel reports seriously jeopardized the balance of contracting parties' rights and obligations. A more constructive attitude on the part of the contracting parties concerned was necessary, and implementation of panel recommendations should no longer be linked to the outcome of the Uruguay Round. This would demonstrate the commitment of these contracting parties to GATT rules and disciplines. Non-implementation continued to be the central issue before the Council and unless there was a clear understanding that GATT rules applied equally to all, one could not believe in the system which all needed.

The representative of Mexico associated his delegation with Argentina's statement. Referring to item 12 in Section A of the Director-General's report, he said that the anti-dumping investigation on imports of textiles from Brazil in that case had been concluded without the application of any duties, and the results had been published in the relevant official journal of Mexico in December 1992. The matter was therefore considered resolved.

The representative of New Zealand, referring to the Panel report on Korea's restrictions on imports of beef (BISD 36S/234), said that New Zealand was continuing consultations with Korea on the better implementation of this report, and expected these to result in an outcome

acceptable to all parties. New Zealand hoped to be able to report on the satisfactory results of these consultations to the Council in due course.

The representative of Japan, responding to the Community, said that since the adoption of the Panel report concerning its duties, taxes and labelling practices on imported wines and alcoholic beverages, Japan had taken a number of measures as part of a comprehensive tax reform in 1989, in spite of great domestic difficulties. Japan had abolished the ad valorem tax on whisky, brandy and other spirits, as well as the grading system on whisky and brandy. On the other hand, the tax on Japanese shochu had been increased. As a result of these measures, tax differences between whisky and shochu had been significantly reduced, and the Panel report had been implemented.

The representative of Canada echoed New Zealand's concerns regarding the implementation of the Panel report on Korea's restrictions on imports of beef. Canada, which had participated in that Panel as a third party, urged Korea to bring its beef import régime into full compliance with its obligations as quickly as possible.

The representative of Korea said his Government had some reservation regarding the fact that the Panel reports on Korea's restrictions on imports of beef had been listed in Section C of the Director-General's report. While Korea believed this might have been unintentional, it was concerned that this categorization had created the false impression that Korea was not implementing the recommendations of these Panel reports. On the contrary, Korea was in the process of faithfully following these recommendations. As recommended by the Panels, Korea had held consultations and reached agreement with each of the concerned parties in 1990. A second round of bilateral consultations was now under way with each of those parties. Korea hoped that there would be a mutually satisfactory solution to this matter and that it would be able to report a positive outcome to the Council in the near future.

The Council took note of the statements and of the Director-General's report in C/183.

8. Monitoring of implementation of panel reports under paragraph I.3 of the April 1989 Decision on improvements to the GATT dispute settlement rules and procedures (BISD 36S/61)

The Chairman recalled that this item was on the Agenda pursuant to paragraph I.3 of the April 1989 Decision, and that in the course of informal consultations held in 1992 and in early 1993, it had been understood that it would continue to appear on the Agenda in its present form. He drew attention to a recent communication from the United States in document DS23/9 on the status of implementation of the Panel report on its measures concerning alcoholic and malt beverages (DS23/R).

The representative of Canada thanked the United States for the additional information in DS23/9. While Canada recognized that the United States had continued to seek implementation of the Panel's recommendations, it was disappointed with the results thus far. Only a

few state measures had been brought into complete compliance, and the majority of state measures, and both federal measures, remained GATT inconsistent. The United States' status report was deficient in providing final assessment of actual steps taken at both federal and state levels. Canada hoped that the United States was making greater efforts to achieve implementation than it was reporting to the Council. The United States' recent reports regarding implementation had been minimal at best and seemed to indicate a lack of commitment to the dispute settlement process. It was vital for the proper functioning of the dispute settlement system that the United States provide the Council with greater detail on its efforts in future. While reports on steps being taken to implement were an important obligation of the United States, Canada stressed that the intent of this exercise was to see that changes were made in inconsistent policies, and urged the United States to adopt a results-oriented approach. He recalled that Canada had indicated to the United States in consultations in October 1992 its objective of obtaining full compliance with the Panel's recommendations by the summer of 1993. It was most unlikely that this goal would be met, particularly since many state legislatures were now in summer recess. Canada urged the United States to make a serious effort to implement the Panel's recommendations as soon as possible and certainly no later than the end of the year.

The representative of Brazil echoed Canada's acknowledgement of the United States' efforts to keep the Council informed of steps taken to implement the Panel report on its measures concerning alcoholic and malt beverages. The pace of implementation, however, appeared to be frustratingly slow. As regards the Panel report on the United States' denial of m.f.n. treatment as to imports of non-rubber footwear from Brazil (DS18/R), he recalled that the report had been adopted in June 1992 -- a year earlier. At the July 1992 Council meeting, the United States had stated that it would continue to endeavour to obtain a mutually-acceptable resolution of this matter. However, nothing had resulted thus far, in spite of Brazil's willingness to cooperate in seeking a bilateral solution. Brazil had also refrained from including this matter separately on the Council's agenda. Other delegations had supported Brazil, and sufficient time had been allowed to the United States to consider this case following the change in the US Administration. In recent Council meetings, however, the United States had not even responded to Brazil's request for measures aimed at finding a mutually-satisfactory solution. Brazil believed such an attitude showed contempt for the Council's authority and derision for the GATT's dispute settlement system. In a dispute in which the m.f.n. principle was at stake, such an attitude on the part of a contracting party identified as the champion of the effectiveness of the GATT dispute settlement system caused great disappointment.

The representative of Australia welcomed the United States' report in DS23/9, and noted that his country had a trade interest in this matter. Australia supported Canada and Brazil in calling on the United States to provide more detail on the progressive implementation of the Panel's recommendations, and to step up the pace at which the

recommendations were being implemented at both the state and federal level.

