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GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL
17-19 July 1985

MINUTES OF MEETING

Held in the Centre William Rappard
on 17-19 July 1985

Chairman: Mr. K. Chiba (Japan)

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1. Provisional accession of Costa Rica (L/5830)

The Chairman drew attention to Costa Rica's application for provisional accession to the General Agreement (L/5830).

The representative of Costa Rica, speaking as an observer, said that his Government had applied for provisional accession as a prior step towards definitive accession. Costa Rica was committed to promoting its own development, to making the necessary adjustments in its production structure, and to establishing a firmer base in the area of trade as an essential element for attaining its economic objectives. Costa Rica wanted progressively to participate in all international bodies promoting greater interdependence among nations.

The representatives of Nicaragua, Spain, Colombia, Argentina, Uruguay, Brazil, Peru, India, Chile, Singapore, Romania, Israel, European Communities, Korea, Jamaica, United States, Japan, Canada, and Trinidad and Tobago expressed support for Costa Rica in its application for provisional accession.

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

Terms of reference: "To examine the request of the Government of Costa Rica to accede provisionally to the General Agreement and to submit recommendations to the Council."

Membership: Open to all contracting parties indicating their wish to serve on the Working Party.

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

2. Recent developments in international trade and their consequences for GATT, and status of implementation of the 1982 Ministerial Work Program (C/W/479-481, L/5804, L/5818 and Add.1, L/5827, L/5831, L/5833-5838, L/5842, L/5846, L/5848-5852)

The Chairman recalled that at its meetings on 30 April and 1 May, and on 5-6 June, the Council had discussed the prospects for a new round of multilateral trade negotiations. At the latter meeting, the Council had agreed that its Chairman would reflect on this matter and would discuss with the Director-General and interested delegations how best the Council might pursue the item, which remained on the Agenda. Since that meeting, a number of delegations had sent to the Secretariat communications, subsequently circulated to contracting parties, setting forth their views on this matter (L/5827, L/5831, L/5833-5838, L/5842, L/5846 and L/5848-5852).

The representative of the European Communities recalled that at the November 1984 session of the CONTRACTING PARTIES, the Community had confirmed its earlier suggestions in GATT bodies and had formally proposed holding a high-level meeting in GATT to explore the possibilities of launching a new round of multilateral trade negotiations (SR.40/5, page 12). The Community still awaited a response to this proposal and asked that the Council agree to give an appropriate answer to the proposal at the present meeting. Agreement did not mean consensus; the latter, unwritten concept was justifiable on substantive issues where vital interests were at stake, but was inappropriate for a procedural matter. The purpose of the proposed high-level meeting would be to broaden consensus in favour of moving towards a new round. Convening such a meeting would in no way prejudge the principle of launching a new round, nor would participation in the meeting prejudge participation in such a round. The meeting should be held as soon as possible, preferably in early September 1985. In order to start discussion on the substance and modalities -- including participation -- of the new round, the high-level meeting should use as a starting point the various written submissions and also the views expressed by contracting parties on this matter in the relevant Council minutes. A progress report should be prepared for the November 1985 session of the CONTRACTING PARTIES to enable follow-up to the high-level meeting. The Community remained open to suggestions which might improve these ideas, but not to those which would neutralize its proposal. Any further deferral of decision on the proposal would be politically unwise, given the fact that it had been made by such a large trading entity as the Community. Such deferral would also give GATT an image of inaction and inefficiency. He reserved his delegation's right to take any initiative which it might consider necessary to bring about a decision to call a high-level meeting.

The representative of Chile made a statement subsequently circulated as L/5850. He referred to the problems faced by his and other developing countries, and stressed the importance of strengthening international trade through compliance with the GATT rules. Chile supported the proposal for a meeting in September in order to begin, without prejudice to its content, the preparatory activities for a new round. One pre-condition for negotiations would be implementation by all contracting parties of the anti-protectionist commitments in paragraph 7(i) of the 1982 Ministerial Declaration. Chile did not oppose making GATT a forum for permanent negotiations. GATT was not competent in the field of services, and while this was already being considered, it was not an item of immediate priority.

The representative of Switzerland, commenting on his delegation's submission in L/5837, said his authorities believed it essential to strengthen and revitalize the system of open and non-discriminatory trade based on the General Agreement, and to reduce and eliminate obstacles to trade, as well as to improve the economic environment for developing countries. These objectives were tied to the need to adapt the General Agreement to existing economic and commercial structures. Switzerland considered that for international law to be strengthened, it should first be made applicable to real situations. It was also important to draw lessons from what had happened in the past so as not to repeat certain errors in preparing for a new round; the preparations would have to be careful, which was why structured discussion in GATT was indispensable and urgent for all contracting parties really interested in finding solutions to current problems. GATT had to show the world clearly that it recognized the problems and that it could take decisions to deal with them before being confronted with an irreversible situation. The time had come to call a high-level meeting, and Switzerland believed that the Council could not allow itself not to take such a decision.

The representative of Korea made a statement subsequently circulated as L/5851. He supported the convening of a senior officials meeting in September to work out consensus for the agenda and modalities of a new round of trade negotiations. Implementing the Work Program through such negotiations was far more important and urgent than negotiations on trade in services. Korea would participate in a senior officials meeting and in a subsequent new round, because the absence of a new round would negate its national interests and those of other developing countries.

The representative of the United Kingdom, on behalf of Hong Kong, reiterated his delegation's view that while none would disagree with the broad aim of strengthening the multilateral trading system by further liberalization, any moves in that direction should not become an excuse for sweeping aside the results of the 1982 Ministerial meeting. With this in mind, he commented on two points arising from the communications recently circulated. The first point related to the US communication in

L/5846 which, under the heading "import restraints", advocated, in the area of safeguards, the application of four building block principles: transparency, surveillance, limited duration and degressivity. Hong Kong considered that these would be important elements in any comprehensive understanding on safeguards, of the type envisaged in the Ministerial Declaration. They would not, however, be enough on their own to constitute such a comprehensive understanding. The main omission in the US proposal was commitment to the fundamental m.f.n. principle itself. Without the cement of the basic GATT principle of non-discrimination to hold them together, the building blocks could not stand up. The basic GATT commitments on m.f.n. and non-discrimination, while providing the framework within which further negotiations might take place, were not themselves up for re-negotiation, nor should they be overlooked. His second point concerned Canada's communication in L/5834 which stated in paragraph 20 that the cumulative impact of the proliferation of exceptions and deviations to basic GATT rules, and the stresses created by the strength and persistence of protectionist forces in major contracting parties, were undermining GATT's credibility. The dangers to which that statement pointed were clearly seen in the fact that the legislature of one major contracting party was at an advanced stage of processing a bill which, if passed, would not only unilaterally set aside the existing framework within which international trade in textiles was conducted, but at the same time would legislate discriminatory treatment between that country's trading partners. It was clear that a capacity to resist such protectionist measures would be a major factor in creating a favourable environment for any new multilateral trade negotiations. As for the question of holding a high-level meeting, Hong Kong considered that such procedural matters should be subsidiary to and follow from matters of substance. Furthermore, the important point about procedure was that it should be open and that all interested parties should be able to participate.

The representative of Uruguay said that for many developing countries, foreign trade was no longer the motor of development because they did not even earn enough from trade to service their foreign debt. The need to channel their investments towards exports, leaving health, education, social security and other aspects of development aside, was creating conditions for social convulsion. Developing countries were being strangled by obstacles to their exports being imposed by the same developed countries which had made loans to them. Many protectionist measures violated GATT commitments; the 1982 Work Program was paralysed, and developing countries felt increasingly compelled to look for solutions within the framework of regional integration. He said that developing countries wanted a new round of negotiations on goods, but that they would expect better results than the meagre gains they had derived from the Kennedy and Tokyo Rounds. Inadequate transparency in previous rounds would have to be avoided in a new round. Furthermore, fulfilment of the Work Program would have to be the backbone of the new round, and developed countries would have to clearly show their positions on the crucial issue of implementation of Part IV. The new

round would have to start off with a standstill and roll-back of protectionist measures. The question of trade in services would have to be treated with special caution because any negotiations on this sector would have far-reaching implications for developing country economies. Uruguay continued to support the 1982 Ministerial decision on services and the 1984 Agreed Conclusions (L/5762), and the decision on this matter by the Council of the Latin American Economic System (SELA). Uruguay could not accept the idea of exchanging concessions on goods against concessions on services. On the conditions which he had set out, his delegation would agree to any reasonable proposal which attracted general consensus in the Council.

The representative of Brazil made a statement subsequently circulated as L/5852. Brazil was gravely concerned by the growing erosion of GATT rules and the spread of protectionist measures not in conformity with GATT obligations and/or representing a distorted exercise or abuse of GATT rights. Many elements cited in the communications submitted by developed contracting parties were alien to GATT; and progress was thus being blocked in the traditional area of trade in goods. There was a need to establish a clear link between any possible trade negotiations on goods and reform of the international monetary system. New issues such as services could not be discussed outside the specific confines agreed by the CONTRACTING PARTIES at Ministerial level in 1982 and reaffirmed by them in 1984. He then read two proposals (subsequently circulated as C/W/479) which were intended as a serious contribution towards unblocking the impasse which had been artificially created by the introduction of issues bearing no relation to the true and permanent agenda of GATT.

The representative of Singapore, on behalf of the ASEAN countries, drew attention to an extract from the joint communiqué issued by the ASEAN Ministerial meeting in July 1985, concerning the launching of a new round (L/5848). The ASEAN countries supported convening a high-level meeting in September to discuss the modalities and subject matter of a new round. Convening such a meeting would not prejudge the launching of a new round or commit any contracting party to take part in it. The ASEAN countries considered that the preparatory process for a new round, whether ad hoc or formal, should, where possible, include all contracting parties. This would ensure not only the success of the preparatory process but would also help the actual negotiations once a decision to launch the new round was taken. Consequently, the ASEAN countries hoped for the broadest possible consensus in the Council for the start of this process which would take the form of a high-level meeting.

The representative of Colombia reiterated his country's concern about lack of progress in implementing the 1982 Work Program, especially in sectors on which the Ministers had called for negotiations, such as tropical products. For this reason Colombia had supported all three

statements by developing countries in 1984 and 1985 concerning improvement of world trade relations (L/5647, L/5744 and L/5818). Colombia accepted the need for a new round of negotiations to implement the Work Program; however, neither the new round nor even the preparatory work could be started without commitments and action on standstill and rollback of restrictive measures as provided in paragraph 7(i) of the Ministerial Declaration, which thus far had remained practically a dead letter. Also, any negotiations on goods would have to take account of certain timetables, especially for sectors of interest to developing countries. Full recognition would have to be given to the principles and commitments in Part IV. There was a long way to go before contracting parties could decide to launch a new round, and Colombia believed that a high-level meeting would be the right way to start the necessary discussions, on the understanding that participation in the meeting would be without conditions or commitment. As for the problem of services, his delegation continued to stand by the 1982 Ministerial decision and the 1984 Agreed Conclusions; the General Agreement had been drafted to deal with trade in goods, not services. A two-track system for handling the two separate areas of goods and services would be the only way to progress. For this reason, Colombia believed that the Brazilian proposals (C/W/479) were a constructive effort to break the current deadlock on this question; those proposals deserved the Council's full attention.

The representative of Argentina said that he noted certain points of convergence in the submissions concerning launching a new round. Contracting parties seemed to agree that protectionist measures should be progressively eliminated, particularly those measures not covered by provisions of the General Agreement. However, there were differences of view on whether such elimination should be part of the new round, or a pre-condition to demonstrate the will of contracting parties to promote trade liberalization. Divergences of views on safeguards, which had prevented any agreement on this issue since the beginning of the Tokyo Round, still persisted. Argentina was concerned that some contracting parties, for example Japan and the Nordic countries, had in their submissions (L/5833 and L/5827 respectively) once again referred to the possibility of limited agreements on this key issue. Argentina believed in the need to reach a global, final agreement on safeguards, since there was nothing more permanent than a provisional agreement, as evidenced by the General Agreement itself. Referring to the Community's submission (L/5835), Argentina would have liked the Community's frequent emphasis on the need for evolution in GATT to apply to agriculture as well; unfortunately, the Community seemed to be repeating its position of adapting GATT to its own situation and in particular to the Common Agricultural Policy. Two other ideas mentioned in some of the submissions, which troubled his delegation, concerned differentiation of developing countries into new categories, and what he termed an attempt to idealize the General Agreement; given the number of important issues

which had not been resolved in previous rounds, it was difficult to believe that some countries could realistically hope to negotiate successfully in a new round on new subjects such as intellectual property and investment. The Tokyo Round had nearly failed because of some contracting parties' excessive ambition towards its close. He concluded by expressing Argentina's support for Brazil's proposals.

