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C/M/194
22 November 1985
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GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL
5-6 November 1985

MINUTES OF MEETING

Held in the Centre William Rappard
on 5-6 November 1985

Chairman: Mr. K. Chiba (Japan)

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1. World Intellectual Property Organization (WIPO)
- Request for observer status (L/5893)

The Chairman drew attention to a communication from the World Intellectual Property Organization (WIPO) requesting observer status for Council meetings and for Sessions of the CONTRACTING PARTIES (L/5893).

The representative of the United States said his authorities had not had enough time to consider the request. He proposed that consideration of this item be deferred until the next Council meeting.

The representative of Nicaragua supported WIPO's request. His delegation believed that a WIPO observer should be present for the discussion on trade in counterfeit goods later in the present meeting.

The representative of Chile said his delegation supported WIPO's request and felt there was no reason to delay approving it, whatever differences there might be over treatment of trade in counterfeit goods.

The Chairman said he understood that the United States was not opposing WIPO's request, but was proposing that it be considered at the next Council meeting.

The representative of Nicaragua said in that case, the Council should also postpone consideration of the report of the Group of Experts on Trade in Counterfeit Goods until the next Council meeting.

The representative of the United States said his delegation had no problem in accepting Nicaragua's proposal, as the report of the Group of Experts would, in any case, be considered at the November 1985 Session of the CONTRACTING PARTIES.

The representative of India said that the Council should consider the report of the Group of Experts at the present meeting and decide whether to recommend it for consideration by the CONTRACTING PARTIES.

The Chairman said it was necessary to separate WIPO's request and the report of the Group of Experts. The report would have to be considered at the present meeting. He proposed that the Council consider WIPO's request at its next meeting.

The Council so agreed.

2. Ministerial Work Program - Reports

(a) Safeguards
- Statement by the Chairman of the Council

The Chairman recalled that Ministers had agreed at the November 1982 Session of the CONTRACTING PARTIES that the responsibility for drawing up a comprehensive understanding on safeguards should rest with the Council (BISD 29S/13). The Council had agreed on 7 February 1984 that its Chairman should hold informal consultations to explore how progress could best be achieved on this difficult issue and keep it informed on a regular basis. At their Session in November 1984, the CONTRACTING PARTIES had agreed to the Council Chairman's recommendation that the work directed towards a comprehensive understanding be continued, taking his report into account, and that it be concluded as rapidly as possible (MDF/4 and BISD 31S/8). He recalled that he had summarized the situation on safeguards at the Council meeting in July 1985, when a number of delegations had also made statements. It had been clear from that discussion that there were two aspects to the problem: substantive questions, and questions relating to the organization of future work. The main development since July had been discussion of the safeguards question in the Senior Officials Group established by the CONTRACTING PARTIES on 2 October (L/5876). While many positions of substance stated in the Group were well-known to the Council, the statements reflected a broadly-shared view that a satisfactory understanding on safeguards was an essential element in efforts to maintain and strengthen the multilateral trading system. To this end, many delegations had emphasized that high priority should be assigned to the safeguards issue in any new round of multilateral trade negotiations. It was common ground that work on safeguards had to continue. He suggested that attention should be given to the organization of this work; it would be for the CONTRACTING PARTIES to consider how the work should be pursued, having regard to the 1982 Ministerial Declaration and subsequent developments.

The representative of Chile said that Article XIX stipulated that imports must be the major cause of injury to domestic production in order to have recourse to that Article. Two related factors were established for determining that imports were causing injury, namely that products were being imported in such increased quantities and under such conditions as to cause or threaten serious injury. The first of these factors, which was quantitative, was covered by the Article, but the second, which concerned qualitative aspects involving prices, was not. There were many cases in which prices were seriously distorted by such measures as export subsidies and production support programs, making necessary recourse to anti-dumping or anti-subsidy measures. The only effective way to remedy injury to domestic producers was to apply safeguard measures on a non-discriminatory basis. Article XIX also envisaged the possibility of waiving the rights of reprisal on the part of the country affected by the safeguard measure, if the country which sought recourse to safeguard action observed strict disciplines in

regard to verification of serious injury and a causal link between imports and injury. Nevertheless, other conditions should be present if safeguard action was to be effective, so as to avoid use of retaliatory measures which to some extent influenced the application of grey-area measures. These other conditions concerned the duration and progressive removal of "escape" actions so as to allow more frequent recourse to Article XIX and not to measures which fell outside the strict framework of the General Agreement, such as "voluntary" arrangements.

The representative of the United States said his delegation attached great importance to progress on safeguards as one of his country's top priorities in the new round. For this reason, the United States had fully participated in negotiations over the previous few years aimed at working out a mutually satisfactory understanding. He recalled that the United Kingdom, on behalf of Hong Kong, had on earlier occasions made clear that it wanted a safeguards agreement based on the m.f.n principle, and Chile had strongly supported that view at the present meeting. The United States had no problem with the m.f.n. principle, but did have one with the fact that not every contracting party had been following Article XIX. The more often contracting parties acted outside that Article, the more others were encouraged to do so. He proposed that the Council take note of the Chairman's statement on this issue, and of all the other reports and statements under item 2, without prejudice to any decisions which would be taken by the CONTRACTING PARTIES at the forty-first Session. He reserved his delegation's position on all the sub-items until that Session.

The representative of India said that despite the Chairman's efforts, little progress had been made over the past year on the substance of this issue, which remained the most important outstanding question affecting the multilateral trading system. India hoped that this issue would receive priority attention in the implementation of the Work Program. The necessary comprehensive understanding would have to include the application of safeguard measures on an m.f.n. basis and would have to ensure the temporary nature of such actions, as well as setting a clear time-limit for phasing out actions taken outside GATT or in grey areas. India also emphasized the need for notification and proper surveillance to ensure observance of the disciplines to be agreed upon as part of the understanding. Due attention would have to be given to more favourable treatment for developing countries, especially concerning compensation and retaliation. His delegation had found it necessary to reiterate these views because the consultations had led to no solution. He wondered whether further consideration had been given to Brazil's proposal that the Safeguards Committee should be reconvened.

The representative of Japan said that his delegation attached paramount importance to the safeguards issue. Unfortunately, discussions on establishing a viable safeguards system in GATT had been very drawn-out. The new round should provide a good opportunity to concentrate work on this issue. His delegation would accept taking note of all the reports and statements under item 2, without prejudice to decisions which would be taken by the CONTRACTING PARTIES at their forty-first Session.

The representative of Yugoslavia expressed her delegation's concern at the limited progress which had been made on the crucial safeguards issue. The Safeguards Committee should be reconvened to start working out an agreement based on the m.f.n. principle.

The representative of Egypt said his delegation attached great importance to this major item of unfinished business from the Tokyo Round. Perhaps the time had come to reconvene the Safeguards Committee so that it could work out a comprehensive understanding, based on the m.f.n. principle and including more favourable treatment for developing countries, particularly on compensation and retaliation.

The Chairman said that so far there had emerged no clear understanding on when the Safeguards Committee might be reconvened.

The Council took note of the statements and recommended that the CONTRACTING PARTIES consider how the work on safeguards should be pursued, having regard to the 1982 Ministerial Declaration and the statements made on this subject in the Council.

(b) Dispute Settlement Procedures
- Roster of non-governmental panelists (C/W/488)

The Director-General recalled that at the Council meeting in July 1985, he had invited contracting parties which had not yet submitted nominations for the roster of non-governmental panelists to do so by 30 August. Only two additional contracting parties had submitted nominations. The list of 37 names submitted by 21 delegations had then been circulated in C/W/488. Subsequently, Uruguay and Sweden had each informed him of one name, respectively, to be withdrawn from the list. He suggested that all the names submitted on the list in C/W/488, as thus amended, be retained for the roster. He was aware that some representatives would have preferred a shorter list; however it seemed to him that a list of 35 names was manageable.

The representative of the European Communities said it had been understood that the roster should be as short as possible; accordingly, the Community had submitted seven names as priority candidates, with others in reserve. That understanding on the size of the roster should have been reflected in the list. His delegation asked that the names of the Community members be grouped together. He wondered whether, if the services of persons on the list could not be used for panels, it might be possible to use their skills elsewhere within GATT, for example, to assist governments which might need technical advice to prepare for the new round.

The Council took note of the statements and approved the list in C/W/488, as amended.[1]

[1]The roster was subsequently circulated in L/5906.

(c) Trade in Agriculture
- Report of the Committee (L/5900)

The Chairman drew attention to the report to the CONTRACTING PARTIES' forty-first Session by the Committee on Trade in Agriculture (L/5900).

The representative of India said his delegation continued to support fully the objective of trade liberalization in agriculture along the lines of the 1982 Ministerial Declaration. Progress had been made in elaborating the various approaches adopted by the CONTRACTING PARTIES in November 1984 (BISD 31S/10). However, India was concerned that this work might be losing momentum. While noting that trade in agriculture was an important area which had long evaded GATT disciplines, India wanted to reaffirm the need for more favourable treatment for developing countries in all aspects, especially concerning market access and subsidies.

The Council took note of the statement and agreed to forward the report to the CONTRACTING PARTIES for adoption at their forty-first Session.

(d) Quantitative Restrictions and Other Non-Tariff Measures
- Report of the Group (L/5888)

The Chairman recalled that the Council had agreed in January 1983 that the Group on Quantitative Restrictions and Other Non-Tariff Measures be constituted, open to all contracting parties, to carry out the task described in paragraph 1 of the CONTRACTING PARTIES' Decision of 29 November 1982 (BISD 29S/17) and to report to the Council as prescribed in paragraph 2. At the fortieth Session in 1984, the CONTRACTING PARTIES had extended the Group's mandate to allow it to make a report, with its findings and conclusions, for consideration by the CONTRACTING PARTIES at their Session in November 1985 (L/5754).

