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GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL
6 November 1979

MINUTES OF MEETING

Held in the Centre William Rappard on 6 November 1979

Chairman: Mr. E. FARNON (New Zealand)

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1. Accession of Colombia (L/4800)

The Chairman said that since a minor problem remained to be resolved with respect to the time-limit for the signature indicated in the draft Protocol of Accession, the Colombian delegation had asked for a deferral of this item to the next meeting of the Council.

The Council agreed to defer this item to its next meeting.

2. Accession of Mexico (L/4849)

The Chairman said that the Council had considered in January 1979 the application of the Government of Mexico to accede to the GATT in accordance with the provisions of Article XXXIII and that it had established a working party to examine this application.

Dr. Tomić (Yugoslavia), Chairman of the Working Party, said that the Working Party had carried out an examination of the Mexican foreign trade régime and had taken up matters relating to Mexico's industrial development plan, tariffs and additional duties, the customs valuation system, licensing and import restrictions and regulations, consular matters, State trading, export restrictions and others. Having carried out this examination and in the light of explanations and statements by the Mexican representative, the Working Party had reached the conclusion that, subject to the satisfactory conclusion of the relevant tariff negotiations, Mexico should be invited to accede to the General Agreement under the provisions of Article XXXIII. The Working Party had drawn up a draft Decision as well as a draft Protocol of Accession which referred inter alia, to Mexico's programme of gradual substitution of tariff protection for prior permits, its system of valuation and the National Plan for Industrial Development. He said that the concessions resulting from the tariff negotiations between Mexico and contracting parties would become an annex to the Protocol of Accession. He concluded that the Report and the Protocol of Accession were an important expression of the political will of both Mexico and her trading partners to find co-operative solutions on the basis of which Mexico could become a contracting party to the GATT. These negotiations had shown that GATT provided a framework in which developing countries could join with other countries, in accordance with their development and financial needs, in order to expand international trade to their mutual benefit.

The representative of Mexico expressed his delegation's appreciation for the work performed by the Working Party. He said that, thanks to the positive attitude of the delegations, his delegation had been able to conclude satisfactorily the tariff negotiations with most trading partners. He hoped to supply shortly the final Mexican tariff schedule.

A large number of representatives welcomed the accession of Mexico. They praised the work of the Working Party which, in drawing up the Protocol of Accession, had been able to take into account the special development needs of Mexico. They felt that this was proof of the realistic and practical approach within GATT to the problems of developing countries.

The representative of Australia, in welcoming Mexico's accession, said that his delegation recognized Mexico's special economic and social circumstances which would make it difficult for it to comply immediately with the full GATT obligations. His delegation had therefore given sympathetic consideration to Mexico's request for special provisions in its Protocol of Accession. He noted, however, that Mexico would not necessarily be required to fully implement the General Agreement in respect of its agricultural sector. As the balance of rights and obligations under the GATT depended very much on the rights and obligations assumed by other trading partners, Australia, as a major agricultural producer, had to reserve its GATT rights in respect of Mexico. He expressed the hope that Mexico would be able to bring its policies and practices in the field of agriculture fully in line with the GATT provisions.

The Council approved the text of the draft Protocol of Accession, with the understanding that the Schedule LXXVII - Mexico would be circulated as soon as possible as an addendum to the Working Party's report and would be annexed to the Protocol of Accession.

The Council also approved the text of the draft decision and agreed that the Decision would be submitted to a vote by postal ballot when the Mexican Schedule had been circulated.

The Council adopted the report of the Working Party.

The representative of Mexico expressed appreciation for the support given by contracting parties. His Government had decided to conduct from now on systematic consultations with all interested sectors of his country in order to obtain their views on and support for the terms of the Protocol of Accession and the tariff concessions which Mexico had been negotiating.

3. EEC - Refunds on exports of sugar (L/4833)

The Chairman recalled that at its meetings in October and November 1978 the Council had considered the matter relating to Community sugar export practices referred to the CONTRACTING PARTIES under the provisions of Article XXIII:2 by the Government of Australia. The Council had established a Panel to examine and report on the matter, and the Panel had now submitted its report which had been circulated in document L/4833.

Mr. Kaarlehto (Finland), Chairman of the Panel, stated that the report consisted of five chapters and a statistical annex. The findings of the Panel were found in Chapter IV, and the conclusions arrived at in the light of the findings were given in Chapter V. The Panel had reached its conclusions unanimously and there was no dissent. The case before the Panel had been the first one of this type in twenty years and of a considerable magnitude and importance.