The representative of the United States, referring to document DS23/9, said that his delegation too was disappointed at not being in a position to report additional progress other than to say that two states -- Mississippi and New Mexico -- had passed legislation addressing the practices cited in the Panel report. The United States had continued its efforts to implement the Panel's recommendations, and hoped to have more progress to report in the future. While many state legislatures were now indeed in summer recess, in several cases the necessary legislation had already been introduced in those legislatures, and would be considered again in their next session. Responding to Brazil's statement on the non-rubber footwear Panel report, he said that his delegation's lack of response at the Council meetings in March and May had not been intended to show contempt for the dispute settlement process. As his delegation had reported at the February Council meeting, his authorities were considering how best to resolve this problem. To repeat this at each Council meeting did not seem to him to be a good use of the Council's time.

The Council took note of the statements.

9. Waivers under Article XXV:5

(a) Harmonized system

- Requests for extensions of waivers
  - (a) Argentina (C/W/738, L/7230)
  - (b) Bangladesh (C/W/733, L/7221)
  - (c) Brazil (C/W/742, L/7234)
  - (d) Chile (C/W/743, L/7236)
  - (e) Israel (C/W/739, L/7231)
  - (f) Mexico (C/W/736, L/7227)
  - (g) Morocco (C/W/744, L/7237)
  - (h) Pakistan (C/W/741 L/7233)
  - (i) Sri Lanka (C/W/735, L/7226)
  - (j) Uruguay (C/W/734, L/7222)

The Chairman drew attention to the communications from Argentina, Bangladesh, Brazil, Chile, Israel, Mexico, Morocco, Pakistan, Sri Lanka and Uruguay, in which each Government had requested an extension of a waiver already granted in connection with its implementation of the Harmonized Commodity Description and Coding System (HS).

The representative of Sweden, speaking on behalf of the Nordic countries, said that at numerous previous occasions in the Council, the Nordic countries had joined others in expressing concern at the semi-automaticity involved in extending waivers of this kind. The habit of extending waivers more or less automatically put the credibility of the system at risk. Waivers from the General Agreement should be given in what were demonstrated to be exceptional circumstances only. However, as one could note from the requests before the Council at the present meeting, information as to why an extension was required was often very

limited. This observation was not new and had been made by others at previous Council meetings. Despite repetition of the point, the situation had not improved. For an outsider, it was sometimes difficult to judge to what extent sufficient efforts were being made towards finalizing the HS implementation, although the Nordic countries were aware that implementation sometimes could be held up by negotiating partners.

While the Nordic countries would not oppose the requests before the Council at the present meeting, they believed that the way in which this matter was dealt with by the Council should be improved. Accordingly, they proposed that the extension of the current waivers be based on an understanding that the countries involved would provide a full and detailed report, in writing, to the Committee on Tariff Concessions on the steps taken towards finalizing their HS implementation during the period covered by the respective waivers. Furthermore, they would propose that the Committee hold, in due course, a full discussion on the basis of these reports. Such a discussion among tariff experts would hopefully benefit both the countries that were in the process of implementing the HS and their partners. The Committee should be asked to report to the Council on the matter in advance of any requests to the Council for additional extensions. This report would constitute a basis for any further decisions of this kind. The Nordic countries expected all countries that were seeking extensions of waivers at the present meeting to move rapidly to conduct and complete the negotiations necessary to re-establish their Schedules and that no further extensions therefore would be needed. The adoption of the HS by all contracting parties was a precondition for the successful implementation of the Uruguay Round results. 15 December had emerged as a firm deadline for the Round. Therefore, the completion before the end of the year of the necessary HS-related negotiations was more important now than ever.

The representative of Australia said that, like the Nordic countries, Australia too was concerned about the numbers of waivers that were being requested, and the length of time involved with the various extensions being sought. Australia urged all the parties concerned to redouble their efforts to finalize the negotiations with a view to removing this recurring item from the agenda of the Council. Australia found the Nordic countries' proposal attractive.

The representative of the European Communities associated his delegation with Sweden's statement on behalf of the Nordic countries. Completion of the HS-transposition was an important part of concluding the Uruguay Round, and the Community agreed that more expert analysis was needed to see why there were repetitive delays in the process. The proposal to have a discussion based on written submissions in the Committee on Tariff Concessions was a good one. If that Committee were then to report on its deliberations to the Council, the latter could take a more informed position on such requests. The Community would therefore agree to these requests at the present meeting on the understanding that they would be discussed in the Committee on Tariff Concessions, which would be invited to report back to the Council.

The representative of Switzerland said that his Government too was concerned by the semi-automatic extensions of waivers in connection with the implementation of the HS. The extensions went far beyond the time period that one would consider reasonable for HS implementation, and were no longer being requested in the "exceptional circumstances" that would justify a waiver under Article XXV:5. Switzerland urged all parties concerned to speed up the negotiation process so as to put an end to the systematic extensions of these waivers each year. Switzerland supported the Nordic countries' proposal.

The representative of the United States expressed his delegation's support for the previous speakers' statements. The United States believed it was time to exert control over the operation of these waivers, and supported the proposal by the Nordic countries.

The representative of India requested that the Nordic countries' proposal be submitted in writing. His delegation would wish to examine it further before it could fully accept it.

The Chairman said that the Council had to take action on two matters. One related to the requests for extensions of waivers in connection with the implementation of the HS. The other related to the proposal by the Nordic countries, which had been supported by a number of contracting parties. He noted that no views opposing this proposal had been expressed, except for a request by India to have the proposal in writing so that it could reflect on it. He therefore suggested that the Council take the necessary action on the waiver requests before it, and at the same time take note of the statements made under this item. The statements clearly reflected the request that the Committee on Tariff Concessions hold a discussion on the steps being taken by the countries concerned towards finalizing their HS implementation, and that the Committee should report to the Council in advance of any further requests made to the Council for extensions of HS-related waivers.

The representative of Egypt said that the Nordic countries had put forward some ideas -- he would not call them a proposal -- which would best be examined in informal consultations to be held by the Chairman to see how they might be dealt with.

The representative of Jamaica said that the matter raised by the Nordic countries was of interest to all, and supported India's request it be submitted in writing so that it might be studied and discussed later.