Mr. Feij (Netherlands), Chairman of the Group, presented the report (L/5888). The Group had carried out the review requested by the 1982 Ministerial Declaration, the work on quantitative restrictions and on other non-tariff measures having proceeded in parallel. He noted that the report had the unanimous support of the Group's members. The Group had made specific recommendations for further work; for reasons of convenience, these recommendations had been consolidated in the report's final paragraph. If the recommendations for further work were to be adopted by the CONTRACTING PARTIES, arrangements would have to be made to carry out that work. The Group had also agreed that it should not enter into substantive questions relating to possible future negotiations; it was for the CONTRACTING PARTIES to decide on both those issues.

The representative of Chile said his delegation was disappointed that the Group's report showed practically no substantive progress had been made toward eliminating restrictions or bringing them into conformity with contracting parties' GATT obligations. The one positive aspect was that transparency had been achieved. Some contracting parties had declined to justify or, in some cases, even to comment on their restrictions; Chile understood that in the absence of such justification, there was a presumption of non-conformity with the General Agreement. Chile by contrast, despite its difficulties, was fully carrying out its international obligations, in particular those under the General Agreement and under paragraph 7(i) of the 1982 Ministerial Declaration. This revealed a serious imbalance of rights and obligations. Since the Group's report and recommendations did not foresee any possibility for attaining, within a reasonable period, observance of the obligations and disciplines of the multilateral trading system, Chile reserved its position and GATT rights, because it might be obliged to seek other means of dismantling restrictions. Chile considered that the Group's report could not be adopted, since it was inconsistent with the objectives and principles of the General Agreement and with the commitments made by Ministers in 1982. Chile wanted consultations to be held at an appropriate level to formulate meaningful conclusions, with a practical approach leading to prompt re-establishment of rights and obligations under the General Agreement.

The representative of Hungary said his delegation accepted the report and the recommendations. However, Hungary reserved its GATT rights on some details of the European Community's proposal notified in document NTM/W/12 which had been commented upon by Hungary in the report's paragraph 20.

The representative of Nicaragua supported Chile's statement. Nicaragua considered that while some progress had been made, the Group had not reached the objective and had not fully observed the terms of reference set by Ministers in 1982, when they had decided that adequate attention should be given to the need for action on quantitative restrictions and other measures affecting products of particular export interest to developing countries.

The representative of the European Communities recalled that the process of eliminating and reducing quantitative restrictions was a very painful one for the Community and its member States. The Community had made extraordinary efforts over the preceding three years to start the process of reducing quantitative restrictions, and now it was being told that its actions were of little interest. The Community was concerned at the tendency of contracting parties to want and to push for everything at the same time, without showing any understanding of the difficult situations that other governments faced. There was a fundamental imbalance between the rights and obligations of the contracting parties. If any contracting party wanted to be punctilious

and exacting, it could be so, but such an attitude would make it difficult to reverse current trends and to right imbalances, destroying any goodwill which had so far been shown.

The representative of Spain said that some contracting parties had made efforts to eliminate quantitative restrictions, but these efforts did not seem to be appreciated. Spain was concerned at objections to the Group's report which had been raised by contracting parties that had been present in the Group. His delegation was not satisfied with every word of the report, but considered that it constituted a positive step in fulfilling the 1982 Work Program.

The Council took note of the report (L/5888) and the statements made on it in NTM/14 and at the present meeting, and agreed to forward the report to the CONTRACTING PARTIES for action at their forty-first Session. The Council noted that the report foresaw further work in this area and that, if this work were to be done, it would be necessary to provide for appropriate institutional arrangements, such as a group, for this purpose; the Council accordingly suggested that the CONTRACTING PARTIES take a decision on this matter.

(e) MTN Agreements and Arrangements
- Follow-up on the Working Group report (L/5832/Rev.1)

The Chairman recalled that at its meeting in October 1985, the Council had considered the follow-up to the Working Group's report and had agreed to revert to this matter at the present meeting. Since then, he had met informally with several delegations to see how the Council might deal with this matter. Those delegations had asked him to pursue his consultations and to report on the results at the forty-first Session when the CONTRACTING PARTIES considered the Council's report.

The Council took note of this information.

(f) Trade in Counterfeit Goods
- Report of the Group of Experts (L/5878)

The Chairman recalled that at their Session in November 1984, the CONTRACTING PARTIES had established a Group of Experts, open to all contracting parties, to facilitate the decisions which the Council was called upon to take on the appropriateness of joint action within the GATT framework on the trade aspects of commercial counterfeiting and, if such joint action were found appropriate, the modalities for it, having full regard to the competence of other international organizations (BISD 31S/14). The Group was to report to the Council on the results achieved not later than the next regular Session of the CONTRACTING PARTIES in November 1985.

Mr. Rantanen (Finland), Chairman of the Group, introduced the report (L/5878). He said that while a measure of agreement had been reached on some issues, the Group had been unable to come to a common view on the question of whether it would be appropriate to take joint action in the GATT framework on the trade aspects of commercial counterfeiting. The Group had considered that this was a policy question, the examination of which could not be carried further at the expert level. The Group had therefore limited itself to setting before the Council the different arguments on this issue. In this situation, the Group had not attempted to reach agreement on the question of modalities, although the report recorded the results of the Group's consideration of a number of issues raised in that connection. He believed that the considerable amount of detailed work undertaken by the Group had clarified and led to a better understanding of the issues at stake.

The representative of the European Communities said that if there were to be no collective action within GATT on trade in counterfeit goods, it would be more difficult for governments to resist protectionist pressures, particularly in cases where defence against imports of counterfeit goods was used as an excuse for giving in to such pressures. Unilateral action would become inevitable. There was a choice to be made, and the Community was willing to begin discussions immediately if the Council so desired.

The representative of India recalled a statement on this matter by developing countries (MDF/W/25) which the Group of Experts had taken into account in examining the appropriateness of dealing with intellectual property matters in GATT. It was clear from the Group's report, particularly the conclusions, that there was no consensus on dealing with this issue in GATT. On the other hand, India noted that the Governing Body of the World Intellectual Property Organization (WIPO) had adopted a decision on 28 September 1985, presented by Algeria, Brazil, Egypt, Germany, India, the United Kingdom and the United States, to set up an inter-governmental group of experts to examine all aspects of commercial counterfeiting. India felt that the Council, while forwarding the Group's report to the CONTRACTING PARTIES for adoption, should bear this in mind.

The representatives of Egypt and Brazil supported the statement by India.

The representative of Brazil added that the Group's report showed that there was no agreement among the Group as to the legitimacy of proposed joint action on trade in counterfeit goods in the GATT framework. WIPO had taken a decision on counterfeiting, and Brazil believed that it was for the members of that organization to devise within the WIPO framework an adequate solution to ensure that industrial and intellectual property received the protection that should be provided by national and international systems. Much time and resources had been spent in GATT on clarifying the institutional and jurisdictional aspects of this problem, at the expense of attention

to liberalizing trade in goods, which was GATT's sole mandate. Brazil hoped that from now on, the issue of trade in counterfeit goods would be left to the responsibility of WIPO, which was the competent organization to deal with it.

The representatives of Argentina, Nicaragua, Chile, Cuba, Yugoslavia and Gabon supported the statements by India and Brazil.

The representative of Japan said GATT's rôle was important as far as the trade aspect of counterfeiting was concerned; the problem had a significant effect on the smooth development of international trade. This subject should therefore be included in the new round, and Japan looked forward to cooperation between GATT and WIPO.

The representative of Cuba wondered why, if some delegations were so interested in having this subject brought to GATT for multilateral action, it had not been possible for the Council earlier at the present meeting to accept WIPO's request for observer status.

The representative of the United States said it was clear that counterfeit goods were traded and that, among other things, they could have an adverse impact on health. His delegation reaffirmed the view expressed by a number of governments at the WIPO meeting in September 1985 that the examinations in WIPO and GATT were separate and independent exercises, and that work on this subject must proceed in GATT, which was the only organization competent to deal with the trade aspects of this problem.

The representative of Israel noted that the CONTRACTING PARTIES had agreed in November 1984 to invite the Director General of WIPO to nominate an expert to participate in the discussions within GATT on trade in counterfeit goods. The Group's report noted that the WIPO expert had participated in the discussions without taking an active rôle. The fact that WIPO had set up an inter-governmental group of experts to examine commercial counterfeiting should not prevent WIPO from participating actively in work within GATT on this issue.

The representative of Canada noted that his country had participated actively in the Group of Experts and that his delegation's views were reflected in paragraph 23 of the report. Canada accepted the report and supported joint action within GATT on trade in counterfeit goods.

The representative of the European Communities regretted that there seemed to be confusion on the question of dealing with trade in counterfeit goods. It was not acceptable that GATT's authority and competence on this issue be taken away. The Community intended to move forward, and wanted to make clear that not every contracting party had to take part in negotiations on this subject.

The Council took note of the report of the Group of Experts and of the statements. It agreed to report to the CONTRACTING PARTIES that, as instructed, it had examined the question of counterfeit goods without, however, being able to make the determinations called for in the Ministerial decision. The Council suggested that the CONTRACTING PARTIES review the matter in the light of all the relevant considerations.

(g) Textiles and Clothing
- Report of the Working Party (L/5892)

The Chairman recalled that at their Session in November 1984, the CONTRACTING PARTIES had agreed to extend the Working Party's mandate for such further period as would permit it to make a more complete report to the Council and the CONTRACTING PARTIES (BISD 31S/14).