The representative of Australia complimented the Panel for the care and attention devoted to this complicated subject. He believed that the Panel's findings completely vindicated Australia's complaint concerning subsidy practices on sugar by the European Communities. He attached great importance to the report and considered it to be a test case, in the sense that it would determine whether international action in the critical field of export subsidies on agricultural products was still possible within the framework of the GATT. The GATT had not until now been able to achieve any effective control over subsidies applied to agricultural exports. If the findings of this Panel could lead to practical results, an important step forward would have been taken and the GATT would become a more effective organization in dealing with disputes between contracting parties on matters relating to agriculture.

He mentioned a number of important points which had emerged from the Panel's findings. First, the Community system of export refunds on sugar was declared to constitute a subsidy in terms of Article XVI, and even more important the Panel made clear that it was not merely the level of the subsidy which was in contravention of Article XVI but the Community system of sugar export restitutions itself. The Panel affirmed the Australian contention that there had been a significant increase in Community sugar exports over recent years and that this increase had taken place with the assistance of subsidies contravening Article XVI:1.

The representative of Australia also pointed out that the Panel had concluded that the increase in Community sugar exports in 1978 was of such a magnitude as to require a thorough examination and had acknowledged the destabilizing influence this had on world trade generally in the product concerned. The Panel had also concluded that the system and its application had operated to depress world sugar prices and in the process caused serious prejudice to Australia's interests. Furthermore, the Panel had found that the Community subsidy system as presently operating constituted a permanent source of uncertainty in the world sugar markets and a threat of prejudice in terms of Article XVI:1. Because of these series of findings, the representative of Australia believed that the Panel's report was relevant, not merely to the particular case of Australia, but to the interests of all other sugar exporting countries. In his opinion the Panel had made it clear that as long as the Community sugar export subsidy system continued to operate in its present form it must inevitably result in the Community having more than an equitable share of world trade and it thereby placed the Community clearly in breach of Article XVI:3.

However, Australia did not believe the report to be perfect in every respect. The Panel had examined what had happened to exports of both the Community and Australia in the context of its interpretation of the notion "world trade", but appeared to have passed over the very important indirect effects in its deliberations. All of this was important in the context of Article XVI:3 of the GATT. It seemed that the Panel had preferred to deal with the question of direct displacement rather than what Australia would regard as the more relevant issue of whether or not the Community had gained an inequitable share of world trade. He emphasized however, that even the qualified findings of the Panel of this aspect must be regarded as adverse to the Community. The Panel had by no means cleared the Community of the charge of obtaining more than an equitable share of the world trade in sugar. And even in the narrower context of its investigations, the Panel had concluded that there had been some direct displacement of Australia's exports by the Community, and that the system created prejudice and the threat of it for Australia and other exporters.

The representative of Australia then concluded that the Panel had found that Australia's interests in the trade in this product, had been harmed and/or threatened with harm by Community actions and that this harm would continue unless and until the Community system was changed. He believed that this was the issue for the CONTRACTING PARTIES to consider. He repeated that the Panel had found (i) the system of export refunds of the EEC to be a subsidy; (ii) the EEC to have significantly increased its exports of heavily subsidized sugar; (iii) the Community system of sugar exports had depressed prices, had a destabilizing influence on world markets and had thereby caused serious prejudice to all sugar exporters, including Australia; (iv) the EEC sugar export system contained no element to prevent it obtaining more than its share of world markets.

The representative of Australia stated that the Community had been found to be in breach of Article XVI:1 in that its system of sugar subsidies caused or threatened serious prejudice. He believed therefore, that the CONTRACTING PARTIES were entitled to ask the Community what action it intended to take and in what time framework it intended to act to bring its system into compatibility with Article XVI:1. He stated that Australia was in a position to go further with evidence on the subject related to compatibility with Article XVI:3 of Community action where the Panel had not been able on the evidence presented so far to reach a conclusion, but it would be more appropriate in his view to pursue fully the question of corrective action by the Community as a first step. With respect to nullification and impairment under Article XXIII for Australia and other affected parties, this too appeared to be an approach of final resort rather than a desirable outcome. Finally, the representative of Australia felt it was appropriate to commence immediately consultations between the CONTRACTING PARTIES and the European Communities on the causes and effects of the Community system.