The representative of Sweden, on behalf of the Nordic countries, said that their submission (L/5827) aimed at broadening the consensus in favour of moving towards a new round of multilateral trade negotiations; the submission gave detailed views on what the objectives of the new round should be and what specific issues should be negotiated. For nearly a year the contracting parties had recognized the need for action in GATT to bolster the deteriorating world trading system, and had discussed the idea of holding a high-level meeting. The Nordic countries wanted the Council to decide at the present meeting to call for such a meeting in September to undertake an in-depth exchange of views on a new round. Such a process should be started without preconditions, on the clear understanding that participation would in no way commit any country as to the outcome of this process or prejudge a government's final position on the question of a new round. Only through such a process would it be possible for individual contracting parties to assess whether their interests would be taken into account in a new round and whether they could join a decision to launch it.

The representative of Spain referred to his delegation's statement on this matter at the 5-6 June Council meeting. It was necessary to give new impetus to GATT's work in improving the multilateral trading system; this should be done not with political statements but through new negotiations leading to binding agreements which would contain benefits for every contracting party. Spain supported holding a high-level meeting in September, i.e., before the annual meetings of the World Bank and International Monetary Fund, to prove that GATT was dynamic in its own field. The high-level meeting should discuss the subject matter and modalities of a new round and should try to secure the widest participation possible. If a decision was not taken at the present meeting, the world trading environment might deteriorate to a point where solutions were harder to reach.

The representative of the European Communities said his delegation sympathized with the arguments put forward by Chile, Uruguay, Korea and Colombia. However, there was no question of setting prior conditions for the high-level meeting. He recalled that the Work Program had been conceived for the 1980s; the procedural elements had been easy to deal with, but substance had proved more difficult. It had become necessary at a certain point to push forward the implementation of the Work Program through a new round of negotiations to exchange contractual concessions. The Community's interpretation of the concept of standstill in paragraph 7(i) of the Ministerial Declaration had been made clear at the time; the concept was not acceptable if it froze

existing imbalances but only as the first stage of a dynamic process under which contracting parties undertook not to take new protective measures, followed by a second stage of rollback, i.e. dismantling existing restrictive measures taken during the recession without reciprocal concessions; this in turn was closely linked to a third stage of additional trade liberalization. Unless the concept of standstill and rollback fitted into the overall context of a new round, it had little chance of success. Turning to Brazil's two proposals, he welcomed them to the extent that they might facilitate a decision by the Council to call a high-level meeting. However, the Community saw certain important problems in the proposals which were likely to prevent the Council taking a decision. He suggested therefore that they could more usefully be forwarded for discussion at the high-level meeting. He urged all contracting parties to avoid trying to prejudice matters of substance before the high-level meeting and warned against procedural proposals which attempted to block a means of achieving subsequent agreement on substance.

The representative of Portugal said his country shared the general concern over growing protectionist trends which could seriously impede world economic recovery. Portugal joined other contracting parties in reaffirming its commitment to the principles and spirit of the General Agreement and in calling for further trade liberalization and for strengthening the open trading system. This was why his country supported launching a new round in GATT. If the negotiations were to be successful, agreement first had to be reached on the subject matters and procedures for the new round; consequently, his delegation supported holding a high-level meeting before the end of September to discuss these questions. Portugal believed it would be possible to reconcile the idea of separate negotiations on trade in services and the need for those negotiations to take place in GATT under appropriate rules. Achieving such reconciliation would be an important step towards attaining the objectives pursued by all contracting parties.

The representative of India reiterated the concerns expressed in L/5818 which now had the support of 24 developing contracting parties. That statement had been made in a constructive spirit of contributing to the dialogue on improving world trade relations through implementing the Work Program. As his authorities had only just received the most recent submissions by developed contracting parties and had not yet had time to examine them, he reserved specific comments on them for a later occasion. On the question of holding a high-level meeting, he referred to L/5818 in which it was said that undue emphasis should not be given to event-planning; contracting parties should attend to matters of substance rather than get bogged down in procedural issues. A procedural decision should follow a preliminary examination of the submissions, particularly if the procedural question implied a high-level event. Nevertheless, if it were felt that a high-level meeting could facilitate attention to matters of substance, the

concerns, sequences and priorities reflected in L/5818 remained equally valid in that context. Subject to those concerns, sequences and priorities, India had no objection to convening a high-level meeting to explore the consensus on the need, subject matter and modalities for multilateral negotiations on trade in goods; the Work Program clearly recognized goods as the priority area. It was in this context that India fully supported Brazil's proposals, recognizing that the issue of services was alien to GATT. He noted that Brazil's second proposal clearly respected the parameters of the 1982 Ministerial decision and the 1984 Agreed Conclusions on services. Considering the fundamental nature of issues arising out of the subject matter of services, India wanted to make clear its position that (1) GATT did not cover the services sector; (2) GATT and the CONTRACTING PARTIES had competence only in the areas covered by the Articles of the General Agreement; (3) jurisdictional and legal realities could not be altered because some major trading nations held a different view; and (4) unless there was unanimity, neither the Council nor the Secretariat could embark upon areas of work not mandated by the CONTRACTING PARTIES.

The representative of Egypt reiterated his delegation's support for the views in L/5818, and supported Brazil's two proposals. Contracting parties should stand by and respect the provisions of the General Agreement, the 1982 Ministerial Declaration and the 1984 Agreed Conclusions on services, none of which could be renegotiated without unanimous consent. He considered it was misleading for some delegations to talk of enlarging a consensus in favour of a high-level meeting whose purpose was so far ill-defined; in his view, a consensus could not be enlarged until it existed. It would be easy to reach consensus on holding such a meeting to discuss a new round devoted to negotiating on trade in goods, but services, being outside GATT's competence, presented a much more difficult problem.

The representative of New Zealand referred to his delegation's submission in L/5831 and to its statement on this matter at the 5-6 June Council meeting. Progress on important aspects of the Work Program had been inadequate, and contracting parties should renew their commitment to fulfil promptly the terms and conditions of that undertaking. However, the Work Program had become a search for negotiations, and a new round would provide the best operational mechanism to enable contracting parties to live up to and build upon undertakings in paragraph 7(i) of the Ministerial Declaration. New Zealand believed that a high-level meeting should be held in September 1985 to examine the agenda and modalities for a new round. Discussion at such a meeting would be without prejudice to what might follow, and participation would not imply a commitment to enter any subsequent negotiations. His delegation could not understand why, under such conditions, some contracting parties wanted to impose pre-conditions for their participation in a high-level meeting; this was not logical or reasonable, nor was it conducive to enlarging consensus in the Council. His authorities expected the Council to reach agreement at the present meeting on convening a high-level meeting.

The representative of Israel referred to his delegation's statement on this matter at the 5-6 June Council meeting. His country's free-trade agreements with the European Community and the United States showed that Israel wanted to establish trade relations on a multilateral basis. Participation in a new round should be as wide as possible, and all important subjects, including high-technology and services, should be discussed at a preparatory high-level meeting. In the past, new subjects such as government procurement had been brought within GATT, and it was up to the contracting parties to decide, as world trade developed, what fell within GATT's field of competence.

The representative of Japan recalled that at the 1983 session of the CONTRACTING PARTIES his country had proposed a new round of multilateral trade negotiations (SR.39/3, page 11). The reaction to that proposal had at first been cool, but the majority of contracting parties now shared Japan's sense of urgency for a new round, the main aims of which would be to combat protectionism and to build a viable trading system for the rest of the 20th century. He referred to his delegation's statement on this matter at the 5-6 June Council meeting and to its submission (L/5833) on the subject matter and modalities for the new round. He emphasized that GATT had adapted over the past 40 years to the changing realities of world trade; for example, Part IV had been added in the 1960s to improve the trading framework for developing countries. Japan considered that GATT now had to address itself to the realities of the 1980s, including ever-growing international trade in services. His authorities considered that a decision to call a high-level meeting to start the preparatory process of a new round, without commitment or pre-conditions, was now overdue. Any disagreement over substance or procedure could be discussed at such a meeting, thus assuring transparency. Japan supported the proposal to hold such a meeting in September 1985 and expected the Council to so decide at the present meeting. The preparatory process for the new round would proceed together with further implementation of the 1982 Work Program. Japan continued to support paragraph 7(i) of the Ministerial Declaration concerning standstill and rollback, and had taken a series of external economic measures to enlarge access to its market and to increase imports.

The representative of Australia said his authorities considered that the only way to make progress on key unresolved issues was to discuss them at a high-level meeting in September. He saw nothing in the statement by 24 developing contracting parties (L/5818 and Add.1) which would be prejudiced by convening such a meeting. He noted that in June 1985 an informal meeting of Ministers of some GATT contracting parties had been held in Stockholm. Even though this had not been a GATT meeting, those Ministers had achieved a significant measure of agreement on three ideas: first, there had been no dissent that their representatives could support convening a high-level meeting if this were to be raised in the GATT Council; second, a measure of agreement on how to handle services had been achieved in principle; and third, it

had been understood that a number of countries would formally set out their views on the objectives for a new round. His authorities were not aware of any subsequent developments in the positions of governments which had attended the Stockholm meeting to suggest that they could not participate in a high-level meeting. Australia stressed that all matters of substance and procedure for a new round should be discussed formally in GATT. He drew attention to his country's submission in L/5842 setting out its views on the substance and procedure for a new round, including the opinion that the Work Program could not be satisfactorily implemented unless there were new multilateral trade negotiations, and that priority should be given to negotiating on goods ahead of services.

The representative of Yugoslavia said his delegation continued to support the statement in L/5818 and Add.1 which represented a constructive contribution by 24 developing contracting parties on the issue of a new round. His authorities needed more time to study the recently circulated submissions by developed contracting parties. He added that Yugoslavia joined in supporting Brazil's two proposals.

The representative of the United States reiterated his delegation's view that the best way to carry out the 1982 Work Program would be through a new round of multilateral trade negotiations with the prospect of benefits for all contracting parties. The United States was determined to secure a high-level meeting in order to get negotiations underway. Severe pressures for protectionist action were building in the United States, and there had been a marked loss of confidence in GATT's ability to deal with the world's trading problems. He said it was growing increasingly difficult to resist protectionist legislation in the US Congress; this came at a time when the international press was carrying headlines about GATT being unable to agree even on holding a meeting which would not prejudice any country's position. He stressed that no country was committed in any negotiation until it signed a package at the very end. His delegation considered that GATT's credibility was at stake in the present Council meeting, and he was determined to try to show that the multilateral system could work and would work. Deciding on a high-level meeting would not be any guarantee for success. However, not taking that decision would be a prescription for disaster. The United States considered this issue important enough to take it directly to the CONTRACTING PARTIES if necessary, so that officials at a higher level could start the necessary negotiations quickly.

The representative of Peru pointed to the problems of protectionism and heavy indebtedness faced by developing countries, including his own. It was vital for Peru to increase its exports, and therefore it still placed trust in GATT principles and objectives in searching for solutions. His delegation supported holding a high-level meeting in September to discuss the possibility of new multilateral negotiations on goods, on the condition that the meeting did not commit any individual

contracting party or the CONTRACTING PARTIES collectively, and that it would not prejudge the question of launching a new round. He reiterated his country's support for the statement in L/5818. The question of services needed to be analysed in depth and with great care because of its importance for the economies and development process in developing countries. Services could not be dealt with at the high-level meeting, since only the CONTRACTING PARTIES as a whole could decide on inclusion of new questions at present alien to GATT provisions.

The representative of Austria referred to his Government's statement in L/5849 setting out its views on the objectives and modalities of a new round and the reasons why Austria considered that comprehensive trade negotiations were necessary. There were differing views on how to deal with services. However, since many delegations considered services to be important, and since all delegations seemed to agree on the usefulness of starting some sort of new trade negotiations, Austria believed that the Council should now call for a high-level meeting in September to discuss these questions.

The representative of Tunisia expressed his delegation's support for the views in L/5818. Tunisia considered that a high-level meeting would contribute to clarifying and balancing the objectives, modalities and participation of a new round, and that the meeting would commit no contracting party to new multilateral trade negotiations.