Mr. Mathur, Deputy Director-General, Chairman of the Working Party, introduced its report (L/5892), noting that the Working Party had focused its attention on three major modalities or options for trade liberalization in textiles and clothing. The Working Party had not developed any common view on the modalities or techniques to achieve further trade liberalization in textiles and clothing, though it had made some observations regarding the long-term perspective in which the problem might be viewed. He drew attention to the final paragraph which noted that the Working Party recognized the importance of the issue of textiles and clothing in international trade, and agreed that there was a need to continue consideration of how the treatment of textiles and clothing could be improved consistent with GATT objectives and with the 1982 Ministerial Declaration.

The representative of the United Kingdom, on behalf of Hong Kong, said that despite considerable work done in pursuance of the 1982 Ministerial mandate on textiles and clothing (BISD 29S/20), the Working Party's report showed that very little had been achieved so far, and that much remained to be done. It was perhaps mildly encouraging that the report recorded general recognition that GATT provisions should ultimately apply to international trade in textiles and clothing. The Working Party had also agreed on the need to continue consideration of how the treatment of textiles and clothing could be improved, consistent with GATT objectives and with the Ministerial Declaration. Consequently, the work now had to be intensified and carried forward to a more definitive stage. This would involve identifying and agreeing upon the precise steps necessary to bring about full liberalization and ultimate return to the full application of GATT rules. It was to be expected that the CONTRACTING PARTIES would decide to continue the work accordingly at the forty-first Session.

The representatives of Yugoslavia, Uruguay, Hungary, Egypt, Peru and Korea said the Working Party's report showed that not enough progress had been made, and that work should be intensified towards liberalization of trade in textiles and clothing consistent with GATT principles and objectives and with the Ministerial Declaration. The CONTRACTING PARTIES should mandate the Working Party to pursue its work in 1986 towards that end.

The representative of India noted that paragraph 7(viii) of the Ministerial Declaration (BISD 29S/12) provided that the contracting parties should examine ways and means of, and pursue measures aimed at, liberalizing trade in textiles and clothing, including the eventual application of the General Agreement after the expiry of the 1981 Protocol[1] extending the Arrangement Regarding International Trade in Textiles[1], it being understood that in the interim the parties to the Arrangement should adhere strictly to its rules. The discussions in the Working Party had been useful and detailed, but little had been done to reach the objectives set by the Ministers. The Working Party had been unable to adopt any recommendations so far. There was need for a clear and categorical affirmation by the importing developed countries to return to the rules and principles of the General Agreement. His delegation noted that it had been generally recognized that the General Agreement should ultimately apply to this sector of trade; the Working Party should now examine the question of specific modalities.

The representative of the European Communities noted that all options on this issue remained open. The Community favoured Option B.

The Council took note of the report (L/5892) and of the statements, and agreed to forward the report to the CONTRACTING PARTIES for consideration and any appropriate action at their forty-first Session, taking into account the discussion in the Council.

(h) Problems of Trade in Certain Natural Resource Products

The Chairman recalled that in March 1984 the Council had established the Working Party on Trade in Certain Natural Resource Products to study the three sectors of non-ferrous metals and minerals, forestry products, and fish and fisheries products, and to make separate reports for each sector.

Mr. Cartland (United Kingdom - Hong Kong), Chairman of the Working Party, noted that its terms of reference stipulated that "... work in each area will progress in accordance with its own time-frame, and not be linked to progress in other areas." (L/5652/Rev.1).

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[1] BISD 28S/3.

- Fish and Fisheries Products
  - Report of the Working Party (L/5895)

The Chairman of the Working Party introduced its final report on fish and fisheries products (L/5895), saying that it showed that the process of liberalizing trade in these products involved a number of complex issues, on which different approaches and views continued to exist. He quoted salient features from the Working Party's concluding remarks (paragraphs 36-40), and drew attention to the options on possible future work in this product area (paragraph 41), noting that there were divergent opinions as to which option should be preferred.

The representative of Argentina, drawing attention to the report's paragraphs 29 and 30, said there could be no linkage of access to marine resources and access to markets. Market access fell within GATT's competence, but this was not the case for access to resources, which fell within the competence of other international bodies.

The representative of India supported the statement by Argentina. He added that the report reflected the view of some contracting parties that such a link should be established in future negotiations, as well as the view that all factors having an influence on trade should be included in such negotiations and in elaborating negotiating modalities. India considered that both these formulations were too wide, loose and dangerous. Extending the scope of negotiations to introduce those ideas would have no basis in GATT.

The representative of Colombia supported the statements by Argentina and India, and said that GATT already had enough work to do on access to markets; access to resources was not within its competence.

The representative of Uruguay supported the statements by the three previous speakers and said his country's natural resources were a matter of national sovereignty and could not be negotiated.

The representatives of Yugoslavia, Egypt, Peru, Nicaragua, Zaïre, Cuba and Chile supported the statements by Argentina, India, Colombia and Uruguay.

The representative of Iceland, on behalf of the Nordic countries, said they favoured option (a) in the report's paragraph 41, i.e., that negotiations on the trade problems identified by the Working Party should form part of the general process in other GATT bodies as appropriate. Although the Nordic countries generally had an open mind regarding studies in GATT of possible trade effects resulting from national policies, they considered that pursuance of national policy objectives on fish resources fell clearly outside the purview of GATT negotiations. They opposed any link between access to resources and markets; such linkage would be alien to GATT principles.

The representative of Canada supported the statements by the previous speakers. Canada was pleased that there had been general consensus in the Working Party that any major expansion of trade in fish and fisheries products would require a process of multilateral trade negotiations. Canada attached high priority to such negotiations, and while it was not committed to any particular form or process of negotiations, considered that they should address trade-restrictive measures only and not access to resources.

The representative of the European Communities said that dozens of bilateral agreements were concluded every year, affecting both access to resources and access to markets, since fishing rights in protected economic zones were often exchanged against access to markets. He said that access to markets might indeed prove to be beyond GATT's reach if some contracting parties stuck to the view that access to resources could not be considered in GATT. This was not a question of encroaching on contracting parties' national sovereignty, but rather of discussing and negotiating all factors affecting trade in fish and fisheries products. The Community believed it was necessary to consider all four options submitted by the Working Party, so as to ensure that the problems of a significant area of world trade were dealt with in the new round of multilateral trade negotiations in an appropriate framework.

The representative of Spain noted that his country continued to support option (d) in paragraph 41. Reference to resource access was difficult for some contracting parties to accept; for others, such as Spain, that concept had perhaps not been sufficiently stressed in the report. Future work on fish and fisheries products had to take account of the effects of problems in catching and marketing of those products resulting from extended jurisdiction over fishing areas. Spain did not want to negotiate access to fisheries products per se, since this was not within the scope of the General Agreement, but did want to stress that such an issue had a decisive impact on international trade in these products and thus should constantly be borne in mind during efforts to liberalize trade in this area.

The Council took note of the statements and of the report (L/5895), and agreed to forward the report to the CONTRACTING PARTIES for adoption at their forty-first Session.

- Forestry Products
  - Report by the Chairman of the Working Party (MDF/23)

The Chairman of the Working Party reported to the Council the results of the discussions on this product area, drawing attention also to the note on the proceedings of the Working Party's meeting in September 1985 (MDF/W/53). Among other things, that note indicated the reasons for the broad consensus in the Working Party for the presentation of a report by its Chairman rather than having the Working Party attempt to adopt the text of a report.

The Council took note of the report[1] and agreed to forward it to the CONTRACTING PARTIES for adoption at their forty-first Session.

- Non-Ferrous Metals and Minerals
  - Progress report by the Chairman of the Working Party

The Chairman of the Working Party reported to the Council, on his own responsibility, on the work undertaken so far in the area of non-ferrous metals and minerals. He noted that this was the second progress report on this area; the first progress report (MDF/3) had concerned work done in 1984 on lead, zinc and copper. During 1985, the Working Party had concentrated mainly on examining factors affecting trade in tin, nickel and related products. He then outlined the problems which had been raised in the Working Party falling under the competence of the General Agreement relating to tariffs, non-tariff measures and other factors affecting trade in non-ferrous metals and minerals, including in their semi-processed forms. The Working Party would next turn to examining aluminium and was expected to prepare later in 1986 its final report, which would address the problems and issues identified in the background studies and in the course of the Working Party's discussions.

The Council took note of the progress report.

(i) Services
- Statement by the Chairman of the CONTRACTING PARTIES

The Chairman recalled that in their Agreed Conclusions (BISD 31S/15) adopted at their November 1984 Session, the CONTRACTING PARTIES had agreed that their Chairman would keep the Council informed of progress made on services.

Mr. Jaramillo (Colombia), Chairman of the CONTRACTING PARTIES, reported on progress made in implementing the November 1984 Agreed Conclusions since he had last reported to the Council in July 1985. He indicated that the report which he intended to present to the CONTRACTING PARTIES at their forty-first Session would summarize the main issues raised in the national examinations circulated through GATT by a number of contracting parties as well as in the discussions that had taken place during the meetings held under the Agreed Conclusions. He considered it would be useful to include in the report to the CONTRACTING PARTIES a reference to all the points made by delegations on the subject matter in this area, so as to provide as complete a picture as possible of the observations and considerations which might assist the CONTRACTING PARTIES in making the determination provided for in paragraph 3 of the 1982 Ministerial decision (BISD 29S/21) and in paragraph 4 of the Agreed Conclusions.

[1] The Chairman's report was subsequently circulated in MDF/23.

The representative of the European Communities reiterated the Community's determination to carry out the Ministerial decision and the 1984 Agreed Conclusions in such a way as to lead to multilateral action on services in the framework of GATT. The Community could not accept that GATT's rôle should be limited to compiling data on services.