The representative of Brazil recalled that Brazil had filed a similar complaint one year ago. He believed that the conclusions of the Panel were highly encouraging to his delegation and, to a large number of developing sugar exporting countries that had been seriously affected by the depressed state of the sugar markets in recent years. He found particularly gratifying the recognition of the damaging effects of the Community subsidy policies on the world sugar market. He believed that the Panel's conclusions confirmed the views often expressed in several international fora and by authoritative sources of information on world trade in sugar. The Panel had been careful not to rule out the possibility that the Community had indeed gained, through its subsidy policy, more than an equitable share in the world export trade in sugar. He believed that, in due time and in the light of additional and more recent statistical evidence, it would be more clearly ascertained that the Community system of export refunds for sugar constituted a clear violation of Article XVI:3.

The representative of Canada stressed the importance the report of the Panel would have for dealing with the problem of export subsidies for a number of agricultural products.

The representatives of Argentina and Chile supported the conclusions of the Panel and also supported the request by Australia for corrective action to be taken by the European Communities.

The representative of India also supported the Australian request for corrective action. He noted in particular the Panel's findings regarding the effects on world market prices and suggested that objectives stated in Article XXXVI:4 of the General Agreement had been negated. It might, therefore, be appropriate that the contracting parties consider jointly and in accordance with the provisions of Article XXXVIII:1 how the adverse effects for the trade of developing countries could be rectified.

The representative of the European Communities congratulated the Panel for its work. He could accept the conclusions as a whole but was reluctant to accept or interpret specific parts of the conclusions. In his view it would be wise not to go into detail at this stage. He realized the difficulties which the Panel had had to cope with and appreciated that the conclusions of the Panel were delicately balanced. He stated that the Community system as such had not been condemned and that it was rather its effects that caused some problems. It was therefore important not to confound the system itself and its application. He believed it might have been desirable to distinguish more clearly between what was structural and what was conjunctural. He could understand the difficulties Australia was having but he did not share the Australian representative's view on the Panel's considerations of specific parts of the report, such as the considerations of direct and indirect effects on Australian exports. He noted that the Panel had admitted that it was not in a position to conclude that the Community had obtained more than an equitable share of world export trade in sugar. He could not share the view that the European Communities

were responsible for the depressed prices in the world sugar market, nor that the Community system of export refunds on sugar constituted a threat of prejudice. Furthermore, he could not accept that serious prejudice had been caused to Australia, as no detailed submission had been made as to exactly what benefits accruing to Australia under the GATT had been nullified or impaired. He stressed that although the European Communities accepted the Panel's conclusions as a whole, they did not necessarily share all the specific conclusions. He wanted to assure the Council that all possible measures that could be taken by the European Communities would be implemented, and he stated that certain measures were presently under consideration.

The Council adopted the report and agreed that, in the light of the report and taking into account the comments made at the meeting, the matter should be discussed again at an early meeting.

4. Agreement between Finland and Czechoslovakia (L/4837)

Mr. Barthel-Rosa (Brazil), Chairman of the Working Party on the Agreement between Finland and Czechoslovakia recalled that when the Council had adopted the First Report of the Working Party in June 1976, the delegations of Finland and Czechoslovakia indicated that they were prepared to pursue the examination of the Agreement at an appropriate time. At its second meeting held in September 1979 the Working Party considered additional documentation furnished by the parties and addressed itself to general considerations as well as to a number of specific points concerning the operation of the Agreement. There was also some discussion concerning the continuation of the examination of the Agreement in the Working Party. He noted that the Working Party had been unable to reach any unanimous conclusions as to the compatibility of the Agreement with the General Agreement and as to its future work. He said that several members could not, on the basis of available information, express a view on the question whether the Agreement was in conformity with the provisions of Article XXIV. They therefore requested that the Working Party should continue the examination within eighteen months on the basis of additional information then available.

The parties to the Agreement, supported by two other members of the Working Party, were of the opinion that the Agreement was in full conformity with the provisions of Article XXIV. They considered furthermore that sufficient information had been given to enable the Working Party to assess the compatibility of the Agreement with Article XXIV and to report its views to the Council. They stated that any further action in respect of the Agreement should be identical with action in regard to other free-trade areas already examined in other working parties and in accordance with the Decision by the CONTRACTING PARTIES relating to free-trade area agreements concluded under Article XXIV. He stated that several members of the Working Party felt that agreements between market-economy countries and centrally-planned economy State-trading countries raised serious and novel questions

which required thorough exploration and which had not existed at the time that Decision was taken. The representative of Czechoslovakia for his part had stated that the Agreement had been concluded between contracting parties having full rights under Article XXIV. The Working Party considered in the light of this situation that it should limit itself to reporting to the Council the opinions expressed.