The representative of Nigeria supported India's request.

The representative of Canada suggested that the Nordic countries' written request be put on the agenda of the Committee on Tariff Concessions. The Committee could then examine that request and report to the Council.

The representative of Colombia said that Council members had not had advance knowledge of the Nordic countries' proposal and could not take a position on it at the present meeting. With regard to the requests for

waivers and for their extensions, it should be recognized that two sets of countries were involved, namely those that had transformed their tariff schedules into the HS nomenclature and those that were still negotiating with these countries the maintenance of concessions in the new HS schedules. It would only be fair to consider both sides of the question before taking any decision. Colombia requested that the Nordic countries submit a specific proposal in writing and provide a justification therefor.

The representative of Sweden, speaking on behalf of the Nordic countries, said that their proposal -- which they would circulate in writing -- could conveniently be discussed in the Committee on Tariff Concessions. However, since the Committee traditionally met only twice a year, and since there was some urgency to this issue because the HS implementation should be completed before the end of the year, the Council might request that the Committee hold its next meeting earlier, perhaps soon after the summer break.

The Chairman recalled the course of action he had proposed earlier. He noted that a discussion of Sweden's proposal in the Committee on Tariff Concessions would not commit any contracting party to any particular course of action.

The representative of Chile said that the Council should, at the present meeting, approve the requests for extensions of waivers that were before it.

The representative of Brazil said that the transposition of national tariff schedules into the HS was highly technical and required important preparation and careful analysis of comments by other contracting parties. Although Brazil also wished to see a steady reduction in the number of requests for extensions of waivers, it would note that these waivers did not introduce any restrictions or discrimination in trade, and were necessary to allow a complex task to be accomplished adequately. Requests for extensions of these waivers were often the result of delays on the part of trading partners in responding to explanations provided on their own queries. This element had to be taken into consideration in any proposal to improve the procedures regarding the implementation of the HS.

The representative of Peru said that his country was currently in the process of transposing its schedule into the HS and had come up against serious difficulties. His delegation believed that before the Council took any decision to request the Committee on Tariff Concessions to examine the Nordic countries' proposal, the proposal should be circulated in writing.

The representative of the United States said that his delegation strongly supported the course of action proposed by the Chairman, which it considered to be reasonable. If the Council could not take action along those lines, the United States would not be in a position at the present meeting to agree to approval of the requests for waivers or for their extensions.

The Chairman reminded representatives that any member of the Committee on Tariff Concessions had in any case the right to request the Committee to consider any matter related to its activities. Therefore, he could not see a priori any detrimental effect for any contracting party if the Council were at its present meeting to request that Committee, which was a subsidiary body of the Council, to consider the Nordic countries' proposal, and for the Council at the same time to approve the requests for extensions of waivers that were presently before it.

The representative of India said that if the implication of the Nordic countries' proposal was that the Council should decide that in future all requests for waivers for HS implementation should first be considered in the Committee on Tariff Concessions, then it would call for a detailed examination. It was for this reason that his delegation had requested that the proposal be submitted in writing. However, since this appeared not to be the intention of the proposal, his delegation could agree to the Chairman's proposed course of action.

The representative of Sweden, speaking on behalf of the Nordic countries, said that their intention was not that all requests for waivers should go to the Committee on Tariff Concessions, but that in this specific case dealing with HS transposition, and the specific situation that all found themselves in, a procedure should be established. If contracting parties were satisfied with the procedure established in this particular instance, they might wish to use it in the future too.

The representative of Argentina said that the suggestion by the Nordic countries appeared reasonable, and his delegation could agree to the Chairman's proposed course of action. However, one needed to be quite clear that the Council could not transfer its authority, be it in this case or any other, to consider and approve requests for waivers to any other body.

The representative of the European Communities said that in his delegation's understanding, there had not been any suggestion to derogate responsibilities of the Council to any other body. The fact of the matter was that these waiver requests came before the Council with increasing regularity; while the Council had the authority to consider these requests, it did not have the time nor the technical expertise to deal with the requests in substance. The Nordic countries' proposal would assist all in dealing with the question of HS transposition and would avoid having these requests appear before the Council with such regularity.

The Chairman proposed the Council take note of the statements and invite the Committee on Tariff Concessions to include on its agenda at its next meeting the issue raised by Sweden on behalf of the Nordic countries.

The Council so agreed.

The Chairman then drew attention to the draft decisions on the requests for extensions of waivers contained in the following documents: C/W/738, Argentina; C/W/733, Bangladesh; C/W/742, Brazil; C/W/743, Chile; C/W/739, Israel; C/W/736, Mexico; C/W/744, Morocco; C/W/741, Pakistan; C/W/735, Sri Lanka; and C/W/734, Uruguay. He then stated that the documentation still to be submitted and any negotiations or consultations that might be required should follow the special procedures relating to the transposition of the current GATT concessions into the Harmonized System, adopted by the Council on 12 July 1983 and contained in document L/5470/Rev.1.

The Council took note of the statement, approved the texts of the draft decisions referred to by the Chairman, and recommended their adoption by the CONTRACTING PARTIES by postal ballots.

(b) Other waivers - Requests for extension

(1) Egypt - Renegotiation of Schedule LXIII (C/W/737, L/7229)
(2) Senegal - Renegotiation of Schedule XLIX (C/W/740, L/7232)
(3) Zaire - Renegotiation of Schedule LXVIII (C/W/746, L/7239)

The Chairman drew attention to the communications from Egypt, Senegal and Zaïre in documents L/7229, L/7232 and L/7239, respectively, in which each Government requested an extension of a waiver already granted in connection with the renegotiation of its respective Schedule. He also drew attention to the draft decisions in documents C/W/737, C/W/740 and C/W/746.

The Council approved the texts of the draft decisions referred to by the Chairman, and recommended their adoption by the CONTRACTING PARTIES by postal ballots.