The representative of India said that while the exchange of information on services agreed upon by the CONTRACTING PARTIES in 1984 had to some extent been accomplished, it would be premature for the Council to reach a conclusion at this stage on the adequacy of that exchange. A decision on paragraph 3 of the Ministerial decision, and on paragraph 4 of the Agreed Conclusions, would have to be taken by the CONTRACTING PARTIES at the forty-first Session.

The Council took note of the statements and took note that the Chairman of the CONTRACTING PARTIES would present a report directly to the CONTRACTING PARTIES for consideration at their forty-first Session.

3. Consultative Group of Eighteen
- Report by the Chairman of the Group (L/5887)

The Chairman recalled that, as required under its terms of reference, the Consultative Group of Eighteen submitted once a year a comprehensive account of its activities to the Council.

The Director-General, Chairman of the Group, presented its report for 1985 (L/5887), which had been prepared on his own responsibility. He said that the report made clear that the Group's work during 1985, unlike that of any previous year, had concentrated on one subject, namely, the arguments relating to the launching of a new round of trade negotiations as a means of further liberalizing trade and restoring the integrity of the trading system. The third paragraph of the report described the progressive stages of the debate, which had helped to clarify positions and to prepare the ground for subsequent discussions by the contracting parties and the Senior Officials Group (L/5876).

Regarding the Group's composition, he had undertaken consultations with a large number of delegations during the year. Those consultations had been somewhat inconclusive in that they revealed strongly-held views which were difficult to reconcile, even on the basic question of the Group's size. It would be helpful to hear what interested delegations had to say before those consultations proceeded.

The representatives of Colombia, Chile and Uruguay said that the current favourable circumstances should be used to expand the Group and to carry out reform of its composition since the European Economic Community's forthcoming enlargement would result in a de facto increase in the Group's membership.

The representative of Korea reiterated his country's interest in becoming a full member of the Group, which would enable it to be represented at meetings by a high official from the capital.

The representative of Colombia said it was increasingly obvious that a larger number of contracting parties had to be offered the opportunity to take part in the Group's work. In the previous ten years the number of developing country contracting parties had increased, as had their participation in GATT; the result had been a serious imbalance in the Group's membership. While effectively all the developed countries had seats, only a minority of developing countries were represented. The decision establishing the Group (BISD 26S/289) provided for rotation, but this had not always been applied to the extent desirable.

The representative of the European Communities said that the Group's composition had been the subject of lengthy and difficult consultations. The Group's purpose was to bring high officials from capitals to advise the Director-General on policy, in a context outside the formal GATT framework. He recalled that one of the critera for membership was the relative share in international trade. The EEC had only one spokesman, but the presence of high officials from its member States had often helped it to move forward in important areas such as quantitative restrictions. Among other criteria to be considered was geographic distribution. The Community welcomed the increasingly responsible part played by Korea within GATT, which should be taken into account during the consultations on this matter. However, if the Group were expanded excessively, it would be difficult for it to work effectively.

The representative of Chile supported initiatives aimed at restructuring the Group and endorsed the statements by Korea and Colombia. There were two types of participation in the Group: one was participation in debate, in which terms the Community had only one seat; the other was by physical attendance at the Group's meetings, for which the Community had ten, and would soon have twelve, seats. The question was whether the absent majority could participate actively, with the right to speak, or passively.

The representative of Uruguay said that all developed countries attended the Group's meetings in one way or another but that only a proportion of developing countries could be present. A country's share in world trade should be one, but not the final, criterion for membership. It was important that all contracting parties felt they were in some way represented in the Group, that they had faith in it, and fully supported it; in this respect the Group's composition should be changed. He said that other international agencies had bodies similar to the Group which were broader and which nevertheless worked effectively.

The representative of the United States said that his Government was interested in transforming the Group, in line with the original intention in creating it, into a small, high-level, action-oriented steering group that would address specific trade issues and provide policy guidance for the Secretariat. It was important that the Group reflect actual trading interests, and the basic guidelines for its composition should therefore be trade shares or trade patterns. The United States agreed that the Group had to be improved, but an inordinate amount of discussion on this issue would lead nowhere.

The representative of Turkey asked that his delegation be included in any future consultations on this issue.

The representative of Yugoslavia reiterated her delegation's views, as stated in the consultations, that the Chairmen of the CONTRACTING PARTIES, Council and Committee on Trade and Development should be represented in the Group ex officio. Yugoslavia agreed with the US view that the Group's function should be reviewed.

The representative of Zaïre said the Group should not be made into a sort of general assembly, as this would diminish its efficiency. It was also important that all members participate actively in its work, and at present this was too often not the case.

The representative of the European Communities noted that there was no voting in the Group, which was a forum for reflection and advice outside the operational and legalistic constraints of the General Agreement. The Group should not be given a rôle for which it was not envisaged or a mission it could not fulfil.

The Director-General expressed the hope that the CONTRACTING PARTIES would decide at their November Session on the Group's membership for 1986. He stressed that one of the Group's main functions was to allow trade policy-makers from capitals to meet, exchange views and create a personal relationship. But it was also a working instrument whose efficency had to be maintained; it was in this light that the question of enlargement and the criteria for membership should be considered. He had participated in meetings of "restricted" groups elsewhere whose membership had been enlarged to the point at which it had been necessary to move back into more restricted groupings; in his view, care must be taken not to destroy the Group's most important feature -- that it was and should be compact and efficient.

The representative of the European Communities said that there would be a natural temptation, should the Group be enlarged, to set up another, more restricted body. He suggested establishing a closer link, via increased transparency, between the Group and the CONTRACTING PARTIES or the members of the Council; this would improve the Group's efficiency and reduce tensions arising from feelings of exclusion.

The Council took note of the report (L/5887) and of the statements.

4. Provisional Accession of Tunisia
- Request for extension of time-limit (C/W/489, L/5894)

The Chairman recalled that the Declaration of 12 November 1959 on the Provisional Accession of Tunisia, as extended by the Sixteenth Procès-Verbal of 8 November 1984 (BISD 31S/3), and the Decision of the CONTRACTING PARTIES which provides for Tunisia's participation in the work of the CONTRACTING PARTIES (BISD 31S/7), were due to expire on 31 December 1985. Tunisia's request for an extension of these arrangements had been circulated in document L/5894.

The representative of Tunisia asked for the support of the Council members in accepting the requested extension.

The Council took note of the statement, approved the text of the Procès-Verbal Extending the Declaration to 31 December 1986 (C/W/489, Annex 1) and agreed that the Procès-Verbal be opened for acceptance by the parties to the Declaration.

The Council also approved the text of the draft decision (C/W/489, Annex 2) extending the invitation to Tunisia to participate in the work of the CONTRACTING PARTIES to 31 December 1986, and recommended its adoption by the CONTRACTING PARTIES at their forty-first Session.

5. Egypt - Economic Development Tax
- Request for extension of time-limit (C/W/486, L/5866)

In paragraph 6 of its Protocol of Accession, Egypt had reserved the possibility to maintain in effect the temporary consolidation of its economic development tax on bound duties. The Protocol provided that if the measure was still in effect on 31 December 1975, the matter should be reviewed by the CONTRACTING PARTIES. The CONTRACTING PARTIES had reviewed this matter in November 1975 and again in November 1980, at which time they had agreed that the measure could be maintained in effect until the end of 1985, by which time if the measure was still in effect, the matter should again be reviewed by the CONTRACTING PARTIES (BISD 27S/16). In document L/5866, Egypt had notified its intention to maintain this tax for a further five-year period.

The representative of Egypt said his Government had kept this matter under review and had found it necessary, due to financial difficulties and development requirements, to maintain this measure beyond 31 December 1985. Maintenance of the tax for a further five years until 31 December 1990 would be essential for financing Egypt's Five-Year Development Plan.

The representative of the United States recalled that this measure had been initially negotiated in 1970 with the aim of being phased out in five years; this request was for a third extension. He said these measures were looked at carefully by his Government, and that better efforts would have to be made to meet Egypt's five-year goals in order to reinstate respect for GATT.

The representative of Egypt said his delegation understood the US concern; however, other measures in GATT had been rolled over for longer periods. His Government was ready to consult with any contracting party which might have difficulty with maintenance of this tax, and would consider removing the measure as soon as the financial and development situation permitted.

The Council took note of the statements, approved the text of the draft decision (C/W/486) and recommended its adoption by the CONTRACTING PARTIES at their forty-first Session.

6. Trade in Textiles
- Report of the Textiles Committee (COM.TEX/41)

The Director-General, Chairman of the Textiles Committee, introduced the report on the Committee's meeting in July 1985 (COM.TEX/41). He recalled that the Committee was required under Article 10:5 of the MFA[1] to meet not later than one year before the July 1986 expiry of the Arrangement in order to consider whether it should be extended, modified or discontinued. Article 10:5 did not, however, require the Committee to reach final conclusions at that time; this accounted for the absence of conclusions in the report. He said that the report highlighted specific problems in the textiles and clothing field identified both by exporting and importing participants, and presented member countries' initial views on the regulation of trade in this area following expiry of the present MFA. The concluding paragraph of COM.TEX/41 instructed him, as Chairman of the Committee, to consult with delegations on the need for contacts, either formal or informal, before December 1985, when the Committee would meet formally. Informal consultations had been held in October; the Committee would meet again on 4-5 December, following further informal contacts beforehand. While participants were still a long way from common views on specific issues, he was confident that, with a spirit of mutual

[1] Arrangement regarding International Trade in Textiles (BISD 21S/3) as extended by the 1981 Protocol (BISD 28S/3).

confidence and cooperation, the timely and generally acceptable understandings needed to avoid uncertainty and to safeguard future prospects in this important sector could be reached.