The representative of Canada reiterated his delegation's strong support for a new round of multilateral trade negotiations. Considerable progress had been made in implementing the 1982 Work Program, but much remained to be done, and Canada believed that the point had come where the various elements in the Program were unlikely to be satisfactorily concluded outside a new round. Canada's approach to the challenge and opportunity of a new round was open-minded and objective, and reflected an increasing sense of urgency because of the pervasive protectionist pressures facing the world trading system. A new round would also serve to enhance the rule of law in international trade and to restore dynamism towards further liberalization. The trading system was being continually eroded. There was a movement away from rules to discretion and the absence of law; such a trading system was arbitrary and unpredictable, and ultimately could not be sustained. Canada therefore supported the Community's proposal to hold a high-level meeting in September, and expected the Council to take such a decision at the present meeting.

The representative of Jamaica said his country would join a consensus by the Council to convene a high-level meeting to continue discussion of this matter at an appropriate time, whether in September or October. While his authorities would need more time to study the recently circulated submissions by developed contracting parties, his delegation would join such a consensus because additional protectionist pressures were mounting; this could create an untenable situation for

Jamaica, which was a small country incapable of retaliation. Two essential issues had to be addressed: first, what steps could contracting parties take individually and jointly to roll back protectionist measures; and second, could these steps be limited to GATT's traditional areas of competence, or should new subjects be included? Although the various submissions differed in some important respects, they shared a strong desire to maintain the open multilateral trading system and to reinforce it by further liberalization. He suggested that an alternative way of dealing with this subject could be to address it at the Council's special meetings held twice a year to review developments in the trading system and to monitor implementation of paragraph 7(i) of the Ministerial Declaration. Such a decision would avoid argument over the level at which the meeting should be held, and what nature or degree of consensus existed. He was perplexed by suggestions that the high-level meeting would be without commitment, since if the Council discussed trade liberalization, then surely contracting parties were committed to pursue that course. He had read about a recent meeting of four major GATT trading partners which had apparently agreed on the common objective of establishing a preparatory committee in GATT during the autumn which would be charged with detailed preparation for a new round. Thus, despite statements about open-mindedness and no commitment, those major trading partners already clearly intended to set up detailed procedures for a new round as soon as possible. Turning to the two proposals by Brazil, he said his authorities would need further clarification from Brazil concerning the proposal on services.

The representative of Chile said that at the high-level meeting it should be made clear that a precondition for any new round would be fulfilment of the 1982 Work Program. Chile supported holding such a meeting in September since it would enable discussion to be held in GATT and not in restricted informal meetings outside GATT.

The representative of Zaire considered that his country's largest trading partners had neglected their contractual obligations in GATT because of lack of political will. He was sceptical about suggestions that a new round of negotiations was needed to carry out commitments which should have been respected and acted upon even without such a new round. Zaire was concerned that traditional GATT subjects would be used as a screen behind which negotiations would be carried out on new subjects which were foreign to GATT's field of competence. His delegation reiterated its support for the statement in L/5818 and joined in supporting Brazil's two proposals.

The representative of Nicaragua said there were some basic elements which would have to be discussed before or during a high-level meeting. The 1982 Work Program could not be renegotiated, and developing countries could not be expected to make further contributions towards something for which they had already paid. Services were not covered by the General Agreement, and negotiations on them could not be tied to

negotiations on goods. Confidence was a fundamental pre-requisite for any negotiation, which meant that solutions would have to be found for problems caused by the imposition of unilateral trade restrictions; she asked the US delegation to reflect on the concepts in its submission (L/5846) concerning the need for an efficient dispute settlement mechanism. Part IV would have to serve as a guide throughout any new negotiations, which would have to produce results benefiting every contracting party.

The representative of Romania reiterated his delegation's support for the statement in L/5818. Romania wanted to strengthen dialogue to find the most appropriate means to promote implementation of the Ministerial Declaration and to further liberalize world trade. As a priority, trade possibilities for developing countries should be liberalized through further implementation of more favourable treatment provided in GATT for those countries. In this spirit, his delegation supported convening a high-level meeting in September to launch open discussions on future action within GATT.

The representative of Pakistan said that the impasse on moving towards a high-level meeting could best be broken by the Council's endorsing Brazil's proposals. Pakistan continued to believe that the General Agreement did not cover trade in services; the 1982 Ministerial decision provided for exploratory discussions on services, and any move to negotiate on them would be a major decision that could only be taken after all contracting parties were satisfied that the exploratory process had been concluded.

The representative of Venezuela, speaking as an observer, said his country remained conscious that some results of the Tokyo Round had not been implemented and that trade restrictive measures had recently been taken contrary to GATT commitments, undermining the credibility of the countries taking such measures and of the GATT itself. Consequently, there was a need to implement the Ministerial Declaration, particularly its commitments on standstill and rollback. Venezuela supported Brazil's two proposals and most of the ideas in L/5818.

The representative of the European Communities, referring to the statement by the representative of Jamaica, wanted to make clear that the Community's proposal in C/W/480 did not mean that contracting parties could not undertake to negotiate. The proposal said that participation in a high-level meeting was without commitment and without prior conditions by any country as to a future course of action; i.e., contracting parties would be able to decide for themselves whether or not to enter negotiations. As for references to reported decisions at informal meetings outside GATT, he stressed that within the GATT, his delegation alone could commit the Community. Referring to the statement by Zaïre, he reiterated the Community's view that world economic recovery was uncertain and that operators in market economies needed to be given the right signals; they needed confidence-building actions

because protectionist pressures could not otherwise be contained. A new round of negotiations would give all contracting parties the opportunity to benefit from lowering of tensions, particularly the tensions between the major trading partners which could irreparably affect the trade interests of the smaller contracting parties. As for those who seemed to want benefits to be delivered in advance of negotiations, he was confident that the Community's trading partners would not expect to receive benefits before negotiations had even started. Nor was it reasonable to exclude any subject in advance of a high-level meeting; he wondered what the reaction would be, for example, if the Community said it wanted to exclude agriculture from future negotiations. He reiterated that the Community had proposed holding a high-level meeting eight months previously, and its patience was now running out. GATT was supposed to be a place for doing business, not for arguing over words; its survival depended on the goodwill and good faith of those present.

The representative of Nigeria said his delegation's position remained fully reflected in L/5818. The recently circulated submissions by major contracting parties had not shown conclusively that the political will to implement past commitments, so far lacking, could be found in a new round of negotiations. Nigeria was thus sceptical about the need for a new round. However, understanding the motivations of the major trading partners and recognizing that they faced great domestic pressures for protection, his delegation supported holding a high-level meeting to see if a consensus could be found on the subject matter and modalities for a new round of negotiations on goods only. Nigeria supported the two proposals by Brazil. It was clear that GATT did not have jurisdiction to deal with services, and Nigeria would not enter into negotiations on them at this time.

The representative of Ghana supported holding a high-level meeting, on condition that participation would be without commitment on the question of holding a new round, and that if broad consensus were reached that a new round was necessary, the modalities for the negotiations could subsequently be worked out. His delegation considered it premature to comment at the present meeting on the substance of the recently circulated submissions; the right time to do this would be at the high-level meeting. Ghana's position remained reflected in L/5818.

The representative of Trinidad and Tobago said his delegation continued to support the statement in L/5818. His country believed that convening a high-level meeting would advance GATT's work, and supported Brazil's proposals.

The representative of the United States said that his country had given considerable help to a number of contracting parties in their development efforts, and hoped to continue to do so. In this light, his authorities wondered why the United States should be expected to qualify its participation in a high-level meeting to discuss the objectives of a new round. The United States was interested in trade in services

because its economy was moving increasingly into this field. The Brazilian proposal on services was not acceptable to the United States. If difficult issues had to be worked out, this should be done at the high-level meeting. He welcomed as logical and reasonable Ghana's position that while it maintained its views, it recognized the need for a high-level meeting to resolve differences.

After a recess, and following informal consultations among delegations, the Chairman reported to the Council on those consultations. He noted that they had aimed at reaching a consensus on the question of holding a high-level meeting, and that the main problem had been how to handle the problem of trade in services. In addition to the proposals by Brazil (C/W/479) and the European Communities (C/W/480), other proposals had been put forward informally by Korea and Jamaica, following which he had asked the Secretariat to draft a Chairman's summary. Finally, Sweden had informally submitted a proposal aimed at bringing together the divergent positions and based as closely as possible on all the earlier proposals.

The Chairman regretted that no consensus had been achieved during the consultations, and appealed for a further effort to reach consensus. The difficulties were great, but so were the stakes, which involved the struggle against protectionism as well as GATT's credibility.

The representative of Brazil said he regretted that no consensus had been reached. His delegation had submitted its proposals (C/W/479) in a spirit of compromise; they conformed with the competence of the General Agreement, with the 1982 Ministerial decision on services (BISD 29S/21), and with the agreed conclusions on services adopted by the CONTRACTING PARTIES in November 1984 (L/5762). Brazil was deeply concerned that work in GATT was being blocked because some countries felt progress could only be made if new issues, outside GATT's competence, were added to its jurisdiction. Of even greater concern to his delegation were references being made to the possibility of abandoning GATT rules and the results of past rounds of negotiations. He added that the Council's time for discussing this topic further at the present meeting was now exhausted, since it was past midnight on the night of 18-19 July, and the present meeting had been convened for 17 and 18 July. He therefore proposed that further discussion be terminated and that the Council decide on the proposals that had been formally submitted, and in the order that they had been tabled.

The representative of Sweden said that since sufficient support had been expressed in the consultations for his delegation's proposal, he had decided to submit it formally for the Council's consideration at the present meeting.[1]

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[1]Subsequently circulated as C/W/481.

The representative of Colombia reiterated his delegation's view that the 1982 Work Program should be completed and implemented as far as possible, and that the General Agreement did not cover trade in services. Consequently, Colombia had welcomed the Brazilian proposal that negotiations on goods and services should be handled separately. Colombia also supported holding a high-level meeting to decide on these subjects. His delegation believed that all these elements were covered by the Swedish proposal, which Colombia supported.

The representative of Canada supported the Swedish proposal, saying that it offered a genuine compromise which did not negate any of the ideas put forward by contracting parties on the subject of a new round. He noted that Rule 23 provided that proposals and amendments should "normally" be introduced in writing and circulated to all representatives not later than 12 hours before the start of the meeting at which they were to be discussed (BISD 12S/14). None of the three proposals had complied with the Rules of Procedure if Rule 23 were to be applied strictly. However, such strict application was not traditional GATT practice, and this was not a normal situation. He trusted that contracting parties continued to be more interested in substance than procedure, especially on a vital topic such as this. He appealed to Brazil and the Community to recognize these facts and to give priority to the Swedish proposal in view of the compromise it offered.

The representative of Brazil asked that the Council immediately take decisions on the proposals before it and that the Chairman ascertain whether there was a consensus in favour of Brazil's proposal.

The representative of India said that the Council should avoid further debate and decide on the proposals.

The representative of the European Communities wondered whether the idea of consensus was being over-emphasized, and asked where this was provided in the Council's procedures.

The Chairman said that while the principle of taking decisions by consensus was not written in any GATT texts, he understood it to be the tradition in the Council.

The representative of the European Communities said that on substance, no contracting party should be forced to accept in a consensus something which was unacceptable in terms of national sovereignty. However, where procedure was involved, such as whether to call a meeting, the majority should prevail, with contracting parties having their reservations recorded if necessary.

The Chairman proposed that the Council consider all the proposals and do its utmost to reach agreement based on the broadest possible consensus.

The representatives of Finland also on behalf of Iceland and Norway, Singapore on behalf of the ASEAN countries, New Zealand, Switzerland, United Kingdom on behalf of Hong Kong, Australia, Israel, Korea, Chile, Austria, United States, European Communities, Spain and Japan joined Colombia and Canada in supporting the Swedish proposal (C/W/481).

The representatives of Brazil, Egypt, Yugoslavia, India, Gabon and Nigeria opposed the Swedish proposal.

The representatives of Egypt, Yugoslavia, Argentina, India and Gabon supported the Brazilian proposal.

The representatives of the United States, Japan and Canada opposed the Brazilian proposal, while the representative of the European Communities said it should be submitted for consideration at a high-level meeting in September.

The representatives of Pakistan, Nigeria and Nicaragua said that while their delegations' views were closest to Brazil's proposal, they felt that further efforts should be made towards reaching a full consensus.

The representatives of Zaïre, Uruguay, Cuba, Hungary, Peru and Colombia also proposed that further efforts be made towards finding a new compromise which could lead to broad agreement.

The representatives of Switzerland, Spain and New Zealand said their delegations had concluded that out of the three proposals formally tabled, the Community's offered the best procedure for making progress on the pressing problems facing the world trading system. However, after considering other views expressed at the present meeting, they were prepared to support Sweden's compromise proposal.