The Council took note that the Working Party had not been able to reach any unanimous conclusion as to the compatibility of the Agreement with the provisions of the General Agreement and as to the continuation of the work of the Working Party. The Council adopted the report.

5. Agreement between Finland and the German Democratic Republic

Mr. Barthel-Rosa (Brazil), Chairman of the Working Party on the Agreement between Finland and the German Democratic Republic, recalled that the Council adopted an Interim Report of the Working Party on 2 March 1977. At its meeting in September 1979 the Working Party agreed that its Chairman would make an oral report to the Council. The Working Party had continued the examination of the Agreement on the basis of recent trade statistics furnished by Finland and other relevant documentation. The representative of Finland had stated that the Agreement was functioning in a satisfactory manner, contributing to a balanced growth of mutual trade and without distortive effects on the trade of third parties. Some members of the Working Party had expressed continuing doubts as to whether an agreement between a market-economy country and a centrally-planned economy State-trading country could be compatible with Article XXIV. Several delegations therefore were not yet in a position to determine whether the Agreement was compatible with Article XXIV. Other delegations were of the opinion that the Agreement was in full conformity with the General Agreement. He concluded that the Working Party had agreed to meet again in about eighteen months for a further examination of the developments under the Agreement.

One member of the Council suggested that it was desirable in all such cases for the Working Parties concerned to submit written reports.

The Council took note of the report by the Chairman of the Working Party and noted that the Working Party had agreed to meet again in approximately eighteen months.

6. Japan - Measures on imports of leather

(a) Report by Panel (L/4789, C/M/133, 134)

The Chairman recalled that when the Council at its meeting on 27 March 1979 considered the report of the Panel it was agreed to defer the matter to its next meeting. At the request of the two parties concerned the Council agreed on 25 July again to defer the matter to its next meeting.

The representative of the United States said that the technical discussions between Japan and the United States had been concluded in a satisfactory way and that his delegation was now in a position to adopt the report.

The representative of Japan also agreed to the adoption of the report.

The representative of the European Communities recalled the Community's interest in the whole sector in question, including finished leather products, in particular, shoes for which importations into Japan were subject to particularly severe quantitative restrictions. The Community was actively engaged in bilateral discussions with Japan, which at this stage had not yet led to an approach which might result in satisfactory solutions. The Community thus reserved its rights under the General Agreement in respect of this question.

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

(b) Recourse to Article XXIII by Canada (L/4856)

The Chairman drew attention to document L/4856 in which the Canadian authorities sought recourse to the provisions of Article XXIII:2 against Japanese restrictions on imports of leather.

As intensive bilateral discussions were presently being held between the two parties the Council agreed to defer the matter to its next meeting.

7. Safeguards (C/106)

The Chairman recalled that at the meeting of the Council on 25 July 1979 the Director-General had reported that it had not yet been possible to reach agreement on a Safeguards Code in the context of the MTN. The Director-General therefore had submitted a proposal (C/106), on which the Council had had an initial discussion. The Council had agreed to revert to the matter at its next meeting.

The representative of India stressed the crucial importance of arriving at a Code on Safeguards which would lead to greater discipline, objectivity, transparency and surveillance. The absence of a Safeguards Code from the final MTN package would seriously affect the overall balance and would leave one of the specific objectives of the Tokyo Declaration unfulfilled. He considered it important to continue negotiations within a fixed time frame. His delegation supported the Director-General's proposal which contained three essential elements: the establishment of a committee to pursue the negotiations; an understanding to abide by disciplines according to agreed interpretations by the CONTRACTING PARTIES; and the surveillance of safeguard measures. These three elements would provide the security which developing countries needed.

The representative of Brazil, expressed strong support for the Director-General's proposal. Although the safeguard issue was an essential part of the MTN package, it was also a matter on which negotiations could be continued

even after the MTNs were formally concluded. His delegation considered that the Director-General's proposal might possibly be simplified if it presented difficulties for others. For his Government the essential point was to continue discussions on safeguards and he expressed his readiness to co-operate with others in working out a solution towards the establishment of a committee which would also be open to non-contracting parties having participated in the MTNs.

The representative of Argentina also considered that the achievement of a safeguard agreement would constitute one of the main pillars of the MTN, without which the overall results would be incomplete and unbalanced. He fully supported the Director-General's proposal and considered the setting up of a committee to be an appropriate way of achieving a code on safeguards.