The representative of the United Kingdom, on behalf of Hong Kong, said that the Committee's meetings under the procedure laid down in Article 10.5 constituted a separate, self-contained exercise, with its own time frame and terms of reference. While there was no direct link between this process and the deliberations in the Working Party on Textiles and Clothing established pursuant to the 1982 Ministerial Declaration, and although these two processes were proceeding on different tracks, the subject matter in each was related. The Textiles Committee could not, therefore, proceed in isolation and without taking some account of commitments to liberalization, including the ultimate return to full application of GATT rules in textiles, and the possibilities for negotiation that existed in the wider context. The textiles sector would be a test case for what might be possible in broader negotiations affecting other sectors. The Textiles Committee process provided the opportunity to show a willingness to move away from long-standing institutionalized protection in this sector; without such a demonstration, expectations of what might be achieved in negotiations in other areas might prove to be limited. At the very least, any successor arrangement that might emerge from the Textiles Committee process should encompass the commitment to liberalization and to ultimate return to the application of GATT rules and should also provide, both in the multilateral instrument and in the subsequent bilateral arrangements, for concrete measures towards achieving those aims.

The Council took note of the statements and adopted the report (COM.TEX/41).

7. European Economic Community - Production aids granted on canned peaches, canned pears, canned fruit cocktail and dried grapes - Panel report (C/W/476, L/5778)

The Chairman recalled that the Council had discussed the Panel's report (L/5778) at its six most recent meetings and had agreed at the October meeting to revert to this item at the present meeting.

The representatives of the United States, Australia, Chile, New Zealand and Argentina supported adoption of the Panel report.

The representative of the United States recalled that at the October Council meeting, the Community had indicated it could accept adoption of the Panel report subject to an understanding which, in the US view, would strip the report of any value as a precedent for similar cases and would create new understandings and interpretations which went far beyond the issues raised in this dispute. The report's strongest

asset was that it had applied the well-established concept of nullification and impairment of tariff concessions to a specific dispute. He stressed that the parties to this dispute should not be re-arguing the case in the Council. Of major concern to the United States was the fact that the reservation which the Community sought to make was not based on any assumption that the Panel's conclusions were wrong or unsound. The Community was trying to create new understandings in the context of adopting the report; this would be best reserved for negotiations. The result was that relief for the US canned fruit industry was overdue because of the Community's legal views on other issues and potential future questions. The Community's unwillingness to reach a solution in this case undermined the dispute settlement process.

The representative of the European Communities did not share the US interpretation of the impact of the Community's proposed understanding on the adoption of the Panel report, nor the view that the report re-affirmed existing legal principles. The Community's arguments and comments on this aspect had been clearly stated in C/W/476. The Community had been engaged in bilateral consultations with the United States, and had considered that there was some hope of agreement on the question of adopting the report and on the substantive aspects of the problem. He pointed out that the Community had already substantially reduced aids to its canned fruit industry, thus going a long way towards meeting any case the United States might have had for relief. The Community regretted that those consultations had unfortunately, and due to circumstances which went beyond the present case, not reached a definitive conclusion. The Community hoped that a successful outcome would still be possible and was ready to work with the United States and other interested delegations to this end.

The representative of Australia said that at the same time his country was engaged in a major restructuring of its canned fruit industry in response to reduced export opportunities, Community member States were undertaking extensive plantings in response to production subsidies. His delegation agreed with the US view that in C/W/476 the Community was trying to re-interpret its obligations and rights under the General Agreement. In that document, the Community argued that a new member State would not be subject to bindings negotiated by the Community prior to that State's becoming a member, and that consequently, the Community itself was relieved of any obligation stemming from impairment of those bindings which resulted from production subsidies accorded to that new member. In Australia's view, this was contrary to the provisions of Article XXIV, at least. Furthermore, the Community's position in C/W/476 was inconsistent with its argument in Article XXVIII negotiations that a member State with no legal status under Article XXVIII, as either an initial negotiator, principal supplier or substantial supplier, was entitled to compensation when its trade under a bound item was subject to another contracting party's unfavourable adjustment in that binding. This raised the question of whether it was equitable, let alone legal, for a contracting

party to disclaim its obligations regarding impairment of a binding, while it assumed rights under Article XXVIII. The arguments put forward in C/W/476 should perhaps be the basis of discussions in a broader forum, but the rights and obligations in question could not be subject to unilateral negotiation.

The representative of Chile said that acceptance of the Community's proposed understanding would have serious legal implications. Regarding the relationship between obligations under Articles II and XVI, and the provisions of the Subsidies Code (Article 8:4), the proposed understanding would establish a new rule under which the General Agreement would not apply to disputes on subsidies if the parties were signatories to the Code. Furthermore, the well-established principle of non-violation nullification or impairment would be revoked. The understanding would provide further that the complainant had to prove that the tariff concession had been bound and that it applied to the customs territory of the other party. This would create another rule, that nullification or impairment was applicable only to bound tariff concessions and not to a direct or indirect benefit accruing under the General Agreement; such an interpretation of Article XXIII:1 was unacceptable and contrary to the text of that provision.

The representative of New Zealand said his country had traditionally supported prompt implementation of panel recommendations. His delegation agreed on the need to avoid re-arguing issues already extensively examined by a panel. He added that Australia's statements on substance were persuasive.

The representative of Argentina supported the statements by the United States, Australia, Chile and New Zealand.

The representative of the United States said that adoption of panel reports should never prevent further attempts to reach a solution. In the meantime, the United States could not consider the Community's proposed understanding seriously.

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

8. Committee on Balance-of-Payments Restrictions

(a) Consultation with Portugal (BOP/R/152)

Mr. Girard (Switzerland), Chairman of the Committee on Balance-of-Payments Restrictions, said that at the consultation with Portugal in October 1985, the Committee had noted an improvement in Portugal's external balance in 1984 and the favourable outlook for 1985, resulting from the Government's economic stabilization program; strong

external demand and good agricultural production in 1984 had also been important factors in 1984 performance. While the domestic costs of adjustment were recognized, progress remained to be made on price inflation. The Committee had noted the generally beneficial effects on Portugal's external balance anticipated from its entry into the European Communities. The Committee had welcomed Portugal's substantial liberalization and simplification of measures maintained for balance-of-payments purposes, as well as the announcement that no such measures would be maintained for those purposes after 31 December 1985. Other restrictions expected to remain in force after that date were those maintained under Portugal's Protocol of Accession.

The representative of Japan said his delegation could accept adoption of the report in BOP/R/152 and welcomed the liberalization of measures maintained by Portugal for balance-of-payment reasons; however, Portugal still maintained restrictions on some imports from Japan. His Government had repeatedly requested the immediate elimination of those measures, which were contrary to basic GATT principles. Japan reserved its rights regarding the damage caused by those measures pending their elimination.

The representative of Portugal stressed that the measures reported in BOP/R/152 had been taken for balance-of-payments reasons and would not be maintained beyond 1 January 1986. He said the restrictions to which Japan had referred were not included in this type of measure, and referred Japan to paragraph 16 of the report.

The Council took note of the statements and adopted the report (BOP/R/152).

(b) Consultations with Sri Lanka and Turkey (BOP/R/153)

Mr. Girard noted that consultations with Sri Lanka and Turkey under the simplified procedures of Article XVIII:12(b) had been held in October 1985. The Committee had decided to recommend to the Council that Sri Lanka and Turkey be deemed to have fulfilled their obligations under Article XVIII:12(b) for 1985.

The representative of Hungary said his delegation could accept adoption of the report; however, Hungary had serious doubts about the GATT compatibility of one measure, included in Turkey's submission to the Committee, which limited the right of certain Turkish enterprises to import from Hungary (BOP/252, Section C, sub-Section A, first paragraph). Hungary therefore reserved its GATT rights concerning this measure. He said adoption of the report in BOP/R/153 could not prejudge, in any respect, the GATT conformity of that measure.

The representative of Turkey said the objective of the measure referred to by Hungary was to boost, not to restrict, trade. He said that since the measure had been adopted, trade between Turkey and Hungary had increased in Hungary's favour and he gave statistics on that development.

The representative of Hungary again asked that Turkey remove the measure in question.

The Council took note of the statements, adopted the report (BOP/R/153) and agreed that Sri Lanka and Turkey be deemed to have consulted with the CONTRACTING PARTIES and to have fulfilled their obligations under Article XVIII:12(b) for 1985.

(c) Report on the October 1985 meeting (BOP/R/154)

Mr. Girard said that in December the Committee would hold full consultations with Israel and Colombia, and simplified consultations with Brazil, Egypt, Ghana and Tunisia. The simplified consultation with Peru and the full consultation with Argentina, due to be held in December 1985, had been postponed until early 1986; the full consultation with the Philippines, originally scheduled for December 1985, had been postponed to the autumn of 1986, on the understanding that it would be held in time for the report to be submitted to the Council preceding the 1986 CONTRACTING PARTIES' Session. The Committee had also taken note of a Secretariat report concerning certain countries identified in documents of the Group on Quantitative Restrictions and Other Non-Tariff Measures as claiming balance-of-payments reasons, among others, for the imposition of restrictions. The Committee had agreed to revert to this question at its December meeting in the light of further information to be received.

The Council took note of the statement and of document BOP/R/154.

9. Canada - Measures affecting the sale of gold coins - Panel report (L/5863)

The Chairman recalled that at its meeting in October, the Council had discussed the Panel's report (L/5863) and had agreed to revert to this matter at the present meeting.