The representatives of Egypt, India and Brazil opposed the Community's proposal.

The representative of Uruguay said that while his delegation's position coincided reasonably with Brazil's, he also saw merit in Sweden's proposal. He suggested a new compromise proposal which could pave the way for a high-level meeting and enable the contracting parties to proceed united towards their future substantive work. This could be done by agreeing that if Sweden's proposal were to be generally accepted, the Chairman would state that the agreement was on the generally accepted understanding that a substantial number of contracting parties had made clear their position on services as expressed in paragraph 4 of C/W/479.

The representative of Colombia suggested that a new compromise might be reached by agreeing on the Swedish proposal, together with a statement by the Chairman summarizing the divergent positions on the question of services, along the lines of a suggestion by the representative of Jamaica during the informal consultations.

The representative of the United Kingdom, on behalf of Hong Kong, reiterated his delegation's position that procedural matters, such as whether and when to hold a high-level meeting, should be subsidiary to and follow from matters of substance. The important point about procedure was that it should be open and that all contracting parties should be able to participate.

The representative of Australia said it should have been possible to reach agreement on the basis of the proposals put forward. Australia considered that procedural matters were unimportant if contracting parties were seriously trying to reach agreement.

The representative of the United States said that basic differences remained on several important questions, which could be considered and decided upon at a high-level meeting. The issue now was whether GATT could take a decision in its own interest to save itself. His delegation had been surprised to hear procedural matters raised by representatives who claimed that they wanted to see progress made in GATT's work, particularly in view of the fact that GATT had always downplayed procedure in favour of maximum efforts to reach solutions on substance. The United States would have preferred a proposal even stronger than that put forward by the Community in C/W/480, but was prepared to support Sweden's proposal on condition that all other Council members were also prepared to do so. He said that the majority of contracting parties represented at the present meeting appeared ready to take a positive decision and let serious work begin.

The representative of the European Communities said that the 10 contracting parties, member States of the Community, continued to feel that their proposal offered the most realistic and reasonable way to proceed, since it would clarify the situation and prevent the return of ambiguities which had been undermining GATT's work on trade in services. However, since a great effort was being made to find a compromise solution, the Community would not oppose Sweden's proposal, even though it contained weak points which could lead to further ambiguities. He recalled that in November 1982 the CONTRACTING PARTIES at Ministerial level had accepted a compromise decision on services. Subsequently, GATT's work had been paralysed for a long time because of divergences of interpretation over whether that three-paragraph decision should be taken as a whole or as stipulating a chronological sequence. Then, in November 1984, the CONTRACTING PARTIES had succeeded in overcoming this obstacle by adopting the Agreed Conclusions on services (L/5762), but this had in fact resolved nothing. The Community felt that in a decision to call a high-level meeting, any reference to the 1982

decision and the 1984 Agreed Conclusions, which the Community continued to apply in good faith, would lead to further difficulties, blockage and paralysis in GATT's work. He feared that if the Swedish proposal were to be adopted, the problem of services, far from being resolved, would simply be passed to a higher level. However, he reiterated that the Community would not oppose the Swedish proposal. Furthermore, it was prepared to hold the high-level meeting later than 9 September, although not later than the end of that month. He also wanted to make clear that the Community's proposal in C/W/480 remained on the table.

The representative of Brazil regretted that the Chairman had allowed debate on Sweden's proposal which had not been circulated in accordance with Rule 23.

The representative of the European Communities asked whether Brazil's proposal in C/W/479 complied with the requirements of Rule 23.

The Director-General said Brazil's proposal had not been circulated 12 hours before the start of the present meeting.

The representative of Brazil asked the Chairman what conclusion he drew from the above-mentioned facts.

The Chairman said that since all three proposals had not complied with Rule 23, they should all receive the same treatment.

The representative of the European Communities appealed to representatives to stop arguing over procedure, since this would unnecessarily weaken GATT.

The representative of the United States said that during the lengthy informal consultations, Brazil's proposal had been carefully examined ahead of the other proposals, and had not received much support. In the end, the only proposal that offered a basis for consensus was Sweden's. Procedural arguments should not be allowed to impede progress in upholding the GATT system.

The representative of Brazil said that even though he had not agreed with the procedure of allowing discussion on Sweden's proposal, he had not attempted to block such discussion. It remained necessary for his delegation's proposal in C/W/479 to be put to a decision.

The representative of Canada said his delegation supported dealing with the Brazilian proposal immediately.

The representative of Pakistan wondered whether the Council was going in the right direction. He noted that GATT had always taken pride in being pragmatic and in finding compromise solutions even on the most difficult questions. He appealed for further efforts to find a compromise solution.

After a further exchange of views on procedure, the representative of the United States said that the Council had shown itself incapable of taking a simple decision to hold a meeting, which in itself proved the need for a meeting at higher level. It was evident that there was no consensus for either Brazil's or the Community's proposal. The only chance of consensus was on Sweden's proposal, and if such agreement could not be reached, the discussion should be terminated.

In answer to a question by the representative of Brazil, the Chairman said there did not seem to be a consensus in favour of Brazil's proposals in C/W/479.

After being invited by the Chairman to respond to Colombia's earlier suggestions on how a compromise solution might be reached, the representative of Sweden said he was ready to examine what progress might be made on the basis of those suggestions.

The representative of the European Communities said his delegation wanted to see an agreement to which all would freely subscribe, and not one which would be forced on any contracting party and which would cause bitterness. He proposed, therefore, that the meeting be suspended and that this problem be addressed later in a more propitious atmosphere.

The representative of Brazil said he regretted that his delegation's proposals, which had been submitted in a true spirit of compromise and co-operation, had been rejected because some delegations had opposed the formation of a consensus in favour of these proposals. He asked whether the most recent statement just made by the representative of the European Communities could be understood as a withdrawal of the Community's proposal.

The representative of the European Communities said his delegation was prepared to give priority to Sweden's proposal in the hope of reaching a compromise solution, but he reiterated that the Community's proposal in C/W/480 remained on the table.

A number of representatives expressed support for further efforts at compromise based on the suggestions by the representatives of Colombia, Sweden and Uruguay.

The representative of the European Communities was concerned that if Uruguay's suggestions were to be followed, ambiguities on services would continue to undermine GATT. The Community considered that radical measures should now be taken so that one way or another the Council could arrive at an agreement on trade in services; failing such agreement, GATT's work would be poisoned for years to come. The Council should also avoid adopting any easy way out which failed to resolve the basic problem.

The Chairman said it appeared that there was no full consensus in favour of Brazil's or Sweden's proposals, but that there seemed to be a larger possibility for consensus in favour of the Swedish proposal.

A number of representatives supported the proposal that the meeting be adjourned and convened later when differences had been resolved.

The representative of India said that every effort should be made before the Council reconvened to find a real consensus, since basic differences could not be pushed aside or papered over.

The representative of the United States said that the Council should recognize its failure to reach agreement and should find some other way of tackling this issue.

The representative of Japan proposed a short break in the present meeting to permit informal consultations aimed at searching for a consensus based on the suggestions by the representatives of Colombia, Sweden and Uruguay.

The representatives of Sweden and Colombia stated their readiness to take part in such an effort.

The representative of Jamaica made certain suggestions as to the language that could be used in a Chairman's summing-up supplementing the Swedish proposal.

After a recess, and following consultations among delegations, the representative of Colombia reported that notwithstanding the goodwill of all participants, positions were still too far apart and it had proved impossible to reach a consensus.

The Chairman proposed that the Council suspend the present meeting, that consultations would be held on the date for resumption, and that in the meantime, consultations would continue to try to reach a consensus on this issue.

The representative of the European Communities asked under what conditions a contracting party could call for a session of the CONTRACTING PARTIES.

The Director-General said that a session of the CONTRACTING PARTIES could be called by the Council (BISD 9S/8), or at the initiative of the Chairman of the CONTRACTING PARTIES, or at the request of a contracting party concurred in by the majority of the contracting parties; notice of convening any such session should be given to contracting parties at least 21 days in advance of the session (BISD 12S/10).

The representative of the United States regretted that the Council had been unable to decide on what his delegation saw as a simple procedural matter of holding a high-level discussion on the possible subject matter and modalities for a new round of multilateral trade negotiations. Given the basic differences of view on this subject, the United States had sought a procedure that would allow those differences to be put forward to a high-level meeting without prejudicing the position of any contracting party, so that the high-level discussion could resolve the fundamental issues of how to proceed with a new round. This had not proved possible, and for reasons which his delegation found incomprehensible, some delegations had wanted to limit the parameters of the high-level discussions. He said that during the effort to reach a consensus, his delegation had been willing to accept compromise proposals which departed considerably from what the United States wanted. He saw little use in further consideration of this issue by the Council at a later date since -- at least at the present level of representation -- the Council was incapable of taking a decision. Given the urgency with which the United States believed that the problems of the world trading system had to be confronted, and so as to develop a consensus on the subject matter and modalities for a new round, his delegation felt compelled to indicate its intention to follow normal GATT procedures and ask the Chairman of the CONTRACTING PARTIES to convene a session of the CONTRACTING PARTIES in September 1985.

The representative of the European Communities said his delegation would have preferred not to have reached the point of asking for a session of the CONTRACTING PARTIES, and also would have preferred that the contracting party making the request not be the United States. The Community did not like meetings which left visible traces of bitterness. Sometimes, however, protection of the system required decisive actions. He said that the Community, which represented 10 contracting parties and even, logically, 12, supported the US intention to call for a session of the CONTRACTING PARTIES; he hoped that many more contracting parties would concur and thereby enable senior officials from capitals to come and discuss, without preconditions, the subject matter and modalities for a new round.

The representatives of Canada, Japan, Spain and Portugal regretted that it had not been possible to reach consensus in the Council on calling a high-level meeting, particularly since that meeting was to have been without any preconditions. They supported the US intention to call for a session of the CONTRACTING PARTIES in September.

The Council took note of the statements.

3. Safeguards
- Statement by the Chairman of the Council (MDF/16)

The Chairman read out the text of a statement which was subsequently circulated as MDF/16. He emphasized that the statement was made on his own responsibility.

The representative of Brazil said that while informal consultations on safeguards had been useful, such dialogue should give way to effective negotiations on improved disciplines in this area. He then presented several ideas on this issue. First, it would be useful to examine the advantages and disadvantages of different legal formats for an agreement on safeguards. Brazil felt that a protocol to the General Agreement might be adopted as a formal amendment to present requirements for safeguard action under Article XIX; this matter was too important to be dealt with under a separate code to which only a small number of contracting parties would be legally bound. The relationship between a code and the General Agreement was also not entirely clear. He then gave some of Brazil's views concerning the substance of an understanding on safeguards which had to be based on the non-negotiable m.f.n. principle. His delegation would be interested in exploring one of the "building blocks" that had been suggested; this was the idea of partially waiving Article XIX:3(a) rights concerning retaliation/ compensation, in exchange for stricter disciplines regarding verification of serious injury and causality in accordance with more precisely defined criteria than present Article XIX requirements, and provided the measures were of limited and short duration. He stressed that safeguard measures should be resorted to only in emergency situations, and that they should not be used as substitutes for structural adjustment. Verified injury must have occurred in order for a country to apply safeguards; the notion of threat of injury, which contributed to transforming safeguard measures into protectionist measures, should be eliminated. Serious thought had to be given to procedural aspects such as notification and enactment of legislation to conform with international disciplines. The direct application of GATT rules by national courts, for instance, could strengthen implementation of the rules and help governments to resist protectionist measures. Brazil favoured the early reconvening of the Safeguards Committee to permit all contracting parties to participate in deliberations on a future understanding on safeguards; this could be done without prejudice to the continuation of informal meetings by the Chairman of the Council. He stressed that respect for safeguard rules was vital to the protection of negotiated GATT bindings, and that effective rules on safeguards were indispensable to stimulating trade liberalization.

The representative of Australia said that while informal discussions on this question had been useful, the Council should consider whether continuing this process would help to reach a consensus on a comprehensive understanding. A safeguards agreement would operate effectively and equitably only if based on the m.f.n. principle and applied unconditionally by all contracting parties on that basis. Australia was particularly interested in Brazil's proposal for a possible protocol to the General Agreement, and supported the Council's consideration of whether this matter should be taken up by the Safeguards Committee.

The representative of Israel regretted that his delegation had not been included in the informal consultations on this issue, and accordingly reserved his delegation's position on the Chairman's statement. Israel felt this matter should be discussed openly in the Safeguards Committee. Israel supported Brazil's proposals and felt that there should be negotiations on this issue, including a possible protocol to the General Agreement.