10. EFTA-Czech and Slovak Federal Republic Free-Trade Agreement - Succession to the Agreement by the Czech Republic and the Slovak Republic (L/7220)

The Chairman recalled that in July 1992, the Council had established a Working Party to examine the EFTA-Czech and Slovak Federal Republic Free-Trade Agreement under the Chairmanship of Mr. Kesavapany (Singapore). He drew attention to document L/7220, containing a recent communication from Sweden on behalf of the EFTA States and the Czech and Slovak Republics, informing contracting parties that, following the dissolution of the Czech and Slovak Federal Republic, two separate Protocols of succession had been signed so as to ensure the continued application of the Free-Trade Agreement between the EFTA States and the two new republics. Therefore, there were now two separate but identical Free-Trade Agreements between the EFTA States and the Czech and Slovak Republics, the form and content of which were the same as in the original Agreement with the Czech and Slovak Federal Republic.

The Council took note of the statement and agreed to change the terms of reference of the Working Party previously established to examine the earlier Free-Trade Agreement, as follows:

Modified terms of reference

"To examine in the light of the relevant provisions of the General Agreement, the Free-Trade Agreements between the EFTA States and the Czech Republic and the Slovak Republic, and to report to the Council."

The Council also agreed that membership in the Working Party would continue to be open to all contracting parties indicating their wish to serve on it, and further agreed that Mr. Kesavapany would continue to serve as its Chairman.

11. EFTA-Romania Free-Trade Agreement
- Joint communication by Sweden on behalf of the EFTA States and Romania (L/7215 and Add.1)

The Chairman recalled that at its meeting in May, Sweden had informed the Council of this Free-Trade Agreement, and also that the text thereof had been submitted for circulation to contracting parties. He drew attention to the joint communication by Sweden on behalf of the EFTA States and Romania in document L/7215, and to Add.1 thereof, which contained the text of this Agreement. He then proposed that the Council agree to establish a Working Party with the following terms of reference and composition:

Terms of reference

"To examine, in the light of the relevant provisions of the General Agreement, the EFTA-Romania Free-Trade Agreement, and to report to the Council".

Membership

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

Chairman

The Council would authorize its Chairman to designate the Chairman of the Working Party in consultation with the delegations principally concerned.

The Council so agreed.

12. Free-Trade Agreements between Switzerland and Estonia, Latvia and Lithuania
- Communication from Switzerland (L/7223 and Add.1)

The Chairman recalled that at its meeting in May, Switzerland had informed the Council of these Free-Trade Agreements, and also that the texts thereof had been submitted for circulation to contracting parties. He drew attention to the communication from Switzerland in document L/7223, and to Add.1 thereof, which contained the texts of these

Agreements. He then proposed that the Council agree to establish a Working Party with the following terms of reference and composition:

Terms of reference

"To examine, in the light of the relevant provisions of the General Agreement, the Free-Trade Agreements between Switzerland and Estonia, Latvia and Lithuania, and to report to the Council".

Membership

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

Chairman

The Council would authorize its Chairman to designate the Chairman of the Working Party in consultation with the delegations principally concerned.

The Council so agreed.

13. International Trade Centre UNCTAD/GATT
- Appointment of a new Executive Director

The Chairman recalled that the Council had considered this matter at its meetings in February, March and May. It was on the Agenda of the present meeting in the light of recent developments.

Mr. Carlisle, Deputy Director-General, said that at the request and on behalf of the Director-General, he had held two further consultations on this matter on 7 and 15 June, respectively. At the first consultation he had informed participants that a few days earlier the Secretary-General of the UNCTAD had informed him that, notwithstanding decisions taken by the UN's Fifth Committee and General Assembly, it remained the desire of the UN Secretary-General to appoint an Officer-in-Charge of the International Trade Centre (ITC), on an interim basis, at the D-2 level. A number of participants had expressed concern at the UN Secretary-General's continuing position, but no consensus had been reached on the matter either then or at the 15 June consultation. Some participants had believed that further delay would be harmful to the ITC and that the GATT should begin now to work with the UNCTAD to appoint an official to head the ITC at the D-2 level; in other words, the appointment should be made along the lines proposed by the UN Secretary-General. Others, however, had believed that efforts should be made in New York to change the UN Secretary General's position. Some had considered that, apart from the level of the post, there was an issue of principle which could not be addressed in the GATT, but should be addressed in the UN. For the time being, he did not consider it would be fruitful to hold further consultations. Instead, some time should be given to those governments which wished to pursue matters in New York to do so. As soon as that had been done, further consultations should be held with a view to resolving this matter quickly. He regretted that

over the past year and a half, it had not been possible to bring this vexing and important matter to a satisfactory conclusion. However, he had observed that all contracting parties wished to maintain a strong and effective ITC, and that the only differences among them were about how to achieve that result.

The Council took note of the statement.

14. Trade Policy Review Mechanism - Programme of reviews

(a) 1994

The Chairman said that, in accordance with the established practice, the programme of trade policy reviews for each year was established by mid-year of the preceding year. The programme for 1994 was close to being finalized, and discussions were still underway with a few contracting parties regarding the review of their trade policies in 1994. The final programme for 1994 would accordingly be presented to the Council at its next meeting.

The Council took note of this information.

(b) 1993

The Chairman recalled the schedule for the conduct of the remaining reviews under the 1993 programme, noting that some of the reviews would spill over into early 1994:

- 19-20 July 1993: Malaysia;
- 7-8 September 1993: Kenya;
- 27-28 September 1993: India;
- 25-26 October and 1-2 November 1993: Turkey and Peru;
- 22-23 November 1993: Senegal;
- Week of 13 December 1993: Israel and the United States;
- 31 January-1 February 1994: Australia;
- Late January/early February 1994: Iceland.

He said that every effort would be made to keep to these dates, and sought the cooperation of all delegations in this regard.

The Council took note of the statement.