The representative of South Africa recalled that his delegation had requested adoption of the report at the October meeting. Certain delegations had said they needed more time to consider some of the findings, while Canada had wanted to discuss it with the appropriate provincial authorities. He hoped that those processes had been completed and that the report could be adopted. South Africa understood that on 24 October 1985 the Ontario Treasurer had announced his intention of reinstating the retail sales tax on the Maple Leaf, thereby removing the discrimination against imported gold coins. Such a development would instill further confidence in GATT's dispute settlement process. South Africa believed that the process could not always be limited to conciliation, but that it should, of necessity, include interpretation of specific GATT articles. This was inevitable

in the present case, which involved, firstly, a finding concerning the compatibility of the Ontario measure with Articles II and III, and, secondly, an interpretation of the scope of the Canadian Federal Government's GATT obligations. He would like to have believed that the intention of the Ontario Government to adjust its sales tax legislation to conform with Article III stemmed from the Panel's findings and recommendations. Regarding the Panel's findings on the applicability of GATT provisions to local governments, and in particular the interpretation of Article XXIV:12, these would have legal weight only if the report were adopted by the Council. In South Africa's view, the findings of the Panel in this regard would make an initial valuable contribution to GATT's case law in respect of provisions which had never before been the subject of an interpretation by the CONTRACTING PARTIES. He said that Quebec had already introduced a measure similar to the Ontario measure. Accordingly, contracting party exporters of gold coins to Canada continued to face prospects similar to those which had prompted Canada, in its tuna case against the United States, to request the Council to adopt that Panel report (L/5198), despite resolution of the immediate dispute. Canada's earlier arguments in the tuna dispute applied in the present case. The Panel's findings established a basis which would protect exporters against discrimination not only in respect of gold coins, but also of "like products" in general within the meaning of Article III:2. Adoption of the report would contribute to the resolution of comparable disputes and to the avoidance of similar disruptive actions arising from non-observance of GATT articles by regional or local governments.

The representative of Canada said that this case was unique in its consideration of the scope and meaning of Article XXIV:12. His authorities had begun a review of the Panel's report and had discussed its implications with the appropriate provincial government officials. He said that in the absence of a mutually agreed solution to a dispute, the first objective of GATT dispute settlement was usually to secure withdrawal of any measure found to be inconsistent with, or which did not observe, provisions of the General Agreement. Compensation should be resorted to only if withdrawal of the measure, following the Council's adoption of a panel report, was impracticable, and only as a temporary measure pending withdrawal of the measure in question. The primary purpose of dispute settlement procedures was to resolve specific disputes. The Panel had found that the Ontario measure in question did not accord with the provisions of Article III:2, first sentence (paragraph 52). Canada accepted this finding, accepted that the measure should be appropriately modified, and therefore accepted the recommendation that Canada should continue to take measures to secure Ontario's observance of Article III:2 in accordance with Article XXIV:12 (paragraph 72(a)). His Government had consistently and frequently urged the Ontario authorities to modify the sales tax measure enacted by the provincial legislature, so as to observe the national treatment principle of Article III (paragraph 38). He confirmed that on 24 October, an amendment repealing the measure in question, and removing

the differential treatment in place since May 1983 between the Maple Leaf and other gold investment coins, had been presented to the provincial legislature and would become effective the day following royal assent to the enabling legislation, expected to take place within the next several weeks. However, Canada was not yet in a position to adopt the Panel report for the following reasons: (1) The Panel's finding (paragraph 70) that the measure violated not only national treatment, but also the m.f.n. principle, was wrong, since no other gold coins, whether produced in Canada or abroad, were exempted from the tax (paragraph 5). (2) The Panel's recommendation (paragraphs 72(b) and (c)) that Canada pay compensation to South Africa for the period between adoption of the report and withdrawal of the measure did not follow normal GATT practice allowing for a reasonable period of time to implement a panel recommendation. This raised the question of whether such a finding placed a greater burden, with respect to compensation, on federal states in the case of a measure taken by another level of government, than was placed on that state in regard to a measure taken by the federal government itself, or on more centralized states. (3) The report raised complex issues regarding the scope and meaning of Article XXIV:12 (paragraphs 59-65). The Panel considered that Article XXIV:12 could be interpreted as either limiting the applicability of the other provisions of the General Agreement, or merely limiting the obligation of federal states to secure the implementation of those provisions (paragraph 59). It had approached these alternatives from the perspective of limiting what the Panel perceived to be an exception to basic GATT obligations, rather than from the traditional approach of examining a measure in light of current rights and obligations (paragraph 64). This reasoning raised the question whether the Panel had gone beyond interpreting Canada's current GATT obligations and had elaborated a new balance of rights and obligations. Regarding the Panel's interpretation of Article XXIV:12 (paragraph 62), there was a need to consider whether this approach adhered to GATT practice and to the language of paragraph 4 of the Annex to the 1979 Understanding (BISD 26S/216), neither of which appeared to hold that a contracting party must remove an inconsistent measure. The Ministerial decision on dispute settlement procedures (BISD 29S/13) reaffirmed that decisions in this process could not add to or diminish the rights and obligations provided in the General Agreement. This raised the question whether the Panel's interpretation of Article XXIV:12 provided practical content to that Article. These issues could not be resolved at the present meeting and might better be addressed in the context of the new round. Canada invited other contracting parties to reflect on these issues and on how best to address them.

The representative of Australia said his country was interested in this matter as a contracting party with a federal system of government and as an original negotiator and signatory of Article XXIV:12. His delegation was considering how to maintain the rights conferred on accession to GATT in 1948, while not impairing the rights of contracting

parties which had acceded more recently. Australia was particularly interested in the balance of its rights under Article XXIV:12 and rights exercised by entities not yet determined by the CONTRACTING PARTIES to be in conformity with other provisions of Article XXIV. Consideration would also be given to how rights under Article XXIV:12 might be balanced against those which might be conferred on future contracting parties under Article XXVI. Australia noted Canada's action to resolve the present dispute and its suggestion that interpretation of Article XXIV:12 might be considered in the context of the new round; however, his delegation could not, at the present time, support adoption of the report.

The representative of the European Communities agreed that this was a unique and important case as it was the first time that the CONTRACTING PARTIES had examined a case involving the application of Article XXIV:12. While the Community supported adoption of the report at the present meeting, despite the imminent withrawal of the measure in question, the Council should be allowed adequate time to consider the report. He noted that the report fully respected the constitutional framework of the Government in Canada and did not attempt to intervene in Canada's sovereign decision-making process; it nevertheless maintained Canada's responsibility for actions taken either by its Federal or provincial Governments. Consequently, in the case of nullification or impairment of concessions made by the Federal Government, that Government was liable to give compensation until the violating measure was withdrawn. Unless that principle was accepted, it was not clear how any contracting party could negotiate on a secure basis with Canada or with any other federal authority. It was important that Article XXIV:12 not be interpreted so as to confer on contracting parties which were federal states, a special status under which they had the same rights as other contracting parties but not the same obligations. The possible examination of these issues in the context of the new round did not warrant the Council's postponing adoption of the Panel report.

The representative of South Africa welcomed Canada's confirmation that the measure in question would be removed within the next few weeks; it had already taken nearly three years to resolve this dispute. He agreed with Canada that this was an important issue, not only for Canada, but for the GATT as a whole. He said that if a solution to the dispute had been obvious, it would probably have been arrived at in the bilateral consultations, and South Africa would not have been obliged to bring its complaint to the Council. The findings of the Panel could not be changed, and if a new Panel were to investigate the Quebec measure, or for that matter any other similar discriminatory measure taken by a Canadian provincial Government, it would most probably come to the same conclusions. Contracting parties which needed to study the report further could continue to do so even after its adoption. South Africa also regretted that some of its arguments had been rejected by the

Panel, but no Panel had thus far satisfied both parties to a dispute one hundred per cent. His delegation believed that the report should be adopted expeditiously in order to preserve the integrity of the dispute settlement process. He pointed out that paragraph 21 of the 1979 Understanding called for prompt consideration of panel reports and for appropriate action on such reports within a reasonable period of time. He did not believe that continued postponement of the report's adoption could be considered to be appropriate action within the meaning of that Understanding.

The representative of Jamaica said his authorities did not agree with the Panel's conclusions in paragraph 70 regarding violation of the m.f.n. principle. Furthermore, the Panel's finding on Article III:2 required clarification, as the Panel had not adequately explored the drafting history of the Havana Charter and of other GATT provisions, regarding the question of "like domestic product". The points raised by various delegations, including his own, should be considered and clarified, before adoption of the Panel report.

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

10. Turkey - Stamp Duty
- Request for extension of waiver (C/W/487, L/5879)

At their November 1983 Session, the CONCTRACTING PARTIES had granted Turkey an extension of its stamp duty waiver until 31 December 1985 (BISD 30S/11).

The Chairman drew attention to Turkey's request (L/5879) for a further extension of the waiver.

The representative of Turkey said his country had been engaged since 1983 in a program of trade liberalization and fiscal reform which followed on similar efforts begun in 1980. The most important measure of fiscal reform had been adoption of the value-added tax in January 1985, replacing a number of existing taxes, including the production tax which had also been levied on imports. Although Turkey envisaged abolishing the stamp duty as part of the process of fiscal reform, this had not been possible in the period of adapting to the VAT, which was still in progress. Moreover, his Government had felt it necessary to raise the stamp duty to four per cent. For these reasons, Turkey was asking for an extension of the waiver until 31 December 1987, and hoped it would be possible to reduce and even abolish the duty during that period. He stressed that the duty was levied in a non-discriminatory manner and that due to a policy of widespread exemptions, Turkey's customs duty had an incidence of only about

four per cent compared to the arithmetic average duty for bound tariff positions in the Turkish schedule, which was 23 per cent. Even with a four per cent stamp duty, Turkey's import duties remained far below 23 per cent.

The Council took note of the statement, approved the text of the draft decision (C/W/487) and recommended its adoption by the CONTRACTING PARTIES by a vote at their forty-first Session.