The representative of Chile supported a meeting of the Safeguards Committee in order to examine the views expressed in informal consultations.

The representative of the European Communities pointed out that the informal consultations, while not spectacularly successful, had brought views closer together. He agreed that the Safeguards Committee might be convened in order to improve transparency and provide a broader basis for work in this field. The question of safeguards would be an important item for the new round, and the decision on the future of trade in textiles was also closely linked to it. He feared, however, that agreement would be impossible if some contracting parties insisted that the m.f.n. principle was not negotiable. There was need to examine further whether, in certain clearly defined situations, application of safeguards on a non-m.f.n. basis should be possible. This was a clear example of an issue on which progress could be made only in the framework of new negotiations.

The representative of Jamaica said his delegation was interested in the ideas and approaches in paragraph 8 of the Chairman's statement, and that the reference to geographical coverage in paragraph 15 was not entirely clear. His delegation agreed with much of Brazil's statement.

The representative of New Zealand said this was a problem area which required a comprehensive solution. Among the important elements in this issue, he highlighted structural adjustment and the m.f.n. principle. New Zealand had understood in the informal consultations that the "building blocks" approach did not provide a way out of the difficulties which had developed. There was much to consider in Brazil's statement; his delegation was particularly interested in the concept of a protocol relating to Article XIX, and supported reconvening the Safeguards Committee to widen the discussions and find a comprehensive solution.

The representative of Singapore noted that the Chairman's statement had been made on his own responsibility. His delegation was among those which held that the m.f.n. clause was not negotiable, and disagreed with the European Communities on this point. Failure to observe GATT rules was not a reason to renegotiate basic GATT principles; rather, it was necessary for those who had erred to return to the GATT fold.

The representative of the United Kingdom, on behalf of Hong Kong, said that the problems of safeguards was an area of critical importance to GATT and that the m.f.n. principle was not negotiable in any new round. His delegation had some sympathy for Brazil's proposals and supported the statements by Singapore and Australia.

The Council took note of the statement by the Chairman (MDF/16) and of the statements by representatives.

4. Working Group on MTN Agreements and Arrangements - Report of the Working Group (L/5832 and Corr.1)

Mr. Bondad (Philippines), Chairman of the Working Group, introduced the report (L/5832 and Corr.1). He recalled that at their fortieth session in November 1984, the CONTRACTING PARTIES had established the Working Group, open to all contracting parties, to examine a report by the Secretariat (MDF/12) on the adequacy and effectiveness of the Agreements and Arrangements resulting from the Multilateral Trade Negotiations, and the obstacles to acceptance of them which contracting parties might have faced (L/5756). The Group was to report to the Council at its meeting in July 1985. The Group had met in June and July to examine the Secretariat's report, which consolidated the observations and conclusions of the respective Committees and Councils regarding these questions. The Group's report summarized the main points made in its examination and contained general observations as well as observations on each MTN Agreement and Arrangement.

The representative of Jamaica said that paragraph 3 of L/5832 failed to reflect fully the written statement circulated by his delegation in the Working Group. He drew attention to the references in paragraph 4 to the Agreement on Government Procurement and to the co-existence of the MTN Agreements and the General Agreement, which he said were significant points.

The representative of Egypt said that his authorities were still examining the report and reserved his delegation's right to make more detailed comments at a later meeting. The report brought out that few developing countries had been able to participate in the technical discussions held by bodies established under the Agreements and Arrangements, or in the Working Group's meetings. In order to maintain the unity of the GATT system, it was necessary to ensure that all developing countries having an interest in particular agreements be enabled to accede to them. Egypt therefore considered it necessary to continue the work of identifying developing countries' problems in acceding to these agreements.

The representative of Colombia said that his delegation agreed in general with the statements by Jamaica and Egypt. Referring to paragraphs 15 and 16 of L/5832, he recalled the difficulties Colombia had faced in acceding to the Subsidies and Countervailing Measures Code

due to the practice of one of its signatories regarding developing countries. He noted the efforts that had been made to resolve this problem within the mandate of the 1982 Work Program; unfortunately, a solution within the framework of the Code itself had not been possible. He stressed that the problem Colombia and other developing countries faced regarding accession to the Subsidies Code had been fully identified by the Working Group. His delegation had proposed that the Group express itself on, and seek a solution to, the problem of developing countries having to accept commitments under Article 14:5 of the Code on a bilateral basis. He asked the Council to take up this question, as the Group had reached no consensus on how to solve it. Alternatively, the Working Group could be mandated to examine this question in order to find a solution.

The representative of Uruguay said the report showed that some agreements worked while others did not work fully due to certain obstacles, the most important of which were in the Subsidies and Countervailing Measures Code, where several developing countries had drawn attention to real barriers to their accession. As the Group had examined this problem but had not explored solutions to it, Uruguay supported the statement by Colombia.

The representative of Austria referred to paragraph 9 of L/5832 and said it was hard to understand why delegations larger than his own had been unable to participate in all, or at least some, of the meetings dealing with developing countries' problems in acceding to these instruments. He referred to paragraph 3 of L/5849 where Austria's opinion on this question had been expressed.

The representative of Israel suggested that a corrigendum be issued to paragraph 14 of L/5832 to clarify that the procedures for the entity negotiations under the Government Procurement Code applied both to developing and developed countries. Israel regretted that on account of the position adopted by certain developed and developing country members of the Subsidies and Countervailing Measures Code, the draft procedures concerning commitments under Article 14:5 (SCM/W/86/Rev.2) could not be finalized. He said that this was the only Code which had used the procedure of special groups of signatories to determine the possibility of accession.

The representative of the United States said that his Government's views had been adequately, if not completely, reflected in the report. In response to Egypt's suggestion that further work be done by the Group, he said that representatives would have attended the meetings if this issue had been a priority for their delegations. The appropriate places for any further consideration were the relevant individual Committees or Councils themselves. Given the interest of a number of delegations in the subsidies issue, this might be raised at a meeting of senior officials.

The representative of the European Communities said that the report seemed to be fairly well balanced; it reflected the views expressed and correctly analysed the situation in the various bodies. The Community felt that where there was a problem, it was up to the relevant committee to re-examine it and to seek solutions; the matter could then come back, if necessary, to the Council, the CONTRACTING PARTIES, or a high-level meeting. He asked that an error be corrected in the Annex to the report.

The representative of Colombia said that his delegation was not certain that the proposal to return this matter to the relevant committee would help to resolve the particular problem to which he had referred. He noted that the Group's mandate was that all these matters should be studied; it was up to the Council to see what steps were necessary to eliminate obstacles to accession to the codes, particularly the Subsidies and Countervailing Measures Code, as these obstacles had been clearly identified.

The representative of Egypt said that the Working Group's work was more comprehensive and more responsive to the Ministerial decision than was the work of the committees, and should therefore continue.

The representative of Uruguay said that his delegation shared Colombia's views. It would go against the mandate given by Ministers to leave this matter for the committees to decide. The Council should continue to examine this subject and the real problems that had been identified.

The representative of the United States said that the Working Group's mandate had been fulfilled and that the next step would be to discuss this matter at a high-level meeting.

The representative of Colombia recalled that his delegation, as well as Uruguay, had stressed on two previous occasions the last paragraph of the 1982 Ministerial decision and the importance of the decision as a whole; it was up to the Council to take a decision on the next steps to take. To consider this matter at a high-level meeting would simply dilute the problem. He suggested that the Council set up a working group to study the GATT compatibility of the action taken by the United States with respect to the Subsidies and Countervailing Measures Code.

The representative of Jamaica said he understood that paragraph 4 of the report provided for recourse to Article XXIII of the General Agreement by any contracting party, such as Colombia or Uruguay, which felt that implementation of an MTN instrument was not GATT compatible. The Council could act on either of two fronts regarding Colombia's complaint: it could establish a working party or a panel, or it could take a decision regarding the conformity of an MTN instrument with the General Agreement. He did not consider it useful to postpone a decision on this matter.

The representative of Colombia said that in accordance with the relevant 1979 Decision (BISD 26S/201), the functioning of the Codes must not jeopardize the interests of any contracting party; Colombia's interests in the present case had been jeopardized. His delegation was asking the Council to take action on this problem.

The representative of Egypt asked that the proposal to continue the Working Group be considered and suggested that consultations might be held regarding this question.

The representative of Jamaica asked for clarification of the phraseology for attribution of statements in the report, and how the report would be revised.

The Chairman of the Working Group said that the report's phraseology reflected the nature of the discussions in the Group.

The representative of the United States said he understood that the text of the report had been worked out informally over a period of time. It would be inappropriate to issue corrigenda that would alter what had already been worked out in informal consultations.

The representative of Egypt asked if adoption of the report would imply that the Group's work had ended.

The representative of the United States recalled that the Group's mandate was to report to the Council in July 1985; that had been done.

The representative of Egypt noted that this mandate did not specify that a final report was to be made in July 1985.

The Chairman said that a corrigendum to L/5832 would be issued regarding the points raised by the European Communities and Israel, and an annex would be issued to reflect *in extenso* the statement referred to by Jamaica.

The Chairman then made the following proposal: the Council would take note of the statements and adopt the Working Group's report; with the adoption of the report, the Working Group would be terminated; the Council would agree to revert to this matter at its next meeting; in the meantime, consultations would take place as needed.

The representative of Jamaica said that he had no fundamental problem with terminating consideration of the matter presently under discussion if this was the majority view, and asked if this was indeed the case.

The representative of Egypt said this matter was an important one which called for a solution, and this was why he had suggested consultations under the Chairman's guidance.

The Chairman noted that the Council was agreeing that consultations would take place as needed.

The representative of Colombia said he understood that no decision was being taken on the continuation of the Working Group; this would be decided at the Council's next meeting in the light of consultations held in the interim.

The Council agreed to the Chairman's proposal with the further explanation that he had provided.

The Director-General recalled that the last paragraph of the CONTRACTING PARTIES' November 1984 decision (L/5756) provided that after the Working Group had reported to the Council at its July 1985 meeting, which had now been done, the Council would consider the matter, including any further steps that might be taken, having regard to the 1982 Ministerial decision. In his view, the Council's decision to revert to this matter at its next meeting was in conformity with that decision.

The representative of the United States said he understood that the report had been adopted with the corrigenda and annex suggested by the Chairman, and that Colombia's concerns would be addressed at the next Council meeting.

5. Services
- Oral report by the Chairman of the CONTRACTING PARTIES on progress made in the exchange of information on services

Mr. Jaramillo (Colombia), Chairman of the CONTRACTING PARTIES, said that pursuant to action taken by the CONTRACTING PARTIES in November 1984 concerning services (L/5762), he had organized the exchange of information provided for in the 1982 Ministerial decision (BISD 29S/21) in the form of meetings open to the participation of all contracting parties. To date, five such meetings had been held, at which the national studies of issues in the services sector submitted by a number of contracting parties[1] had been examined. Minutes of the meetings had been circulated in documents MDF/6, 10, 13 and 15. In accordance with the statement by the Chairman of the CONTRACTING PARTIES at the November 1984 session after adoption of the agreed conclusions, the Secretariat had prepared a first analytical summary (MDF/7) of thirteen national examinations together with information made available by 12 of the 14

[1] Belgium, Canada, Denmark, European Communities, Finland, Federal Republic of Germany, Italy, Japan, Netherlands, Norway, Sweden, Switzerland, United Kingdom and United States. Australia intended to submit a study in the near future.

international organizations from which the Director-General had requested information concerning their activities in the field of services; the Secretariat would regularly update this document. The meetings had carried out two readings of the analytical summary. The Secretariat had also been requested to prepare a separate document summarizing the information submitted by international organizations. During discussion of the analytical summary, delegations had raised questions concerning the definition and coverage of services, the conceptual framework, statistical problems and methodologies, national regulations, and issues raised and approaches suggested regarding possible multilateral action on services. Procedural aspects had been discussed, including the possible contribution of international organizations to the exchange of information in GATT, a matter on which informal consultations were still being held. It had been provisionally agreed to hold two meetings in the autumn (on 18 September and 17 October) in order to take stock of the exchange of information and to prepare the Chairman's report to the CONTRACTING PARTIES' November 1985 session; this report would be based on the Secretariat's summary of issues raised in the exchange of information. At the July 1985 meeting it had been understood that any format for the compilation and distribution of information would, in fact, reproduce the elements contained in the table of contents of the analytical summary, as it evolved. In the course of discussions on the first analytical summary, suggestions had been made for additional tasks to be carried out by the Secretariat, but no agreement had been reached on this point at this stage. He said that he would report on further progress in the exchange of information at the Council meeting preceding the CONTRACTING PARTIES' November 1985 session.