15. Committee on Balance-of-Payments Restrictions - Consultation with Nigeria
- Statement by the Committee Chairman

Mr. Witt (Germany), Chairman of the Committee, said that on 24-25 May the Committee had held a full consultation with Nigeria. While the report on this consultation would be circulated shortly, he wished to draw attention to the interim conclusions of the consultation. The Committee had recognized that since the most recent consultation with Nigeria, that country's external and internal economic balances had deteriorated significantly. From a large surplus in 1990, the current

account balance had moved progressively into deficit, reaching 2 per cent of GDP in 1992. Simultaneously, there had been a significant deterioration in the capital account, which had resulted in a decline of the level of reserves to around one month of imports. Notwithstanding the Committee's recognition of the vulnerability of Nigeria's economy to weakening oil prices, it had expressed particular concern about the relaxation of fiscal and monetary policies in this period, which had brought about large and increasing fiscal and external imbalances and a resurgence of inflation. It had felt that rapid and decisive adjustment in domestic macroeconomic and financial policies was required in order to return to a path of steady economic growth. The Committee had emphasized that this would be a key element in the solution to Nigeria's balance-of-payments (BOP) difficulties, including the necessity of reaching a durable solution for servicing external debt, which weighed heavily on both the fiscal and external accounts despite progress on debt and debt service reduction vis-à-vis commercial creditors. Debt agreement with official creditors, however, was awaiting reversal of the policy slippages of the past period and the return to a credible reform and macro-economic policy programme.

The Committee had urged Nigeria to intensify the process of trade liberalization, in order to complement the necessary corrective macroeconomic and financial adjustment measures. Specifically, an appropriate incentive structure, including market-oriented exchange rates, would bring important elements of trade back into official channels, helping to redress both the fiscal and trade balances. Although the ban on wheat imports had been abolished, fourteen other broad product groups remained under import prohibition. Doubt had been expressed whether the remaining import prohibitions could be correctly justified under Article XVIII:B. The Committee had welcomed Nigeria's readiness to notify the reasons for such measures and, where appropriate, their justification under Article XVIII:B on a tariff-line basis by 31 July 1993.

Concern had also been expressed about the possible trade effects of the temporary change in the foreign exchange régime introduced in February 1993. Other concerns had been voiced with regard to tariff changes; the use and effects of anti-dumping measures; the fiscal and economic impact of oil subsidies; and the effects of, and justification for, the import surcharge. The Committee had noted Nigeria's statement that the import surcharge had been established not for BOP reasons but mainly for the development of port facilities. Unable to determine which measures were maintained for BOP purposes, the Committee had decided to revert to this question after receipt of the notification referred to above. It would then hold a second meeting in the autumn to finalize its consultation with Nigeria and provide its final conclusions.

Under "Other Business" at this meeting, one delegation had referred to a recent consultation where the consulting country had not yet met the Committee's request to notify its remaining restrictions maintained for BOP reasons, and he would reiterate that request. In this connection, he would note that concern had repeatedly been expressed in the Committee's

meetings that notifications on measures maintained for BOP purposes were not precise.

The representative of the European Communities recalled that in February 1993, the Committee had requested the Philippines (BOP/R/204) to notify on a tariff-line basis all import restrictions maintained under Article XVIII:B, and said that this request had still not been met.

The Council took note of the statements.

16. Negotiations under Article XXVIII:4 concerning the modification of certain concessions included in the European Communities' Schedule LXXX-EC

The representative of Argentina, speaking under "Other Business", expressed his Government's concern at the lack of progress in its bilateral negotiations with the Community regarding compensation in connection with the latter's modification of its oilseeds concessions. While one of the main parties concerned had reached a satisfactory solution with the Community, this was not the case in respect of the other parties concerned, including Argentina. He requested the Community to indicate when and in what manner it intended to comply with the provisions of Article XXVIII:4 to provide compensation to the remaining parties. This matter was one of urgency for Argentina, and he would not wish to give the impression that Argentina had unlimited patience.

The representative of Canada said that Canada too was a concerned party in this dispute. It supported the statement by Argentina and expressed interest in hearing the Community's answer to the latter's question.

The representative of Brazil said that Brazil too was a concerned party in this matter. Although the Community had been authorized in June 1992 to enter into Article XXVIII:4 negotiations with interested third parties, the negotiations still remained inconclusive and the parties concerned were still awaiting definitive offers of compensation from the Community. Brazil urged the Community to re-engage seriously, constructively and urgently in the negotiations so that they could be brought to a mutually-satisfactory solution.

The representative of Uruguay said that Uruguay too was a concerned party in this matter. Uruguay reiterated its readiness and determination to conclude the negotiations -- which had already been prolonged for too long -- and urged the Community to resume the process with a view to its rapid conclusion.

The representative of the European Communities acknowledged that the negotiations which had begun in 1992 had been interrupted for some time. However, the Community's Council of Ministers, on 8 June, had approved the oilseeds part of the "Blair House" Agreement reached with the United States in December 1992, which meant that the Community was technically able to resume these negotiations as quickly as possible. It would do so as soon as its internal negotiating position had been defined, which

would be a matter of weeks and not months. The Community wished to underline its interest in resolving this matter quickly.

The Council took note of the statements.

17. EEC - Import licensing régime for garlic

The representative of Argentina, speaking under "Other Business", said that the operation of new import-licensing requirements on garlic in the European Economic Community was discouraging Argentina's exports of this product to that market. He noted that 58 per cent of the Community's garlic trade was accounted for by third countries, and that Argentina was the largest among these suppliers. Argentina was therefore concerned at the disruptive effects of this measure, which would appear, judging from history, to be a prelude to further measures that might or might not have trade restrictive effects. Argentina urged the Community to abide by the commitments that all had undertaken in the Uruguay Round, and to refrain from applying and increasing this type of measure any further.

The representative of Mexico associated his delegation with the concerns raised by Argentina. Mexico was a traditional exporter of garlic and this measure would clearly have an impact on its trade. It would therefore follow the application of the measure very closely, and hoped it would not be a prelude to restrictive measures which would hamper the access of this product in the Community market. Mexico urged the Community to suspend the application of this measure. It was concerned at the protectionist tendency that could be noted in the Community at present, in particular with regard to imports of fruits and vegetables.