The representative of the European Communities welcomed the motivation of the initiative of the Director-General. It was essential that there should be no vacuum in this field after the Tokyo Round and that therefore a solution acceptable to everybody should be found. He agreed on the need for a safeguards code providing for transparency and discipline. His authorities were in agreement with the establishment of a mechanism to pursue the negotiations.

The representative of Japan stressed that negotiations on safeguards should be pursued as a matter of urgency. He welcomed the Director-General's proposal in calling for the establishment of a body for this purpose. He doubted, however, the wisdom of including in the terms of reference the examination of individual safeguard measures. This did not seem appropriate for a body which at the same time had to work out the rules, and might have the effect of giving premature recognition to certain types of actions, thereby prejudging in some important respects the outcome of the negotiations. His delegation's doubts on this point were particularly strong with regard to examination of measures taken outside Article XIX. Consequently, his delegation would have difficulties in agreeing to paragraph 3(b) of the proposal. It was his understanding that informal discussions were continuing and he expressed the hope that agreement could be reached soon.

The representative of Canada considered that the Director-General's proposal contained the elements on which a compromise solution could be developed. He urged that informal discussions be resumed as soon as possible in order to reach an agreement which could be adopted by the CONTRACTING PARTIES.

The representative of the United States reiterated his delegation's support for continuing negotiations on safeguards. The Director-General's proposal pointed in the right direction; however, informal discussions had indicated that some elements might be of concern to some delegations. His delegation was prepared to seek ways to make modifications in the proposal so as to meet such concerns. Every effort should be made before the session of the CONTRACTING PARTIES to establish a mechanism for pursuing negotiations.

The representative of Finland, speaking on behalf of the Nordic countries, welcomed the proposal of the Director-General as a helpful basis for further discussions. The Nordic countries considered that it was important to formulate the terms of reference in a neutral and balanced manner so as not to prejudice the position of delegations with regard to substance. He recalled that the Nordic countries had been in favour of an improved discipline when safeguard measures were taken. He therefore saw merits in giving a committee some kind of limited surveillance functions, which the Nordic countries did not consider as being prejudicial to its negotiating functions. He looked forward to continued informal discussions before the next meeting of the Council and believed that by then a mandate would be agreed upon.

The representative of the United Kingdom, speaking on behalf of Hong Kong, also welcomed the Director-General's proposal. He did not consider however, that the establishment of a negotiating Committee was the most important element thereof, as all three elements were equally important.

The representative of New Zealand welcomed the Director-General's proposal as useful. He stressed the urgency of the matter and suggested that the CONTRACTING PARTIES should fix a deadline. He considered that a slowing of the process of negotiations might be the result if the committee would also have to investigate particular measures.

The representative of Australia expressed reservations on certain aspects of the proposal, such as paragraph 3(b). In this connexion, he saw a need for clarification of some questions of principle, which related to what constituted a safeguard measure, and whether improved disciplines would apply to agricultural products. He also believed that if voluntary export restraints, orderly marketing arrangements and variable levies fell outside the scope of the suggested mandate under 3(b), it would only mean that more onerous obligations would be put on those countries who followed Article XIX.

The representative of Malaysia considered that the creation of a negotiating committee in itself was not enough and that there was need for establishing a time-frame.

The representative of Mexico supported the pursuance of negotiations on a safeguards code in a committee open to all MTN participants.

The representative of India reiterated the importance of pursuing the negotiations and reaffirming agreed disciplines. As regards the third element of surveillance, a solution might possibly be found in another context.

The Council agreed that further efforts should be made to find a satisfactory solution to this issue and decided that it would revert to it at its next meeting.

8. United States - Imports of automotive products (L/4847)

The Chairman stated that under the Decision of 20 December 1965, concerning the elimination of customs duties by the United States on imports of automotive products from Canada, the United States Government reported annually on the operation of the Decision.

The annual report covering the year 1977 had been submitted to the Council in document L/4847.

The Council took note of the report.

9. European Communities - Accession of Greece (L/4845)

The Chairman recalled that at the meeting of the Council on 25 July 1979 the representative of the European Communities and the representative of Greece introduced the agreement regarding the accession of Greece to the European Communities. Since then a copy of the texts of the documents has been distributed to contracting parties with document L/4845.

The Council agreed to establish a working party with the following terms of reference and membership:

Terms of reference:

> To examine, in the light of the relevant provisions of the General Agreement, the provisions of the documents concerning the accession of the Hellenic Republic to the European Communities (L/4845), and to report to the Council.

