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TARIFFS AND TRADE

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Chairman: Mr. A. Oxley (Australia)

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1. Provisional accession of Tunisia - Request for extension of time-limit (C/W/533, L/6251)

The Chairman recalled that the Declaration of 12 November 1959 on the Provisional Accession of Tunisia, as extended by the Eighteenth Procès-Verbal of 5 November 1986 (BISD 33S/6), and the Decision of the CONTRACTING PARTIES which provides for Tunisia's participation in the work of the CONTRACTING PARTIES (BISD 33S/53), were due to expire on 31 December 1987. In November 1986, Tunisia's application for full accession had been referred to a working party for appropriate action, and progress had been made there. Pending the completion of that process, a request by the Government of Tunisia for an extension of the provisional arrangements had been circulated in L/6251.

The representative of Tunisia recalled that one year earlier, he had indicated his authorities' intention to accelerate the process of Tunisia's definitive accession. Much progress had been made; his authorities had done their utmost to see that this process was undertaken in the best conditions and to the satisfaction of all, and thus had made available to contracting parties all the necessary documentation. Discussions in the Working Party had been carried out in depth and would soon be concluded. Tariff negotiations with interested parties were continuing but would unfortunately not be concluded, as Tunisia had hoped, before the end of 1987. Consequently, his Government once again asked for an extension of its status as a provisionally acceding country. In view of the fact that Tunisia expected to become a full contracting party at the beginning of 1988, this would be the last of such extensions.

The Council took note of the statement, approved the text of the Nineteenth Procès-Verbal Extending the Declaration to 31 December 1988 (C/W/533, Annex 1), and agreed that the Procès-Verbal be opened for acceptance by the parties to the Declaration.

The Council also approved the text of the draft Decision (C/W/533, Annex 2) extending until 31 December 1988 the invitation to Tunisia to participate in the work of the CONTRACTING PARTIES, and recommended its adoption by the CONTRACTING PARTIES at their Forty-Third Session.

2. Committee on Balance-of-Payments Restrictions

(a) Consultation with Israel (BOP/R/170 and Add.1)

Mr. Girard (Switzerland), Chairman of the Committee on Balance-of-Payments Restrictions, introduced its report on the consultation with Israel (BOP/R/170 and Add.1).

The Council took note of the statement and adopted the report in BOP/R/170 and Add.1.

(b) Consultation with India (BOP/R/168 and Add.1)

The Chairman of the Committee introduced its report on the consultation with India (BOP/R/168 and Add.1).

The representative of Brazil said that when the Committee had examined the draft report on the consultations with India, its final paragraph (43) had raised debate. It was worded in a way which might seem to imply that the Committee, acting beyond its duties, had decided to prejudge the procedures to be followed for the next consultations to be held, should they ever be necessary, with India. Brazil, along with several other delegations, had expressed in that forum its view that the rules and

practices regulating this matter could not be modified by a single report on a specific consultation with one contracting party alone. Most of all, procedures could not be changed without consensus in the appropriate forum. His delegation wanted the record to indicate very clearly that the sentence, "It was felt that the next consultation with India should be a full consultation", did not establish a precedent on the matter. It had to be read in conjunction with paragraph 6 of BOP/R/169. Brazil considered that the sort of procedure and the timing for each consultation had to be decided upon according to the procedures set out in paragraph 8 of the 1979 Declaration on Trade Measures Taken for Balance-of-Payments Purposes (BISD 26S/205) and after consulting with the interested parties, as was customary.

The representative of the European Communities said his delegation did not believe that the content of paragraph 43 of BOP/R/168 modified in any way the established procedures for balance-of-payments consultations. However, there were differing views as to exactly how those procedures should be applied. This question would no doubt recur in other consultations, but he would agree with Brazil and others that paragraph 43 did not create any new precedent.

The representative of Yugoslavia said that her delegation's understanding also was that paragraph 43 did not include any change in procedures for these consultations. Yugoslavia fully shared and supported Brazil's concerns and views on this matter.