The representative of the European Communities underlined that the measures in question were not quantitative restrictions, and were in conformity with GATT rules and with the Agreement on Import Licensing Procedures (BISD 26S/154) in particular. The Community's only intention was to monitor import quantities, which it had the right to do. If the Community, consisting of twelve member States, were to rely only on customs statistics to monitor imports, it would be faced automatically with a delay of six or more months before the figures could be compiled. He noted that the licences in question were granted automatically. While a deposit was required for the issuance of a licence, its amount was small and it was reimbursed when the licence was actually used for import. Without this requirement, the system would not work, since a trader could request a licence and not use it.

The Council took note of the statements.

18. United States - Proposed measures on peanut butter and peanut paste

The representative of Argentina, speaking under "Other Business", expressed concern at a proposal in the US Congress, based on a Department of Agriculture investigation, to raise tariffs on peanut butter and peanut paste from US cents 6.6 to US cents 61.6, in addition to the

quotas thereon. Argentina asked how these measures would relate to all that had been discussed, negotiated and agreed to in the framework of the Uruguay Round in terms of not increasing existing trade restrictions. He noted that these products were not bound in the GATT and, further, that they were covered by Section 22 of the US Agricultural Adjustment Act for which the United States had been granted a waiver in 1955 (BISD 3S/32). He noted also that a 1993 report by the General Accounting Office, subscribed to by the US Agriculture Secretary in December 1992, had recommended that, in light of changes in the peanut sector, internal support to that sector should be reduced, import capacity increased and the method of allocating quotas changed. Argentina questioned the rationale of a support system which provided an income 50 per cent higher than production cost, which had no social impact and which affected efficient producers such as Argentina. Argentina and Canada accounted for nearly 100 per cent of all imports of such products into the United States, which itself accounted for roughly 5 per cent of domestic consumption. Argentina urged the United States to respect commitments undertaken in the framework of the Uruguay Round.

The representative of the United States said that if Argentina wished to have a detailed discussion on an issue such as this, it should inscribe it on the regular part of the Council's agenda. The matter referred to by Argentina was a proposed investigation into whether imports of the products concerned might be undermining the "no-cost" support system for peanuts in the United States. This was consistent with the normal operation of the United States' existing Section 22 programme, and was unrelated to the United States' expectation as to any continued operation of the programme following the Uruguay Round. The United States had put the Section 22 programme on the table in the Uruguay Round, and expected that in the context of a successful outcome of the Round, the programme would no longer operate in this way.

The representative of Canada said that like Argentina, Canada was concerned about the proposed investigation under Section 22. Canada would revert to this issue once the outcome of the investigation was known.

The Council took note of the statements.

19. United States - Anti-dumping and countervailing duty actions on steel

The representative of Japan, speaking under "Other Business", recalled that on 7 January 1993, the United States Department of Commerce had made a preliminary determination on the alleged dumping of certain steel products imported from 19 countries, including Japan. At the Council meetings in February, March and May, his delegation had registered its strong concerns with regard to this matter. On 9 June, Japan had requested consultations with the United States (ADP/100) pursuant to Article 15:2 of the Anti-Dumping Code[7], which had recently

[7] Agreement on the Implementation of Article VI (BISD 26S/171).

been held. Japan believed that its exports did not cause injury to the US industry within the meaning of Article 3 of the Code, and strongly urged the United States to take into account its legitimate concerns and to take a subsequent decision. Japan reserved the right to take the action necessary to protect its interests.

The Council took note of the statement.

20. Canada - Article XIX action on boneless beef (L/7219 and Add.1)

The representative of Australia, speaking under "Other Business", said that Australia wished to register its strong objections to Canada's intention, notified in L/7219/Add.1 of 11 June, to take safeguard action on imports of boneless beef following an enquiry by the Canadian International Trade Tribunal (CITT). In the absence of any serious injury to Canada's domestic industry there was no justification for Canada's proposed action in terms of the requirements of Article XIX. Australia had closely followed events leading up to the conclusions and recommendations by the CITT. While all elements of Canada's market situation -- imports, exports, domestic demand and prices -- had been buoyant in recent months, this in itself was not a basis for any more than a normal level of uncertainty in a market for an agricultural commodity. Indeed, the CITT had not found that there was any current injury to the domestic industry. The evidence before the CITT in no way provided a basis for the recommendation that restrictions should be placed on imports for the remainder of 1993, and certainly not as far ahead as 1994 and 1995, as foreshadowed in Canada's notification. Australia had already challenged the basis for the CITT finding in bilateral discussions, and would pursue this further in consultations it had requested under Article XIX. In the event that import restrictions were imposed, Australia would seek to ensure that its Article XIX rights were fully protected. Canada did not have any non-tariff trade barriers to tariffy in the base period provided for in the Uruguay Round Draft Final Act (DFA) (MTN.TNC/W/FA), and Australia's position in the Round had always been that the only barrier to trade which should continue in Canada was the present bound tariff of Canadian cents 4.41 per kilogram, which would also be reduced in accordance with the provisions of the DFA. Canada's proposed Article XIX action sent an unfortunate signal for global trade liberalization at a crucial point in the Round.

The representative of New Zealand said that his Government too was concerned about this matter and had taken careful note of Canada's notification. New Zealand believed there was no basis for the CITT findings that the imports under consideration threatened serious injury to Canada's producers, and that Canada's proposed measures had no basis under Article XIX. New Zealand was concerned by the suggestion that the safeguard action would be applied until 1995, and had made those concerns known to Canada. New Zealand had entered into consultations with Canada on this matter, and fully reserved its GATT rights.