Membership:

Membership would be open to all contracting parties indicating their wish to serve on the working party.

Chairman:

The Chairman of the Council was authorized to nominate the chairman of the working party in consultation with delegations principally concerned.

The Council agreed furthermore that contracting parties wishing to submit questions in writing to the parties to the agreements should be invited to send such questions to the secretariat no later than 20 December 1979 and that the parties to the agreements should supply answers to these questions within six weeks after receipt of the written questions.

10. Papua New Guinea - Australia Agreement (L/4848)

The Chairman drew attention to document L/4848 containing a report by Australia on the operation of the Papua New Guinea-Australia Trade and Commercial Relations Agreement.

The Council took note of the report.

11. EEC - Restrictions on imports of apples from Chile (L/4816)

The Chairman recalled that when this matter was last discussed at the meeting of the Council in July, the Council invited the parties to continue their bilateral efforts to find a solution. The Council agreed however, on the principle of establishing a panel but deferred a decision on its terms of reference and membership to its next meeting.

The representative of Chile stated that intensive bilateral consultations in this matter had been pursued by the two parties, but these had not led to a mutually satisfactory solution. He therefore requested final action by the Council for the establishment of a panel. He mentioned further that the measures in question had expired by the middle of August, i.e. at the end of the marketing season of southern-hemisphere countries. His delegation, however, sought a ruling by the CONTRACTING PARTIES not only with regard to the prejudice suffered by Chilean exporters, but also in order to make their legal position clear for the future. A determination of Chile's GATT rights was necessary in order to enable his authorities to continue their efforts of diversifying Chilean exports.

The representative of the European Communities confirmed that in spite of intensive consultations it had not been possible to find a mutually satisfactory solution. The Community could accept the establishment of a panel. He pointed out that the measures in question had already expired.

The Council agreed to set up a panel with the following terms of reference:

> "To examine in the light of the relevant GATT provisions, the matter referred to the CONTRACTING PARTIES by Chile, relating to restrictions which were applied by the EEC on imports of apples from Chile (L/4816), and to make such findings as will assist the CONTRACTING PARTIES in making recommendations or rulings, as provided for in Article XXIII:2."

The Council also authorized the Chair to nominate the chairman and the members of the Panel in consultation with the two parties concerned.

12. De facto application of the General Agreement to newly-independent States (L/4846 and Add.1)

The Chairman recalled that in November 1967 the CONTRACTING PARTIES had adopted a recommendation inviting contracting parties to continue to apply the General Agreement de facto in respect of newly-independent territories on a reciprocal basis. This Recommendation requested the Director-General to make a report after three years. The report distributed in document L/4846 and Add.1 was the fourth report made by the Director-General on the application of the Recommendation.

The Council took note of the report and invited 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.

13. Consultation on trade with Romania

The Chairman said that the Protocol for the Accession of Romania provided for consultations to be held biennially between Romania and the CONTRACTING PARTIES in a working party to be established for this purpose in order to review the development of reciprocal trade and the measures taken under the terms of the Protocol.

The Council agreed to establish a working party with the following terms of reference and membership:

Terms of reference:

To conduct, on behalf of the CONTRACTING PARTIES, the third consultation with the Government of Romania provided for in the Protocol of Accession, and to report to the Council.

Membership:

Membership would be open to all contracting parties interested and wishing to serve on the working party.

Chairman:

Mr. Raimondi (Argentina).

14. Relationship between agreements evolved in the MTN and the GATT

The representative of Colombia said that this item was placed on the agenda of the Council at the request of developing countries on whose behalf he was speaking. He pointed out that as a result of the MTN a number of agreements had been drawn up, which would become part of the General Agreement. As the developing countries contracting parties interpreted these agreements

they were concerned that the agreements by their content and form and by the way they might be applied in future, could affect their existing rights under the GATT. He recalled that the developing countries had not participated as fully in the negotiations as they would have desired. As a result, they were not sufficiently in a position to determine how the new codes affected their GATT rights. It was therefore when the implementation of the codes took place that developing countries would have to defend their interests. In this context, he stressed the importance of the various Committees of Signatories, which would implement and supervise the operation of the codes, being open to developing countries at least as observers, even if it might be a long time before many of these countries could accept the codes. In this way developing contracting parties could contribute to the implementation of the codes while having the possibility of safeguarding their GATT rights. Developing countries therefore considered it necessary that the CONTRACTING PARTIES at their next session should recognize that the rights of developing contracting parties could not be affected by the codes and establish general rules for the participation of developing countries as observers in the Committees of Signatories. They furthermore felt it essential that an information machinery be set up to make it possible for the developing countries to be informed about all the decisions adopted in the various Committees of Signatories.