The Council took note of the report.

6. Problems of Trade in Certain Natural Resource Products - Communications from Canada (C/W/467 and Add.1)

The Chairman recalled that at its meeting on 5-6 June, the Council had discussed this matter, which was on the agenda of the present meeting at Canada's request.

The representative of Canada expressed concern that certain delegations had continued to block agreement on Canada's request, supported by a number of contracting parties, that the Secretariat prepare a background document on paper for examination by the Working Party on Trade in Certain Natural Resource Products. Such a document would be purely factual, for use by the Working Party in its discussions, and would not commit any delegation to any specific conclusion or possible recommendation that might be considered. Canada continued to hope that the Secretariat would be allowed to do the work requested by a large number of contracting parties.

The representatives of Sweden on behalf of the Nordic countries, and Austria said that their delegations' views on this matter had been clearly reflected in the Minutes of previous Council meetings.

The representative of the European Communities said that the Community's position had not changed.

The representatives of New Zealand, Peru and Brazil shared Canada's concerns and supported its request, and hoped that the Secretariat would soon be enabled to pursue its work on this issue.

The representative of Chile shared all the judgements and information submitted by Canada in C/W/467 and Add.1, in particular the concepts in paragraph 6 of the Addendum.

The Council took note of the statements.

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 four most recent meetings. At the meeting on 5-6 June, the Council had agreed to revert to this item at the present meeting.

The representative of the United States said that his delegation's views on this item had been fully reflected in the Minutes of the previous meetings. He called on the Community to accept adoption of the report and to implement its recommendation.

The representative of the European Communities said that the Community was unfortunately not in a position to adopt the report; however, the Community had already substantially reduced the aids for canned fruit dealt with in the report, and further decisions on aids would be taken within the coming weeks. His delegation favoured an amicable solution in this context, and suggested that the report be looked at as a whole, taking account of the decisions shortly to be taken. The Community was ready to discuss reduction of the aids in question with the United States.

The representative of Australia said that resolution of this dispute would affect his country's exports of dried vine fruit. While parts of the report, particularly the conclusions on dried vine fruit, were not satisfactory to Australia, the Council should act on it immediately, and not on the basis of the principles set out in the communication submitted earlier by the European Communities (C/W/476).

The representative of the United States said that given the Community's willingness to reduce the aids in question, it should have no problem adopting the report. He recalled that at the previous Council meeting, the Community had suggested it might be in a position to do this at the present meeting. The Director-General had made it clear that adoption of a report did not preclude further discussion of the issues involved. He urged the Council to adopt the report as it had been submitted.

The representative of the European Communities said that an amicable solution to this matter would clearly not exclude a reduction in aids, but would have to take account of reductions already effected as well as possible future reductions.

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

8. New Zealand - Imports of electrical transformers from Finland - Panel report (L/5814)

In October 1984, the Council had established a panel to examine the complaint by Finland and had authorized the Chairman of the Council, in consultation with the parties concerned, to decide on appropriate terms of reference and to designate the Panel's members. In November 1984, the Council had been informed of the Panel's composition and terms of reference. The Panel's report was now before the Council in L/5814.

Mr. Kaczurba, on behalf of Mr. van Tuinen, Chairman of the Panel, introduced the report, which the Panel had unanimously adopted. He drew attention to the conclusions in paragraphs 4:1 to 4:11, and in particular to the Panel's final conclusion that it had not been demonstrated that imports from Finland had caused material injury to New Zealand's transformer industry. The Panel had therefore found that the anti-dumping duties imposed on these imports were not consistent with Article VI:6(a), and recommended that New Zealand revoke the anti-dumping determination and reimburse the duties paid.

The representative of New Zealand said that his authorities accepted the Panel's findings and recommendations. The Panel had accepted New Zealand's finding, as well as the method used to establish it, that Finnish transformers had been exported to New Zealand at dumped prices; however, the Panel had ruled that material injury could not be attributed to the imports in question and accordingly had not upheld the imposition of anti-dumping duties. This revealed the degree of caution necessary in dealing with cases such as this, particularly regarding material injury determination. New Zealand was undergoing a process of substantial trade liberalization which, among other economic reform measures, rendered its producers especially vulnerable to damage from dumped products; it would, therefore, act swiftly in cases involving satisfactory evidence of dumping, while having close regard to the principles underlying the Panel's findings.

The representative of Finland said that the report's conclusions were clear and based firmly on the General Agreement. New Zealand had shown a constructive attitude during the Panel proceedings and deserved special acknowledgement for having decided, before the present meeting, to accept the Panel's report and to implement its recommendations. His Government would accept the report in its entirety, even though some of Finland's arguments had not been upheld. He asked the Council to adopt the report, and hoped that the way this case had been settled would help to strengthen the GATT dispute settlement process.

The representative of Canada supported adoption of the report and fully endorsed the conclusion in paragraph 4:4 that injury determinations could, as appropriate, be reviewed by the CONTRACTING PARTIES. New Zealand's quick decision to accept the Panel's recommendations was a positive development in reinforcing the GATT dispute settlement system.

The representative of Hungary said that New Zealand's action was particularly commendable as it had been taken by a small country; such action tangibly contributed to strengthening the GATT system and to the credibility of its dispute settlement process.

The representative of Pakistan shared Hungary's views.

The representative of the United Kingdom, on behalf of Hong Kong, said that it was the attitudes of the parties concerned that determined the effectiveness of the dispute settlement mechanism, as had been clearly shown in the present case.

The Council took note of the statements and adopted the Panel report.

9. Japan - Measures on imports of leather
- Follow-up on the Panel report (C/W/474, L/5623)

The Chairman recalled that at its meeting on 5-6 June 1985, the Council had considered a communication from the United States (C/W/474) requesting consultations under Article XXIII:2 on this matter, and had agreed to revert to this item at the present meeting.

The representative of the United States recalled that at the most recent Council meeting, the United States had requested consultations on Japan's implementation of the Panel's recommendation, and that Japan had indicated then that it would consider the matter and respond at the present meeting. His Government believed that Japan had now had ample time to consider the request, and asked that consultations be scheduled without further delay. The measures taken by Japan since the Panel report had been adopted in May 1984 did not fully conform with the recommendation of the CONTRACTING PARTIES and did not provide for a mutually satisfactory resolution of this matter. The United States

welcomed any additional liberalization efforts Japan might make; however, if these did not include the intent to eliminate the leather quota within a specified time, the United States would maintain its request for consultations in order to discuss what schedule Japan intended to follow to achieve compliance and whether compensatory adjustments pending such compliance were warranted.

The representative of Australia noted that the Panel report had been adopted 14 months earlier, and that it had been three months since Japan had implemented any of the market-freeing measures it had envisioned when the report had been adopted. Furthermore, no measures to improve imports of finished leather had yet been announced. The Panel had been unequivocal in finding that Japan should eliminate its quantitative restrictions on leather imports, and Japan's obligation had not been carried out by a few partial liberalization measures. He reiterated Australia's view that Japan should take into account sensitivities of other countries' domestic leather processing industries as well as its own. Japan should make an announcement on new liberalization measures not later than the next Council meeting, and should provide detailed information on its implementation of the Panel's recommendation. Failing this, his delegation would support the US proposal for consultations and would support a decision instructing Japan how to implement the Panel's recommendation.

The representative of Japan said that since adoption of the report, his Government had been making great efforts to implement the Panel's recommendation. Japan recognized that it was inappropriate to maintain, for a long time, measures inconsistent with GATT. However, Japan's leather industry was suffering from severe depression, and despite the Government's efforts, the situation had shown no fundamental change; consequently, it was extremely difficult to eliminate the import quota system on leather. His Government had given high priority to assessing how and when it could liberalize its leather imports as recommended by the Panel, and had decided that: (1) new tariff measures would replace the import quota system on leather; and (2) following completion of the formulation of tariff measures, Japan would enter into negotiations under Article XXVIII:5 on bound items. In light of this new decision on leather, Japan saw no need to initiate surveillance procedures as requested by the United States.

The representative of the European Communities recalled that the Community had for years been asking Jpan to liberalize its leather imports. The Community was ready to enter into the Article XXVIII negotiations necessitated by Japan's proposed replacement of quotas with tariffs; should Japan decide to take this action, compensation would have to be paid.

The representative of Uruguay shared the concern over the time that had elapsed between adoption of the Panel's report and effective steps to respond to it. The Panel had recognized that Japan's quantitative

restrictions were prohibited under Article XI. As pointed out by the Community, Japan's most recent proposal would require negotiations, in which Uruguay would take into consideration all aspects of this issue. He said that Japan, which had often drawn attention to the need to liberalize trade, should make every effort to put such statements into practice.

The representative of the United States welcomed Japan's recognition that it could not continue to maintain restrictions on leather imports in contravention of the General Agreement, and its decision to remove those restrictions. However, he was considerably concerned by the proposal to replace the quotas with higher tariffs. What the United States had sought in this dispute was improved market access for leather exports and further trade liberalization. The proposed action might have greater, rather than smaller, trade restrictive effects. His delegation wanted to reflect further on the implications of Japan's announcement and reserved its right to revert to this matter.

The representative of Argentina expressed concern over the delay in Japan's implementation of the Panel's recommendation. The efforts made had been timid, and the alternative proposed at the present meeting would not lead to liberalization but rather to the opposite. His delegation would continue to follow developments on this matter and reserved the right to come back to it when Japan's intentions were clearer.

The Council took note of the statements and agreed that it might revert to this matter at a future meeting.

10. Japan - Quantitative restrictions on imports of leather footwear - Communication from the United States (L/5826)

The Chairman drew attention to a communication from the United States (L/5826).

The representative of the United States said that the request in L/5826 was not a traditional request for establishment of a panel under Article XXIII:2; rather it was a request for more direct action by the CONTRACTING PARTIES due to the unique circumstances of the US complaint regarding Japan's import restrictions on leather footwear. He then outlined the reasons why this case required and warranted a special procedure. He recalled the issues examined and the conclusions reached by the Panel on Japanese measures on imports of leather (report in L/5623) and said that the United States had learned, in the course of consultations with Japan including those under Article XXIII:1, that the same administrative and legal scheme was used to restrict imports of leather footwear as was used for leather. Therefore, the United States believed that the same conclusion had to apply to Japan's leather footwear restrictions, i.e., that these contravened

Article XI:1. His delegation believed that the CONTRACTING PARTIES were fully empowered under Article XXIII:2 to apply the conclusions of the leather panel to Japan's import restrictions on leather footwear, and that they should make the same recommendation to eliminate those restrictions. It would not be in the interest of the dispute settlement process, nor would it promote certainty in the application and interpretation of the General Agreement, to set the precedent of having different panels examine the same trade measure imposed by the same country. According to the 1979 description of customary practice (BISD 26/215), the objective of the CONTRACTING PARTIES was to secure the withdrawal of measures inconsistent with the General Agreement. The Council had an obligation to act pursuant to Article XXIII:2, and should call for the elimination of Japan's import restrictions on leather footwear.

The representative of Japan said that despite the difficulties facing the Japanese leather footwear industry, his Government had made realistic and concrete proposals aimed at improving access to the Japanese leather footwear market, during bilateral consultations under Article XXIII:1. Japan had been struggling to deal with its footwear industry's campaign against liberalization on the one hand, and with requests from interested trade partners on the other. Under these circumstances, it would be hasty to refer this matter to the CONTRACTING PARTIES under Article XXIII:2. His delegation could not accept the US request to apply the leather panel conclusions automatically to the footwear case; such a request had no precedent in GATT, and it would be inappropriate to conclude this matter without giving the relevant party any opportunity to present its views.

The representative of Australia considered that it would be presumptuous on the part of the CONTRACTING PARTIES and an infringement of Japan's rights for any recommendation to be made at this stage. There was a clear need for contracting parties to be given more information on the relevant Japanese import arrangements, and Japan should be allowed the right to state its case. He suggested that the Council might recommend some procedure - a working party or consultations, for example - in which Japan's views could be made known and contracting parties could be fully informed of the merits of both parties' positions.