The representative of Canada recalled that on 14 May, Canada had notified contracting parties of the initiation of the CITT inquiry (L/7219). The CITT had found that imports of boneless beef originating

in countries other than the United States threatened serious injury to Canada's producers of like or directly competitive products, and had recommended the imposition of an annual tariff rate quota on such imports originating in countries other than the United States effective from 1 May 1993 to 21 December 1995. Canada had announced that it accepted the CITT's findings and would act on the report in line with its recommendations. On 3 June Canada had notified contracting parties of its intention to take safeguard action pursuant to Article XIX on imports of boneless beef orginating in countries other than the United States, and of its willingness to afford interested contracting parties an opportunity to consult (L/7219/Add.1). Canada noted that the CITT was an independent, quasi-judicial body which had reached its conclusions after objectively analyzing all relevant facts and soliciting written and oral submissions from all interested parties. Canada had subsequently held consultations with Australia on 8 and 14 June and with New Zealand on 8 June. It was surprised at Australia and New Zealand suggesting that Canada's proposed action was GATT inconsistent, while accepting at the same time voluntary restraint arrangements with the United States rather than challenging the GATT consistency of the latter's meat import legislation. He noted, in this regard, that the percentage of beef imports relative to domestic production was significantly higher in Canada than in the United States. Notwithstanding this, Canada was willing to discuss this matter further in consultations.

The representative of Japan expressed his Government's concern at the discriminatory nature of Canada's proposed measures. Japan had stated on many occasions that Article XXIV did not permit the discriminatory application of Article XIX action, and had also expressed this view in the Working Party on the Canada-United States free-trade agreement. Japan was disappointed that Canada had chosen not to take account of this view. Japan believed that the m.f.n. principle was the basis of the GATT and the multilateral trading system, and that there should be no departure from that principle in the application of Article XIX.

The representative of Hong Kong said that his Government too was concerned at Canada's intended non-m.f.n. application of its Article XIX action. Hong Kong's position on this issue was well-known and had been stated on a number of occasions. His delegation associated itself with Japan's statement.

The representative of India associated his delegation with the concerns expressed by Japan.

The representative of Korea echoed previous speakers' concerns regarding Canada's intended selective application of its safeguard measures.

The Council took note of the statements.

21. United States and European Economic Community wheat export subsidies

The representative of Australia, speaking under "Other Business", expressed concern at the possible further intensification of the on-going United States and European Economic Community export subsidies war on wheat, exacerbated by the 1993 Northern Hemisphere wheat harvest and the high stocks held by the Community in particular. Australia noted with concern the likely expansion to new markets of the United States' Export Enhancement Programme (EEP) in 1993/94. Preliminary indications were that both the tonnage and budgetary allocations for wheat export subsidies under the EEP were likely to exceed the 32.8 million tonnes allocated in 1992/93. Even though the allocation might not be fully utilized, there was a significant capacity for price disruption in individual markets. The suggestion that Canada be targeted under the EEP would see the programme become even more disruptive and detrimental to the interests of non-subsidisers like Australia. The combative approach of subsidizing countries only heightened the risk of a damaging escalation in subsidy levels and new markets. The pressures which had prompted Australia to raise this issue at the September 1992 Council meeting had not abated; the likely escalation of this issue reinforced the validity of Australia's having raised this issue previously and of the consultations that the Council Chairman had agreed to conduct on it. The issue remained of serious concern to Australia and it looked forward to further constructive consultations under the guidance of the Council Chairman.

The representative of Argentina said that no-one was unaware of the significance of the subsidy war being waged through the EEP. Argentina was concerned that the United States was now targeting countries which represented natural markets for Argentina's non-subsidized exports. This type of subsidy had clear effects on the conditions of international prices and supply. Argentina had initiated consultations with the United States on this issue. It hoped that primacy would be given to common sense and to commitments made in the framework of the Uruguay Round. Otherwise, it would be difficult to understand what political message one would be sending at the initiation of the final stage of the Uruguay Round.

The Council took note of the statements.

22. Tunisia - Renegotiation of certain concessions

The representative of Tunisia, speaking under "Other Business", informed the Council of his Government's intention to modify certain concessions granted at the time of his country's accession. He recalled that on the eve of its accession process, Tunisia had embarked on a vast economic reform programme which, inter alia, had provided for gradual liberalization of its external trade sector. This programme was about to reach the important implementation stage of opening a major part of domestic production to external competition. This programme -- well within the logic of the GATT and the Uruguay Round -- had been further sustained by complementary measures with a view to creating propitious

conditions for adequate implementation. Tunisia intended to follow, in this respect, established GATT practice as regards the initiation of the necessary procedure and of consultation with the contracting parties concerned. His delegation would keep the Council informed of further developments.

The Council took note of the statement.

23. Appointment of the Deputy Directors-General
- Announcement by the Chairman of the CONTRACTING PARTIES

The Chairman of the CONTRACTING PARTIES, speaking under "Other Business", said that in the process of his consultations on the appointment of a new Director-General, contracting parties had raised the issue of the appointment of the Deputy Directors-General. The procedures for the future appointment of the Deputy Directors-General (BISD 34S/173), envisaged that the Director-General would begin consultations on these appointments by an announcement at a Council meeting at least three months before the expiration of the terms of office of the officials concerned. However, given the present circumstances in which one post of Deputy Director-General had been vacant for some time, another would fall vacant from 1 July, while a third would be established as from that date, it had become clear in consultations with contracting parties that if these posts were to be filled as soon as possible, as was considered important, the established procedures regarding the initiation of the consultations could not be followed exactly. Accordingly, he had conveyed to the Director-General designate, Mr. Peter Sutherland, the wish of the contracting parties that the latter begin the process of selection of three Deputy Directors-General prior to his assumption of office, and to conclude it as quickly as possible. His letter to Mr. Sutherland -- copies of which would be made available to contracting parties -- had also set out the contracting parties' understanding of the principles to be followed in the selection process. He informed the Council that Mr. Sutherland had accepted to begin a process immediately, and had asked that all nominations for the posts be addressed to him through the Secretariat. Mr. Sutherland hoped to conclude the consultation process as soon as possible, but not necessarily before 1 July.

The Council took note of this information.