11. Pakistan - Renegotiation of Schedule
- Request for extension of waiver (C/W/484, L/5875)

The Chairman drew attention to the request by Pakistan (L/5875) and to the draft decision in C/W/484, regarding a further extension of the CONTRACTING PARTIES' Decision of 29 November 1977 (BISD 24S/15) to waive the application of the provisions of Article II of the General Agreement to enable Pakistan to maintain in force the rates of duty provided in its revised Customs Tariff, pending the completion of negotiations for the modification or withdrawal of concessions in its Schedule XV.

The representative of Pakistan said his country was grateful for the understanding shown by the contracting parties in agreeing to repeated extensions of the waiver since 1979. Completion of the negotiations on Schedule XV before the present time limit of 31 December 1985 would not be possible. Pakistan was therefore asking that the time limit be extended until 31 December 1986.

The Council took note of the statement, approved the text of the draft decision extending the waiver until 31 December 1986 (C/W/484), and recommended its adoption by the CONTRACTING PARTIES by a vote at their forty-first Session.

12. Committee on Tariff Concessions
- Report by the Chairman of the Committee (TAR/119)

The Chairman recalled that in January 1980, the Council had agreed to establish the Committee on Tariff Concessions, with a mandate to supervise the task of keeping the GATT Schedules up to date, to supervise the staging of tariff reductions, and to provide a forum for discussing tariff questions.

Mr. Satuli (Finland), Chairman of the Committee said the Committee had met only a few days earlier and had been unable to issue a report within the ten-day limit required for presentation to the Council. The Committee had accordingly asked him to make an oral report, the text of which would be circulated shortly. He noted that the main emphasis of the Committee's work in 1985 had been on the Harmonized System and its early implementation. In view of the importance of this item and in the

interest of an even closer collaboration between the two organizations directly involved in the Harmonized System exercise, the Customs Co-operation Council had accepted the Committee's invitation for an observer to attend meetings at which this matter was discussed.

Considerable progress had been made on preparations for the renegotiations under Article XXVIII, to be held before the introduction of the Harmonized System. At the Committee's October meeting, a consensus had emerged among a number of delegations which had indicated their aim of starting the Article XXVIII negotiations as early as possible in 1986, with the aim of concluding them as rapidly as possible, so as to implement the Harmonized System at an early date. There were differences of view as to the possibility of implementing the Harmonized System on 1 January 1987. Some discussion had been held on certain legal aspects of the negotiations and the most advisable procedure to follow for publishing their results. A preliminary examination of certain specific policy issues had also been made, especially the question of initial negotiating rights (INRs), the definition of suppliers' rights and the possibility of introducing a review clause. The Secretariat had received draft computer files from the five delegations which intended to participate in the data base to be established for the Article XXVIII negotiations. Delegations had expressed the view that the data base should be made operational without delay, although the problem of coverage of import statistics to be recorded was still being considered. It had also been agreed that the Secretariat would provide information to developing countries and help them assess the effects of national conversions on products of export interest to them.

Another regular item on the Committee's agenda had been the submission of loose-leaf schedules. At present, 37 (out of a total of 62) schedules were available in loose-leaf form. Eight of these had been approved and were ready for certification. It had been stressed that it would be useful to have as many loose-leaf schedules as possible, even in draft form, as a basis for the forthcoming negotiations. In January 1985, contracting parties had been invited to submit for certification any rectifications or modifications to their schedules. So far, the Secretariat had received notifications from only three countries. Delegations were urged to forward the required notifications to the Secretariat, so that the preparation of a Sixth Certification of Changes to Schedules could start very soon.

The Council took note of the report[1].

[1] Subsequently issued in TAR/119.

13. Training activities (L/5896)

The Director-General introduced the 1985 report (L/5896) on the Secretariat's training activities. He drew particular attention to the report's paragraph 6 concerning his continuing consultations with interested delegations on the future of the Training Program. During a preliminary review, two problem areas had stood out. First, there were certain urgent short-term problems, particularly that of accommodation. He repeated his appeal to contracting parties to do their utmost to help the Secretariat find a solution to this difficulty. The second problem concerned the need to define longer-term policy for the Program. Demand for the courses had risen steadily over the years as the number of developing contracting parties had increased, while resources available for the courses had not. Those delegations which had participated in the consultations had stressed that their Governments continued to attach importance to the Program as one of the most useful GATT activities for the benefit of developing countries; however, many of them had also stated that given the general budgetary stringency being applied in their administrations, it was difficult for them at the moment to suggest solutions to this problem. While recognizing these difficulties, he was sure it would be appreciated that this situation jeopardized the Program. He therefore strongly urged contracting parties to carry out consultations within their own administrations, especially with those agencies and departments concerned with the policy and funding of training activities in developing countries, so that solutions could be found to both the short and longer-term problems in this key area of GATT's activities. He thanked the French Government and the Commission of the European Communities for having received the trainees in the 1985 French-speaking course, and the United Kingdom Government for its invitation to the participants in the current English-speaking course. He also thanked the Swiss Government which each year had enabled participants in the courses to make a short study tour of Switzerland. He particularly appreciated the fact that those Governments had paid the travel costs for these visits in line with the new arrangements agreed in the Council in 1984, and hoped this example would be followed by other contracting parties for future study tours. In order to facilitate planning for the coming year, he suggested that contracting parties wishing to invite participants for study tours in 1986 contact the Secretariat as soon as possible. He expressed gratitude to the United Nations Development Program for its help in the processing of applications. Finally, he thanked those members of delegations and representatives of other international organizations who had lectured in the courses.

The representatives of Egypt, Pakistan, Trinidad and Tobago, Korea and Yugoslavia expressed appreciation for the training courses, stressing the value and importance which their Governments attached to them.

The representative of Egypt hoped that financial support for the training program would continue through GATT's regular budget and possibly through extra-budgetary resources provided by those Governments willing to do so.

The representative of Pakistan shared the concern on the two problem areas mentioned by the Director-General, and stressed that the courses had been most helpful in equipping officials from his country with the latest techniques of formulating and implementing trade policy.

The representative of Trinidad and Tobago said it would be most regrettable if there was any scaling down of the high-quality training which GATT provided for developing country officials.

The representative of Korea said his Government would like to see the courses strengthened and improved. Korea would do whatever it could to contribute to that end.

The representative of the European Communities stressed the importance which his delegation and the Community's member States attached both to the training courses and to the technical cooperation activities provided for developing countries by the Secretariat. The Community was determined to do everything it could to contribute to these two key areas of GATT's activities, as part of the implementation of the 1982 Ministerial Declaration. He said it was significant that there were many former and present trainees attending the present meeting. The training courses were extremely worthwhile, since participants returned to their countries as active supporters of the multilateral trading system. Representatives of the Communities and their member States attached great importance to their dialogues with the trainees, in which they had always attempted to explain GATT's complexities in an objective spirit. The Community intended to expand its contribution to the Secretariat's training and technical cooperation activities. The Commission would, for its part, do everything possible to invite participants in future courses to Brussels; it was not excluded that it might also make voluntary financial contributions available to the Secretariat. He recalled his suggestion made earlier that the skilled services of some of the candidates on the non-governmental roster of panelists[1] might be used for technical cooperation and training, two areas which would continue to be particularly important in the upcoming new round of multilateral trade negotiations.

The representative of Yugoslavia said her delegation attached great importance to the Training Program, and expressed appreciation to the Director-General and those Governments which were making additional

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[1] See item 2(b), page 6.

efforts to improve the courses. Discussions should be continued on further critical evaluation of the courses and how they could be improved.

The Council took note of the Director-General's report and of the statements.

14. Administrative and financial questions
- Report of the Committee on Budget, Finance and Administration (L/5881)

Mr. Hill (Jamaica), Chairman of the Committee on Budget, Finance and Administration, introduced the Committee's report (L/5881).

He noted that due to a considerable increase in the level of outstanding contributions, an accumulated deficit of Sw F 3,438,253 had built up by the end of 1984. Thus, even after transfer of the entire principal of the Working Capital Fund, a deficit of Sw F 512,722 remained uncovered. A further increase in the amount of outstanding contributions in 1985 would probably lead to an even greater deficit at the end of the year despite expected savings of more than Sw F 1.5 million on the expenditure budget. This raised the problem of the size of the Working Capital Fund, which would be tackled by the Committee at a future meeting.

Turning to the 1986 budget, he noted that the Committee's suggestions had led the Director-General to put forward revised expenditure estimates, lower by Sw F 1,571,000 than the original proposals. This reduction had been achieved mainly by downward adjustment of the exchange rate used for dollar-based provisions, by deletion of the provision for the post adjustment index for professional staff, which was still frozen pending a decision by the United Nations General Assembly, by savings in temporary assistance, and by a decrease in the contribution payable to the International Trade Centre. On the other hand, the Committee had thought it prudent to add an amount of Sw F 206,000 to cover an increase in contributions to the Joint Staff Pension Fund which was likely to be approved by the UN General Assembly at its present session. This had led to a net reduction of the budget estimates of SW F 1,365,000, corresponding to an increase over the 1985 budget of 3.6 per cent and representing no growth in real terms. He stressed that the 1986 budget, which the Committee was recommending for adoption at the level of Sw F 59,592,580, covered only a continuation of GATT's 1985 activities into 1986. Any new activities decided by the CONTRACTING PARTIES, including possible new multilateral trade negotiations, might entail presentation by the Director-General of supplementary budget estimates. A number of points which the Committee had closely scrutinized were listed on page 20 of the report as requiring further study at meetings to be held in the near future. These included the number of GATT meetings, the Commercial Policy

Training Courses, documentation and its distribution, budgetary transfers, consolidation of posts and regradings, International Trade Centre budgetary procedures, outstanding contributions, the level of the Working Capital Fund, and the scale of contributions by individual contracting parties.