The representative of India said that the Tokyo Round Negotiations had been unprecedented in scope, coverage and extent of participation. The new agreements extended in some cases to areas not dealt with by the GATT, while in others they led to new interpretations, elaborations, and even modifications of existing GATT provisions. Thus,the effects of the new agreements on the international trading system would be far reaching. As the participation of developing countries in the Negotiations had been varied, and sometimes only marginal, some of their important concerns were not reflected in the results. It was of major concern to the developing countries contracting parties that their rights and obligations under the GATT were not affected if they did not subscribe to the codes. Secondly, considering the large area of international trade law and policy which was covered by the codes and which would be administered through Committees of Signatories it was essential that the unity of the system was maintained and GATT law was not managed by a few in isolated compartments. He pointed out that there were cases in which the codes extended obligations beyond what was provided for in the GATT, while in other instances the codes sought to interpret the law of GATT in a certain manner. Furthermore, there were cases where the powers of the GATT Council and of the CONTRACTING PARTIES were sought to be utilized by the Committees of Signatories. He wanted to avoid a situation in which the Committees of Signatories would take a certain view of GATT law as incorporated in the codes, and the CONTRACTING PARTIES would take another view. He asked whether the powers of the Committees of Signatories in effect did not imply a delegation to them of the powers of

the Council or the CONTRACTING PARTIES as a whole. He considered that periodic reports on the functioning of the Committees was not sufficient to safeguard the interests of the contracting parties or to apprise them of the developments of the case law which might affect them. It was therefore necessary that the non-signatories with a particular interest in an area covered by a code should have the right to attend, at least as observers, the deliberations of the Committee. Furthermore, the CONTRACTING PARTIES should have the right to ask for reports on any aspect of the work of the Committees, review their operations, issue directions and make recommendations. The Committees should therefore, function under the overall supervision of the CONTRACTING PARTIES. This, he believed, would ensure consistency of the operation of these Agreements and understandings with the law of the GATT in the various fields of international trade policy.

He said that there were some provisions in some of the codes which raised important questions of law and policy. The definitions and interpretations adopted in some of the codes would have a bearing on the provisions of the GATT. In such cases it might be necessary to have such provisions closely examined before the CONTRACTING PARTIES accepted them as part of the GATT system. He finally stressed that India attached the highest importance to the unconditional MFN provisions of Article I of the GATT. His delegation was concerned that in these agreements and rules being formulated some of the advantages were proposed to be extended only to the signatories of the agreements. This was a question which needed attention.

The representative of Chile supported the views expressed by the representatives of Colombia and India. He stated that Chile had signed "ad referendum" the Codes on Licensing, Subsidies and Countervailing Duties, and Technical Barriers to Trade. While Chile would therefore be able to participate in the preparatory work and in the Committees of Signatories, he also appealed that such participation be opened to all countries which had participated in the MTN. It might even be desirable to provide this opportunity to countries which had not participated in the MTN, but were interested in any of the codes.

The representative of Pakistan also supported the statements by the representatives of Colombia and India. His delegation realized that in spite of the inadequacies of the results of the MTN it was necessary to start the operation and implementation of the various agreements. He also recognized the difficulty at the present stage of determining whether some of the specific provisions of the agreements deviated from the GATT. He was therefore prepared to set aside any legal questions for the moment and adopt a pragmatic approach on the presumption that the GATT rights of all contracting parties would be fully protected. If in the course of the operation of any of the codes in the future any problem would arise in regard to the erosion of these GATT rights, one could always revert to the legal question and discuss how to deal with these problems. There should,

therefore, be an expressed assurance that nothing in the codes and agreements would curtail the GATT rights of contracting parties. He also considered that all contracting parties, including those who could not sign any of the codes at this stage, should have the possibility to follow developments under the codes as observers. He also considered that the codes and agreements should be operated in the overall framework of the GATT and that the Committees should regularly report to the CONTRACTING PARTIES on their functioning. Furthermore, the CONTRACTING PARTIES should have the right to examine the workings of the various agreements and to take the appropriate decisions in regard to any problems that could arise. He finally drew attention to the outstanding question of safeguards which would have to be dealt with adequately. Furthermore, when dealing with the results of the MTN the CONTRACTING PARTIES should also agree that the problem of quantitative restrictions and non-tariff barriers against exports of developing countries should be a focal point in the work programme of the GATT.