24. Technical Group on Quantitative Restrictions and Other Non-Tariff Measures
- Date of the Group's next meeting

The Chairman, speaking under "Other Business", recalled that, under its terms of reference (BISD 33S/54), the Technical Group on Quantitative Restrictions and Other Non-Tariff Measures was to conduct the updating and analysis of the documentation on quantitative restrictions and other non-tariff measures "in accordance with the timetable and procedures agreed by the CONTRACTING PARTIES in 1984 and 1985" (BISD 31S/211 and 32S/91). According to these procedures, contracting parties were

required to make biennial complete notifications of the quantitative restrictions which they maintained, as well as to notify changes in their restrictions as and when they occurred. After the biennial notifications were received, the Technical Group was to carry out a review of the resulting documentation. Following the review carried out by the Technical Group in 1989, the Council had agreed that the Council Chairman would undertake informal consultations in the last quarter of 1990 concerning the date of the Technical Group's next meeting (C/M/232, item 3). In November 1990, in the run-up to the Uruguay Round Ministerial meeting in Brussels, the Council had agreed that, given contracting parties' priorities in connection with the Uruguay Round, the consultations should be held in the spring of 1991 (C/M/246, item 19). Contracting parties' priorities in connection with the Uruguay Round had not, however, changed, so that no such consultations had been carried out.

In October 1992, the Secretariat had reminded contracting parties in GATT/AIR/3362 that their biennial complete notifications were due. A further reminder had been contained in GATT/AIR/3392 of January 1993. As was evident from document NTM/W/6/Rev.5/Add.7 of 27 May 1993, in which all recent notifications had been compiled, the response had been very limited. This led him to believe that the situation with respect to contracting parties' priorities had not changed and that a meeting of the Technical Group at this stage would not be very useful. He therefore proposed that consultations on the date of the next meeting of the Technical Group be carried out only after the conclusion of the Uruguay Round. However, he urged contracting parties to abide by the decision of the CONTRACTING PARTIES relating to notification of quantitative restrictions, and suggested that, in order to assist those contracting parties that had not yet updated their notification, the Secretariat be asked to supply each contracting party with the extract of the data base pertaining to its own quantitative restrictions.

The Council took note of the statement and agreed to the Chairman's proposal.

25. Council review of the status of observers and of their rights and obligations

The Chairman, speaking under "other Business", informed the Council that he had recently held a series of informal consultations on the question of the status of observers and of their rights and obligations. It was his intention, on the basis of these consultations, to prepare a draft proposal on this subject and to circulate it in time for consideration by the Council at its next meeting.

The Council took note of this information.

26. Council working practices

The Chairman, speaking under "Other Business", recalled that at the Council meeting in May, it had been proposed that certain Council

practices should be reviewed in order to streamline and expedite the conduct of business in this body. He had since conducted informal consultations on this matter. It had generally been felt that, while maintaining the flexibility necessary to deal with the often complex and politically sensitive issues which arose in the Council, a certain degree of self-discipline should be required for the sake of saving time and increasing efficiency in consideration of Council matters. It would, therefore, not be necessary to propose any new formal procedures for the conduct of Council business: the current pragmatic style of work should be preserved to the maximum extent possible. On the other hand, and taking into account the views that had been expressed, he believed that the following practices would expedite the work of the Council:

(a) Statements of support

In order to expedite the conduct of Council business, the Chairman would invite delegations that wished to express their support for a given proposal -- such as the adoption of a report, support of a request for observer status, support for current activities such as technical assistance, and so on -- to show their hands, to be duly recorded by name in the Council Minutes as supporting statements; thus, only delegations with dissenting views or wishing to make explicit points or proposals would actually be invited to make a statement. This procedure would only be applied in situations of a routine nature, to avoid undue repetition of points already made, and would not preclude any delegation that so wished from taking the floor.

(b) Length of statements

It was recognized that no limits could be established as a general rule regarding the length of statements in the Council, as the time requirement of any statement was determined by the nature of the issue raised and its importance for the delegations concerned. Delegations, however, should endeavour, to the extent that a situation permitted, to limit their statements to a maximum of 5 minutes. Delegations wishing to develop their position on a particular matter in fuller detail would be invited to circulate a written statement for distribution to Council members, the gist of which, at the delegation's request, could be reflected in the Council Minutes.

(c) Items under "Other Business"

Items were sometimes placed by delegations on the agenda of the Council under "Other Business" with the intention of holding a substantive discussion thereon. Council members might appreciate the difficulty of conducting a proper discussion on such issues if these were raised only during the Council meeting itself. Items placed under "Other Business" were usually those that had arisen too late for inscription on the Airgram convening the Council meeting, but on which their sponsors nonetheless wished to make an

announcement.[8] Therefore, under "Other Business", delegations should normally limit themselves to making an announcement of the issue they wished to raise for consideration at a future Council meeting and, in any case, in raising their points, they should be as brief as possible.

In order to avoid unduly long debates under "Other Business", the following was also proposed:

(i) the Chairman would remind delegations at each Council Meeting that discussions on substantive issues under "Other Business" should be avoided, and that the Council should limit itself to taking note of the announcement by the sponsoring delegation, as well as any reactions to such an announcement by other delegations directly concerned;

(ii) the Council Minutes, unless explicitly requested by the delegations concerned, would not reproduce at length the statements made under "Other Business", but would be limited to an enunciation of the issues raised and a summary of the comments made.

(iii) delegations should provide the Chairman or the Secretary of the Council, and the other delegations directly concerned, whenever possible, advance notice of "Other Business" items.

He also urged delegations, whenever possible, to make available to the interpreters, through the secretariat of the Council, copies of their prepared statements prior to their delivery.

The Council took note of the statement.

At the close of the meeting, the Council bade farewell to the Director-General, Mr. Arthur Dunkel, and to the Deputy Director-General, Mr. Charles R. Carlisle, both of whose contracts expired on 30 June.[9]

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[8] A note by the Secretariat on the practice relating to the issuance of airgrams convening Council meetings was circulated in 1991 (BISD 38S/76).

[9] The texts of the statements made on the occasion of the farewell to Mr. Dunkel were subsequently circulated in Spec(93)24.