The representative of the United States said that the matter was far too important to the US footwear industry to postpone a resolution. He suggested that a panel be established at the present meeting under Article XXIII:2 to consider whether the two schemes were the same and, if they were, to apply the pertinent conclusions of the leather panel decision, including paragraphs 44, 46 and 55, to the Japanese leather footwear quota. Where there was a contravention of the General Agreement, there was prima facie nullification or impairment, and adverse effects on trade were presumed to exist. He referred to paragraph 55 of the leather panel report, and said that the CONTRACTING

PARTIES, in adopting the report, had accepted the reasoning in that paragraph and should apply the same reasoning to footwear. The panel now being requested should have narrowly drawn terms of reference in order to assist the CONTRACTING PARTIES to apply the recommendation contained in paragraph 59 of the leather panel report to Japanese restrictions on imports of leather footwear. The United States also requested that the panel proceeding be conducted on an expedited basis as provided under paragraph 20 of the 1979 Understanding. In the light of the narrow scope of such a panel's inquiry, it should deliver its findings not later than three months from the date of its establishment.

The representative of the European Communities welcomed the US initiative to submit this matter to the CONTRACTING PARTIES, and reserved the right to make a submission to a panel. The Community's main concern was that markets remain open. Regarding the legal principles of the US request, the Community had reservations regarding the proposal that one panel's recommendation could be applied to another dispute; surely only a panel could determine whether the cases in question were totally identical. The Community preferred the second formula suggested by the United States for prompt establishment of a panel to examine this case under expedited procedures and according to the objective outlined by the United States. The Community had not been completely satisfied with the recommendation of the leather panel, which allowed too much flexibility and was somewhat vague, and hoped that a new panel's recommendation would be much firmer.

The representative of Japan said that while it was still necessary to consider the subject more intensively, his Government was prepared to refer this matter to the CONTRACTING PARTIES under Article XXIII:2, provided the customary practice of GATT dispute settlement was assured.

The representative of Spain reserved the right to make a statement to a panel should it be established.

The Council took note of the statements, agreed to establish a panel pursuant to Article XXIII:2 and paragraph 20 of the 1979 Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance, and authorized the Chairman of the Council, in consultation with the parties concerned, to draw up appropriate terms of reference and to designate the Panel's members.

11. Customs unions and free-trade areas; regional agreements

(a) Association Agreement between the European Economic Community and Turkey
- Biennial report (L/5812)

The Chairman drew attention to document L/5812, containing information given by the parties to the Association Agreement between the European Economic Community and Turkey.

The Council took note of the report.

(b) Enlargement of the European Economic Community - Communication from the European Communities (L/5829)

The representative of the European Communities recalled the history of Spain's and Portugal's accession to the European Economic Community and said that upon ratification of the accession instruments by the 10 existing member States and by Spain, these two countries would become the eleventh and twelfth members of the Community on 1 January 1986. He then gave a brief resumé of the principal points of these instruments of accession in the commercial field, and said that Spain and Portugal would accept the Community's treaties and regulations in the trade field subject to agreed transitional measures and temporary derogations where immediate application of the Community's obligations would pose problems. The whole was covered by a temporary safeguard clause of a general and reciprocal nature. The Community would be adapting various commercial policy instruments with non-member States, and the necessary transitional adaptations would be negotiated, in particular with countries in the ACP and EFTA, and with the Community's Mediterranean partners. The Community would notify the instruments of accession in full as soon as possible, in accordance with normal GATT procedures.

The representative of Spain recalled the history of Spain's interest in joining the European Economic Community. An agreement in 1970 had provided for the formation of a customs union between Spain and the Community countries. Negotiations for full accession had begun in 1977, and the agreement had been formally signed in Madrid in June 1985 and would be ratified before the new year. Spain was convinced that the new agreement would generate new trade flows and closer trade relations, both for its traditional trade partners and for other countries.

The representative of Portugal said that the accession treaty signed in June had been ratified by the Portuguese Parliament in July. Accession to the Community was a major event in Portugal's history and would lead to further development of its trade with members of the Community as well as with other contracting parties. He recalled that Portugal had already been linked to the Community by free-trade agreements which had progressively eliminated obstacles to most of its trade with the Community. Portugal would notify its accession agreement to the CONTRACTING PARTIES as soon as possible in accordance with the normal procedures.

The representatives of Canada, United States and Australia looked forward to receiving documentation specifying the GATT implications of the Community's enlargement, and to reviewing these arrangements in accordance with normal procedures.

The representative of Canada hoped that the Community's enlargement would lead to broader and deeper trade relations with Canada.

The representative of the United States hoped that an early indication would be given as to the steps and timing envisioned by the Community regarding the review of these agreements and their implementation. His delegation would examine the agreements closely in GATT in order to see that US trade interests and rights were fully protected.

The Council took note of the statements, including wishes expressed concerning relevant documentation.

12. United States - Trade Measures Affecting Nicaragua
(C/W/475, L/5802 and Corr.1, L/5803, L/5847)

The Chairman recalled that at its meeting on 29 May 1985, the Council had discussed this matter, and that at its meeting on 5-6 June, the representative of Nicaragua had reserved the right to revert to this matter at the present meeting. The item had been placed on the agenda at Nicaragua's request. He said that the informal consultations which he had convened had not resulted in a consensus on how to deal with this issue.

The representative of Nicaragua recalled that at the Council meeting on 29 May his delegation had submitted a draft decision (C/W/475) urging the initiation of the GATT dispute settlement process. In view of the lack of progress in the informal consultations so far, Nicaragua had formally requested the United States to engage in Article XXII:1 consultations (L/5847). The United States had asserted that the trade measures could not be isolated from the global context in which they had been taken, and that bilateral consultations would be useless. In view of the seriousness and scope of the prejudice to Nicaragua's economy arising from the US measures, his Government now asked for establishment of a panel to review this case and to report to the CONTRACTING PARTIES. He said that particular account should be taken of the fact that Nicaragua was a small country with a very negative trade picture and heavy international debt.

The representative of the United States said that his delegation had made it clear at previous Council meetings and in informal consultations that the US measures had been taken for national security reasons. Accordingly, resolution of the trade measures in question depended on the broader security situation. It would be futile and disingenuous to pretend that these trade actions could be resolved through GATT procedures and that the debate could be isolated from the broader underlying context. This was why the United States had refused Nicaragua's request for additional consultations. While his delegation recognized that Article XXIII rights were not necessarily lost in all cases in which Article XXI was invoked, a panel had no power to address the validity of, or motivation for, invocation of Article XXI:b(3). There was no function for a panel to perform in this case, as the trade effects of the US action had already been acknowledged;

furthermore, the US embargo on exports to Nicaragua had removed any avenues for retaliation. In these circumstances, Nicaragua's request for a panel was clearly a further attempt, in which the United States would not participate, to politicize GATT. GATT had never established a panel in any of the previous cases involving Article XXI, and it should not do so in the present case.

The representative of Nicaragua reserved her delegation's right to reply to the arguments put forth by the United States. The right of any contracting party to ask for and to have a panel could not be challenged; paragraph 10 of the 1979 Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 29S/210) was clear on this point. Her delegation would be inflexible in defense of this right, the principle of which the United States had always enthusiastically and obstinately defended.

Many representatives expressed regret that the consultations held thus far had not resolved this issue.

The representatives of Colombia, Argentina, Poland, Uruguay, Peru, Brazil, Cuba, Spain, India, Hungary and Canada said that their delegations' positions on this matter had been clearly stated at previous Council meetings.

Nicaragua's request for the establishment of a panel was supported by the representatives of Colombia, Argentina, Poland, Uruguay, Peru, Brazil, Cuba, Chile, Spain, Romania, Jamaica, India, Hungary, Yugoslavia, Trinidad and Tobago, and Czechoslovakia, as well as Venezuela and Mexico, speaking as observers.

The representative of Colombia recalled that practice, tradition and case law was that, following unsuccessful consultations, a contracting party not be denied a request for a panel.

The representatives of Argentina and Chile supported the statement by Colombia.

The representative of Poland said that the reluctance of any contracting party to discuss an issue in which it was involved should not deprive any other contracting party from successfully pursuing its rights under GATT dispute settlement procedures.

The representative of Uruguay said that it would be appropriate to include in the terms of reference of the requested panel a reference to the spirit and letter of paragraph 7(iii) of the 1982 Ministerial Declaration (BISD 29S/11).

The representative of Brazil supported the suggestion made by the representative of Uruguay.

The representative of Peru said that no contracting party could be denied the right to ask for a panel, and that the measures referred to in paragraph 7(iii) of the Ministerial Declaration should be avoided.

The representative of Cuba said that the US position on this matter was in contrast to its support for a new round of trade negotiations. He said that the Ministerial decision was clear on the right of every contracting party to ask for a panel. Moreover, all the US measures applied in this case were in violation of the General Agreement.

The representative of Jamaica hoped that a consensus respecting GATT principles could be reached in the Council.

The representative of Japan said that this problem was very difficult as it was essentially political. The right of a contracting party to request a working party or a panel in order to consider trade matters should not be denied; however, from a practical point of view, Japan doubted whether this would be an efficient means of finding a solution in the present case. His delegation suggested inviting the parties concerned to undertake consultations urgently in order to reach an equitable solution.

The representative of the United States quoted from Article XXI(b) and asked what a panel could do in this situation. It was clear that it could neither examine the national security reasons for the US action, nor determine the appropriateness of invoking the security exception.

The representative of Nicaragua said that the panel should take into consideration all GATT provisions, including Article XXI; more particularly, as any action taken under Article XXI could be either genuine or based on false premises, it would be for the CONTRACTING PARTIES under Article XXIII:2 to investigate any such matter and to give a ruling on it.

The representative of the United States asked if Nicaragua was saying that a panel could interpret Article XXI.

The representative of Nicaragua read from an informal note prepared by the Secretariat in connection with an earlier case, which indicated that Article XXIII rights remained valid in cases involving Article XXI.

The representative of the United States said that the text read by the representative of Nicaragua was not an interpretation of the CONTRACTING PARTIES and had no standing. The point was that GATT was not empowered to examine the motivation behind an action taken for national security reasons. He reiterated that a panel could do nothing useful in this case. The United States would have nothing more to say in a panel or in consultations than it had said in the Council, and could not agree to this unprecedented attempt to politicize GATT.

The representative of Nicaragua said that her delegation would be flexible regarding the terms of reference for a panel. She noted that the United States was the only contracting party present which had opposed establishment of a panel.

The representative of the European Communities regretted that consultations had neither led to a solution to this problem nor prevented it being discussed in the Council. The Community had always considered that GATT was a forum to discuss trade matters. The facts in this case were clear, as were the provisions of Article XXI, which concerned state sovereignty and was an exception to the General Agreement. Each party had to judge on its own whether to invoke this Article. He asked what a panel could do in this case, since it could not interpret Article XXI and the United States had already recognized trade prejudice. The Community could not oppose a contracting party's request for a panel, provided the terms of reference clearly did not include interpretation of Article XXI.

The representative of Israel said that his country, as a signatory of the Ministerial Declaration and as a victim of trade measures taken for non-economic reasons, had to reserve its position on the establishment of a panel in this case in order to study in detail all the legal implications of such a decision.

The representative of the United States recalled that in a number of cases his delegation had asked for a panel which had been agreed only after four or five requests, and often only after terms of reference had been worked out. This was the first time that Nicaragua had officially requested a panel, and in view of the conflicting points of view on this issue, it would be inappropriate to establish a panel at the present meeting or at any time.

The representative of Nicaragua said that her delegation would limit itself to discussion of the purely trade aspects of this problem despite the clearly stated political element in the US action (L/5803, paragraph 3).

The Chairman proposed that the Council take note of the request for a panel by Nicaragua, supported by a number of representatives; that it authorize the Chairman to carry out consultations on possible terms of reference and the rôle of such a panel, in the light of the issues raised in the Council; and that it revert to this matter at its next meeting, taking account of the results of these consultations.

The representative of Nicaragua asked whether a delegation could prevent the implementation of provisions of the 1979 Understanding which had been accepted by all contracting parties at the highest level.

After the consideration of other items and following informal consultations, the Council reverted to this item.

The representative of Sweden recalled his delegation's hope that a solution could be found which would obviate recourse to GATT dispute settlement procedures. However, on the basis of Sweden's tradition of non-objection to requests for panels, and in the light of paragraph 10 of the 1979 Understanding, his delegation would not oppose establishment of a panel.

The representative of Canada said that this matter was fundamentally not a trade issue, and that it could be resolved only in a context broader than GATT. Canada was seriously concerned that GATT not be politicized, and fully agreed with the United States that only the individual contracting party itself could judge questions involving national security; a panel could not make that judgement. Nevertheless, measures taken under Article XXI could have trade effects which could be considered in GATT. Canada considered that every contracting party had a right to request and to receive a hearing on a panel on any GATT-related issue, even where a panel was unlikely to be able to make a useful finding. Canada agreed that a panel would serve no purpose in the present case, since nullification and impairment of benefits had already been admitted, and since Nicaragua had no means to retaliate under Article XXIII:2. Nonetheless, Canada would not block a full consensus in favour of establishment of a panel to review this matter.