The representative of Canada welcomed the fact that the Director-General had produced a zero real growth budget for 1986. Consequently, Canada could support adoption of the decisions proposed in the Committee's report. He reiterated his Government's concern at the gravity of the situation concerning outstanding contributions; Canada strongly endorsed the recommendations in paragraphs 46 and 47 of the report to the effect that the contracting parties meet their financial obligations fully and promptly. Canada welcomed the Committee's decision in paragraph 89 to reconvene in the near future to examine a number of questions in greater detail on a more timely basis.

The representative of Australia supported the statement by Canada. He said the circumstances in which the Committee had met had been less than ideal; his delegation hoped that in 1986 the Secretariat would arrange the Committee's meeting further in advance of the November Council meeting.

The representative of Colombia noted that the list of contracting parties with outstanding contributions was growing longer every year. He wondered if the Committee could examine means of recovering amounts owed by contracting parties, and examine the possibility of exerting pressure on them to pay what they owed immediately, for example, by linking payment of contributions with participation in bodies such as the Consultative Group of Eighteen.

The representative of India welcomed a zero real growth budget and the fact that it had been possible to identify certain areas on which further work was needed to bring more discipline, economy and efficiency to the use of funds. India particularly appreciated the Committee's findings on such items as external audit and public information, and welcomed the fact that as a result of donations sought to finance the work of the Independent Study Group, there had been no expenditure burden on the budget for this.

The representative of Spain supported adoption of the Committee's report and recommendations. He hoped that in future years the Committee would have more time available to examine possible solutions to all the problems that had been raised. His delegation thanked the Director-General not only for having submitted a zero real growth budget, but also for having responded positively to strong pressures from the Committee to make cuts on a number of budget items. Referring to the suggestion by Colombia, he said it was not easy to exact payment of contributions from some of the countries listed in Annex 1 of L/5881.

Spain hoped that this treasury problem would be resolved, since it had become so serious recently that the Secretariat had sometimes found it difficult to pay salaries at the end of the month because of unpaid contributions.

The Council took note of the statements, approved the Committee's recommendations in paragraphs 32, 46, 47, 88, 97 and 109, and agreed to submit the draft resolution in paragraph 98 to the CONTRACTING PARTIES for consideration and approval at their forty-first Session.

With regard to paragraph 46, the Council recommended that the CONTRACTING PARTIES make a special plea to Governments to meet their financial obligations fully and promptly by paying their pending contributions immediately, and to pay each year's contribution as soon as it became due, so as to avoid cash availability problems and possible budgetary implications with regard to the cost of bank overdraft facilities.

The Council approved the report (L/5881) and recommended that the CONTRACTING PARTIES adopt it at their forty-first Session, including its recommendations and the Resolution on the Expenditure of the CONTRACTING PARTIES in 1986 and the ways and means to meet that expenditure.

15. Japan - Renegotiations under Article XXVIII on leather and leather footwear

The representative of Japan, speaking under "Other Business", said his country had decided to bring its leather import system into conformity with GATT provisions as soon as possible by eliminating import quotas and introducing new tariff measures on all leather items presently subject to import quotas, whether bound or unbound. He recalled that in July 1985 the Council had decided to establish a panel to examine Japanese measures on imports of leather footwear. While Japan would follow normal GATT procedures for the panel process, his Government had already, on its own initiative, decided to take measures similar to those it had taken on leather imports, to eliminate the import quota system and to introduce new tariff measures for leather footwear. In order to put these decisions into practice as soon as possible, Japan had informed contracting parties in September of its readiness to enter into negotiations or consultations under the relevant provisions of Article XXVIII. His delegation hoped that the Council would recognize that Japan, with a view to improving its market access, had been making the utmost effort to achieve reasonable solutions to these difficult questions through negotiations or consultations under Ariticle XXVIII within GATT. Japan strongly hoped that other contracting parties concerned would also deal with these questions in accordance with GATT procedures.

The representative of the United States said this was obviously a very important subject for his country at this particular time. The United States intended to notify Japan of its interest as a principal supplier in the Article XXVIII:5 negotiations on leather and leather footwear. The United States recognized Japan's right to withdraw or modify its tariff concessions on leather and leather footwear pursuant to Article XXVIII procedures. While the United States had agreed to enter into the negotiations, it continued to maintain that the leather and leather footwear cases could only be satisfactorily concluded if Japan removed the leather and leather footwear quotas on an m.f.n. basis and provided meaningful access for these products.

The representative of Uruguay asked the Japanese representative to clarify whether all the tariff lines referred to in the Panel report on leather imports (L/5623) would be subject to the Article XXVIII:5 negotiations. If not, Uruguay wanted to know what Japan had decided with regard to the others. His delegation also asked whether Japan would fulfil the Panel recommendation, i.e., elimination of the quantitative restrictions. Uruguay was concerned, in more general terms, at Japan's replacement of protectionist restrictions that had been found to be illegal with tariff measures which would have an equivalent protectionist effect. He asked whether, if Uruguay entered into a new round of multilateral trade negotiations, it would find itself in a situation where countries interested in better access to the Japanese market would have to pay for Japanese concessions on leather imports. Uruguay wanted to record its request to enter into consultations and negotiations with Japan on this matter.

The representatives of Argentina, Chile, Yugoslavia, Spain, Pakistan, Colombia, Korea, Switzerland, India, Canada, Austria and Thailand expressed their delegations' interest in these issues, as well as in participating in the consultations which were to be held. They also were interested in receiving Japan's answers to the questions raised by Uruguay.

The representative of the European Communities reiterated his delegation's interest in these issues and said that the Community had already started negotiations with Japan under Article XXVIII. The Community shared the US views on the aims of those negotiations, and would welcome answers to Uruguay's questions.

The representative of New Zealand said that his Government would respond in due course to Japan's intention to negotiate under Article XXVIII:5. New Zealand endorsed the US perception of how these issues could be resolved, and also shared the concerns expressed by Uruguay.

The representative of Australia reiterated his delegation's interest in these issues, and shared the views and concerns expressed by Uruguay and the United States.

The representative of Japan replied to the questions by Uruguay. He said that the articles on which Japan would eliminate quantitative restrictions were all leather and leather footwear items at present subject to import quotas. Bound tariff items would be subject to negotiations or consultations under Article XXVIII; unbound items would not. Japan wanted to conclude the negotiations or consultations as quickly as possible. His Government was required to follow domestic legal procedures, including Diet approval, before implementing the new tariff measures following such negotiations or consultations. Turning to the question of whether Japan intended to substitute quantitative restrictions with tariff barriers having the same effect, he noted that leather and leather footwear imports constituted very sensitive problems in his country. If Japan eliminated quantitative restrictions in this sector on the basis of the current customs duty level, that would be the end of its leather and leather footwear industry. Japan felt it had to have some sort of protection through tariff measures which was legitimate under GATT, and he also pointed out that these measures were being dealt with within Japan's general policy of improving market access. He stressed that while the tariff negotiations or consultations were confidential, they would not lead to transforming quantitative restrictions into tariff barriers having the same effect. He concluded by saying that the negotiations or consultations would be carried out in accordance with estabished GATT practice and under the procedures and rules of Article XXVIII.

The Council took note of the statements and agreed to await further information on this matter.

16. Canada - Foreign Investment Review Act (FIRA)
- Follow-up on the Panel report (L/5504)

The representative of Canada, speaking under "Other Business", recalled that in February 1984 the Council had adopted the Panel report (L/5504) on the administration of Canada's Foreign Investment Review Act (FIRA). Paragraph 6.7 of the report called on Canada, inter alia, to bring purchase undertakings entered into before the report's adoption into conformity with Canada's GATT obligations as determined in the report, and to advise on the steps taken to that effect before the end of 1985. As a result of the Panel's findings and Council adoption of the report, Canada had altered the monitoring of existing undertakings. Companies affected by the Panel's findings had been notified in writing, in connection with the monitoring of their investments, that sourcing undertakings were considered to be fulfilled if evidence was provided that Canadians had been offered a full and fair opportunity to supply goods and services. This alteration had brought purchase undertakings in existence as of 7 February 1984 into conformity with Canada's GATT obligations and had therefore fulfilled the Panel's recommendation.

The representative of the United States said he would report to his authorities the information given by Canada.

The Council took note of the statements.

17. United States - Measures on imports of pasta

The representative of the United States, speaking under "Other Business", responded to the European Community's statement, made at the special Council session immediately preceding the present meeting,[1] concerning US pasta imports. He said that the United States had made clear from the outset its strong preference for a solution in GATT to its dispute with the Community over EEC tariff treatment on imports of citrus products from certain Mediterranean countries. The blockage of the dispute settlement process, and the failure of recent negotiations to produce a satisfactory solution, had compelled his authorities to act on pasta imports in order to redress the imbalance. However, the United States remained ready to try to achieve a negotiated solution that would obviate continuation of its action on pasta imports. The United States believed that the Community's response on imports of walnuts was unjustified, and his authorities would consider the future US course of action if this situation continued without settlement.

The Council took note of the statement.

18. Report of the Council (C/W/482 and Add.1)

The Secretariat had distributed in C/W/482 and Add.1 a draft of the Council's report to the CONTRACTING PARTIES on the matters considered and action taken by the Council since the fortieth Session.

Some representatives proposed amendments to the draft, which were accepted.

The Chairman requested the Secretariat to insert the amendments proposed as well as suitable additional notes regarding discussion and action taken at the present meeting and at the special Council meeting immediately preceding it.

The Council agreed that the report, with these amendments and additions, should be distributed and presented to the CONTRACTING PARTIES at their forty-first Session by the Chairman of the Council.

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[1] C/M/193, page 10.