The representative of Malaysia supported the statements by the representatives of Colombia and India. He said that an evaluation of the codes was still to be carried out. He expressed particular concern at the fact that in the implementing legislation of some countries there were already provisions of conditional most-favoured-nation treatment. It was necessary to address this problem seriously. He supported the pragmatic approach suggested by the representative of Pakistan.

The Chairman proposed that the Council might wish to revert to this matter at its next meeting.

The representative of India said that an understanding on this matter should be reached before the session of the CONTRACTING PARTIES.

The representative of Brazil suggested that the Council should prepare a recommendation for the CONTRACTING PARTIES on how to proceed on this matter. It was up to the CONTRACTING PARTIES to take the necessary decisions on the implementation of the new agreements.

The representative of the European Communities said that the desire of the developing countries to follow developments in the Committees of Signatories as observer was a legitimate one. He drew attention however to the characteristics of each code and wondered whether an arrangement, under which all developing countries would participate in all the committees, would really be the most efficient method for the developing countries to protect their interests. His delegation was fully prepared to participate in an effort to find a solution to this problem on a pragmatic and effective basis.

The representative of the United States said that he was in basic agreement with the idea that the MTN Agreements should not affect the existing GATT rights of contracting parties. His delegation was also interested in information being made available to the CONTRACTING PARTIES on the operations of the agreements. He also considered that satisfactory arrangements should be worked out with regard to observers by each of the Committees.

The representative of Colombia stressed once more that the aim of the developing countries was to take part in the operation of the Codes and agreements in order to safeguard their rights under the GATT.

The representative of India said that a decision on the participation of interested countries, at least as observers, in the meetings of Committees of Signatories should be taken by the CONTRACTING PARTIES. Furthermore, in order to maintain the unity of the GATT system and to protect the rights of contracting parties these Committees should function as part of the GATT system under the supervision of the CONTRACTING PARTIES.

The Council agreed to revert to this item at its next meeting.

15. Spain - Tariff treatment of unroasted coffee (L/4832)

The representative of Brazil, raising a matter under Other Business, referred to the tariff treatment introduced by Spain in respect of unroasted coffee, which Brazil considered to be discriminatory. He said that his delegation had requested consultations with Spain under the provisions of Article XXII:1. These consultations had not yet taken place. In the meantime discussions were being held in Madrid between the two parties. Although these discussions were of a more general nature and could not be considered to be Article XXII consultations, his delegation did not wish to pursue the matter at this time. He requested, however, that he be given an opportunity to revert to this matter at a future meeting of the Council, if necessary.

The Council so agreed and took note of the statement.

16. Implementation of paragraph B.8 of UNCTAD Resolution 131(V)

The representative of India said that at the Fifth Session of UNCTAD in Manila a resolution was adopted by consensus entitled "Protectionism and Structural Adjustment" (TD/RES/131(V)). In paragraph 8 of Section B, the Resolution "Invites GATT to examine in an appropriate body any case of future protective action by developed countries against imports from developing countries in the light of the relevant provisions of the GATT, particularly Part IV thereof." He urged that appropriate machinery for carrying out this examination be established. He pointed out that this matter would shortly be discussed in another context and therefore asked that this item be referred to the agenda of the next Council meeting.

The Council agreed to revert to the matter at its next meeting.

17. Norway - Restrictions on imports of textiles from Hong Kong (L/4815, C/M/134)

The Chairman recalled that at its meeting in July the Council had agreed to establish a panel to examine the complaint by the United Kingdom on behalf of Hong Kong. The Council had fixed the terms of reference for the panel but

left its composition to the Chairman of the Council in consultation with the parties concerned. He now informed the Council of the following composition of the Panel:

Chairman: Mr. Martin (Canada)

Members: Mr. Dass (Trinidad and Tobago)
Mr. Gerber (Switzerland)

The Council took note of the information.

18. EEC - Refunds on exports of sugar

- Recourse by Brazil (L/4722, C/M/132)

The Chairman informed the Council that one of the members of the Panel established to examine the Brazilian complaint on the refunds on exports of sugar by the EEC, Mr. Parman (Turkey), had been assigned by his Government to other functions and would not be able to participate further in the work of the Panel. In his place Mr. Lee (Korea) had been appointed to serve as member of the Panel.

The Council took note of the information.