The representative of Israel quoted from the consultation procedures adopted on 10 November 1958 (BISD 7S/24) and said that it was clearly out of order to ask for a panel at the present time. He insisted that consideration of this matter be postponed to the next Council meeting.

The representative of Czechoslovakia quoted from Article XXII:1 and said that the US refusal of consultations with Nicaragua contravened this paragraph. He asked what a contracting party could do within GATT when its request had been thus refused. He then quoted from paragraph 10 of the 1979 Understanding and from its Annex (BISD 26S/215) regarding customary practice in the field of dispute settlement; paragraph 1 of the Annex stated that the CONTRACTING PARTIES were obliged, pursuant to Article XXIII:2, to investigate any matter submitted to them and to make a recommendation or ruling as appropriate.

The representative of Israel said that the 1979 Understanding provided that CONTRACTING PARTIES would decide on establishment of a panel in accordance with standing practice. It was not standing practice to establish a panel six hours after a request had been made in the Council.

The representative of Nicaragua said that Israel could express its interests on the basis of paragraph 15 of the 1979 Understanding. The representative of Israel, by his statement, had notified that there was no time limit on a submission to the panel by Israel.

The Chairman asked for consideration of the proposal made by him which was: the Council would take note of the request for a panel by Nicaragua, supported by a number of representatives; the Council would authorize its Chairman to carry out consultations on possible terms of reference and the rôle of such a panel, in the light of the issues raised in the Council; and the Council would agree to revert to this matter at its next meeting, taking account of the results of these consultations.

The representative of the United States wanted to make clear that, in accepting the Chairman's proposal, the United States continued to object to establishing a panel, and that his delegation would continue to maintain (1) that a panel would be inappropriate in this case; (2) that a panel could not examine the validity of, or motivation for, invocation of Article XXI(b)(iii); and (3) that the judgement of what the United States considered necessary to protect its essential national security interests, within the meaning of that Article, could not be the subject of a dispute settlement procedure or a debate in any GATT forum.

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

The representative of Nicaragua said the Council's action had recognized that Nicaragua's right in this case could not be challenged. Establishment of a panel should not be seen as subsidiary to agreement on its terms of reference.

13. Dispute settlement procedures - Roster of panelists - Statement by the Director-General

The Director-General recalled that at their fortieth session in November 1984 the CONTRACTING PARTIES had decided (L/5752) - as part of procedural improvements in the panel mechanism - that "contracting parties should indicate to the Director-General the names of persons they think qualified to serve as panelists, who are not presently affiliated with national administrations but who have a high degree of knolwedge of international trade and experience of the GATT. These names should be used to develop a short roster of non-governmental panelists to be agreed upon by the CONTRACTING PARTIES in consultation with the Director-General. The roster should be as representative as possible of contracting parties."

He said that in February 1985, contracting parties had been reminded of this invitation (GATT/AIR/2103), but only a very limited number of contracting parties had responded; amongst those which had not submitted nominations were some important trading countries. He assumed that contracting parties still favoured a very short list of highly qualified persons, and said it would be difficult at the present meeting to present to the Council a list that would be balanced and representative. He therefore invited contracting parties which had not

yet submitted nominations, but which were able to propose qualified candidates, to transmit such names before 15 August. He would then consult delegations on the selection of a short list from the names available at that time. At the outcome of these consultations, he would expect to be able to present the list to the Council at its first meeting in the autumn.

The representative of Jamaica suggested that the date for submissions be extended beyond 15 August in order to allow more time for these to be made.

The Director-General said that the date would be changed to 30 August, provided this deadline was considered firm.

The Council took note of the statements.

14. De facto application of the General Agreement to newly-independent States
- Report by the Director-General (L/5823)

In November 1967 the CONTRACTING PARTIES had adopted a Recommendation (BISD 15S/64) reference inviting contracting parties to continue to apply the General Agreement de facto in respect of newly-independent territories on a reciprocal basis, and requesting the Director-General to make a report after three years. The report circulated in document L/5823 was the sixth made by the Director-General on the application of the Recommendation.

The Council took note of the report and agreed to invite the Director-General to remain in contact with the governments of the States concerned and to report again on the application of the Recommendation within three years.

15. Committee on Budget, Finance and Administration

(a) Final position of the 1984 GATT Budget (L/5793)

The Chairman drew attention to L/5793 containing the final position of the 1984 Budget. The Expenditure Budget for 1984 had closed with net excess expenditure of SwF 263,963, after use of the provision for unforeseen expenditure. This excess expenditure had been due to decisions taken by the United Nations General Assembly after approval of the GATT Budget for 1984, and to the effect of movements of the US dollar/Swiss franc exchange rate. The excess would have been much greater had the Director-General not made special efforts to achieve savings in order to reduce the effect of these unforeseeable factors. Formal authority was requested to increase by SwF 263,963, the original appropriations, the financing of which had been approved by the CONTRACTING PARTIES in November 1984. As a result of this excess expenditure, coupled with a shortfall on the 1984 income budget and a

nearly three million Swiss francs increase in contributions in arrears in 1984, the GATT accounts had closed at 31 December 1984 with an accumulated deficit on the surplus account of nearly three and a half million Swiss francs. This deficit could be only partially covered by transfer of the entire amount available on the Working Capital Fund, leaving an uncovered balance of SwF 512,722. The Director-General would make appropriate recommendations regarding the covering of this amount.

The representative of Jamaica said that the final position of the GATT Budget should first have been discussed in the Committee on Budget, Finance and Administration. He drew attention to the statement in paragraph 7 of L/5793 that extra costs had resulted from a greater number of meetings other than Council meetings, and said that meetings in connection with the MTN Agreements and Arrangements accounted for part of this increase. He also noted the increase in the cost of dispute settlement panels within those instruments. He said that the excess expenditure on certain sections of the budget had totalled nearly one million Swiss francs over approved appropriations, and the shortfall in anticipated income might require closer examination in future budgets. His delegation regretted that as a contracting party contributing to the budget, Jamaica had not been able to carefully examine L/5793; it would nevertheless agree to adopt the decisions required in paragraphs 9 and 10.

The Director-General responded to the points raised by Jamaica and pointed out that although document L/5793, following long-standing practice, had not been submitted to the Budget Committee, the latter had nevertheless examined the budgetary situation at its October meeting. With regard to the shortfall of the income budget, he said that the financial resources available to GATT during 1984 had been less than foreseen, which had had a negative effect on interest earned for short-term investments. Exchange losses had been due to the fact the accounting rates fixed by the Geneva-based organizations every month had remained below those of actual market rates.

The Council authorized the increase in the appropriations, approved the transfers between budgetary sections as reflected in paragraphs 9 and 10 of document L/5793, and took note of the statements.

(b) Designation of new Chairman

The Council agreed to appoint Mr. Hill (Jamaica) as the new Chairman of the Committee on Budget, Finance and Administration.

(c) Membership

The Chairman said that he had been consulting informally with delegations on this question. Some contracting parties had requested membership, and others had indicated that they might wish to be members of the Committee.

The Council took note of this information and agreed that the Chairman pursue this matter through further informal consultations.

16. Dates for the forty-first session of the CONTRACTING PARTIES (C/135)

The Chairman recalled that at their fortieth session, the CONTRACTING PARTIES had agreed that the forty-first session should be held at about the same time of year, and had authorized the Council to fix the opening date and the duration of the session in the course of 1985.

The representative of the United States said his delegation felt that it would be appropriate to revert to this item after discussions had concluded on agenda item two.

The Council agreed to revert to this item.

17. United States - Restrictions on imports of non-rubber footwear (L/5828)

The representative of Brazil, speaking under "Other Business", said that the US International Trade Commission (USITC) had made a determination of injury to the US non-rubber footwear industry in May 1985, only one year after the USITC had found no serious injury from such imports. The proposed US quantitative restrictions would have serious repercussions on Brazil's balance-of-payments. Furthermore, such action under Article XIX was unwarranted in that it would have little beneficial impact on the US footwear industry. He reiterated Brazil's position that safeguard measures should not be substituted for structural adjustment, and that the burden of adjustment to changes in comparative advantage should not be transferred to exporting countries. His Government hoped that the US President would reject the USITC recommendation and would abstain from imposing any other trade restriction on US imports of non-rubber footwear.

A number of representatives expressed concern over the proposed US action and stressed its incompatibility with efforts to launch a new round of negotiations to liberalize trade.

The representatives of Korea, Spain, Portugal, Uruguay, Philippines and Romania said that their respective exports of non-rubber footwear to the United States were too small to cause injury to the US industry. They appealed to the United States to re-consider this issue and to refrain from taking the measures proposed.

The representatives of Spain and Uruguay agreed that Article XIX action should not be substituted for structural adjustment.

The representative of Korea said that the proposed US measures indicated a new upsurge in the temptation to resort to protectionism. Before Article XIX was invoked, it was necessary to determine whether the US industry was actually being injured by imports.

The representative of Spain reserved his delegation's right to ask for consultations under Article XIX, and asked how the proposed measures would be structured and implemented.

The representative of the United Kingdom, on behalf of Hong Kong, shared the concerns expressed by previous speakers on this item, and reserved his delegation's rights under the General Agreement, including those under Article XIX.

The representative of the European Communities noted that his delegation's bilateral concerns had already been made clear to the United States in recent consultations on this question. Speaking therefore in the multilateral interest, he noted that while the US transparency in the present case and others was commendable, transparency sometimes led to a degree of harassment. The Community challenged the justification for possible safeguard action on footwear and reserved its rights to withdraw concessions should such action be taken. He noted that the ITC's own staff had calculated the cost of the measures to the US consumer at some 1.3 billion US dollars, or 27 per cent of total import value. In addition, the curious concept of auctioning of licences risked seriously destabilizing trade and was of doubtful conformity with the GATT. The Community was one of the few remaining open markets for non-rubber footwear, and the chain reaction which the US measures would trigger would force the Community to take action, against its will, to counter the inevitable and unjustified surge in imports. Finally, the United States was ill-placed to support a new round of negotiations to liberalize trade while simultaneously closing its market; this could not but undermine the credibility of its initiative regarding the new round. The ITC's proposal was ill-advised and the US Administration would be wise, in the interests of all, to resist it. It was unreasonable that the US consumer should be deprived of high-quality imports while paying increased costs.

The representative of the United States said that what had been notified to GATT in L/5828 was solely a USITC recommendation to the President, who had authority to take whatever decision he thought appropriate. Regarding comments that safeguard action should not substitute for structural adjustment, he said that any adjustment which resulted in increased unemployment was not a viable solution. This was one of the reasons for the US interest in examining the question of services, where four out of five new jobs in the last decade had been created. He said that the United States did not accept the argument that transparency was a form of harassment and asked if taking measures without prior notification would be preferable. The implications of another closed market were recognized by his authorities, and were among the reasons efforts had to be made to improve the world trading system and to further liberalize commerce.

The representative of the European Communities pointed out that the ITC recommendation on this matter would precipitate a surge of imports into the United States while at the same time creating uncertainty for future orders. The Community would consider as protectionist any safeguard action which set imports below the 1984 level.

The Council took note of the statements.

18. Further opening of the Japanese market (L/5843)

The representative of Japan, speaking under "Other Business", gave details of his Government's Action Program to enlarge access to the Japanese market; the outline of the tariff component in this program was contained in L/5843, and included goals for tariff reductions on industrial and agricultural products in a new round, as well as concrete measures to be taken by Japan before the start of such negotiations. The latter included: (1) elimination or reduction of tariff rates on 80 per cent of all dutiable products; (2) negotiations to eliminate tariff rates on high-technology products; and (3) unilateral elimination of tariff rates on products with tariff concessions at or below two per cent. He said that these measures confirmed Japan's determination to further liberalize trade.

The Council took note of the statement.

19. European Economic Community - Proposed tax on video tape recorders

The representative of Korea, speaking under "Other Business", expressed his Government's concern over the recent proposal by the European Economic Community to raise its tariff duties on high-technology items such as video tape recorders (VTRs) from eight per cent to 14 per cent. If adopted, the proposed increase would be a serious blow to Korea's VTR industry, which was still in infancy. Such action would be unfortunate in the context of efforts for a new round of trade negotiations. Korea urged the Community to reconsider the proposed action.

The representative of the European Communities said that as these were only proposed measures, it was too early to discuss them in GATT. Any decision to take such measures would not be unilateral, since the Community would follow the procedures under Article XXVIII.

The Council took note of the statements.