The Council took note of the statements and adopted the report in BOP/R/168 and Add.1.

(c) Consultations with Ghana, Sri Lanka, Pakistan, Israel and India (BOP/R/169 and Add.1)

The Chairman of the Committee introduced the reports on the simplified consultations with Ghana, Pakistan and Sri Lanka (BOP/R/169 and Add.1). The Committee had concluded that full consultations with Ghana and Sri Lanka were not desirable and recommended to the Council that they be deemed to have fulfilled their obligations under Article XVIII:12(b) for 1987. The Committee had requested full consultations with Pakistan during 1988; its reasons for this and a statement by Pakistan at the time of the adoption of the report were reflected in paragraph 3 of BOP/R/169. That document also contained paragraphs (4, 5 and 6) on the Committee's adoption of the reports on the consultations with India and Israel, and on remarks made by Committee members at the time of the adoption of the report on India's consultation.

The representative of Mexico referred to paragraph 6 in BOP/R/169 and said that his delegation was among those which had referred to the procedures followed for balance-of-payments consultations. In Mexico's view, the usual procedures in those consultations were still applicable.

The representative of Egypt supported Mexico's statement and hoped that established procedures would continue to be used.

The representative of Canada said that his statement applied to all three sub-items. Canada had found the full consultations with Israel and India useful and thorough, and felt that the reports fully reflected the issues raised. His delegation could not accept the position put forward by some contracting parties that review -- including full review -- of trade restrictions by the Balance-of-Payments Committee constituted acceptance of such measures as being GATT-consistent. In adopting these and subsequent reports of this Committee, Canada continued to enjoy all of its GATT rights.

The Council took note of the statements and agreed that Ghana and Sri Lanka be deemed to have fulfilled their obligations under Article XVIII:12(b) for 1987. The Council also took note of the Committee's conclusion that a full consultation should be held with Pakistan during 1988, the exact date to be determined following the normal consultation procedures.

3. India - Import restrictions on almonds
- Recourse to Article XXIII:2 by the United States (L/6197)

The representative of the United States noted that this was the third time the US request for an Article XXIII panel had been on the Council's agenda. His country believed that India's import restrictions on almonds were inconsistent with Article XI. India disagreed, and six years of effort had not yielded a mutually satisfactory solution. He reiterated his country's reasons for requesting this panel. India's measures had had a serious and substantial effect on US almond exports during the past six years. He said that this was not a trivial trade issue, and cited statistics in this regard. There was a clear and direct relationship between application of India's restrictions and the quantity and composition of US almond exports to India, and the United States could establish nullification or impairment of its GATT rights. Based on the outcome of the three bilateral consultations that had been held under Article XXIII:1 with India -- in the last of which India had stated that it had no further questions for the United States -- his delegation could see no purpose in further bilateral consultations. The United States had satisfied the prerequisites for invoking Article XXIII:2, and the Council should, therefore, authorize establishment of a panel.

The representative of India recalled his delegation's statements on this issue at the two earlier Council meetings and said that he would not reiterate them or discuss the points raised at the present meeting. At those two meetings, India had opposed the request for a panel on the ground

that the restrictions in question had been taken for balance-of-payments reasons, and there was no prima facie nullification or impairment. He reiterated that the establishment of too many panels on grounds that were patently flawed might impair the dispute settlement process. India had taken note of the repeated US requests for a panel and would not oppose the establishment of a panel. However, there was a legal point to consider regarding procedures: the procedure in Article XVIII:B 12(d), when available, should be followed, rather than that provided in Article XXIII. This should be included in the panel's terms of reference.

The representative of Brazil said that his delegation would not oppose a consensus on this matter, but maintained the points made in its statement at the 7 October Council meeting.

The representative of Australia expressed his delegation's satisfaction with India's decision not to oppose the US request. This was an acknowledgement of the fundamental right of a contracting party to have a panel examine an issue. Australia had a commercial interest in the issues the panel would address, wanted to participate in the consultations on the panel's terms of reference and reserved the right to make a submission to the panel.

The representative of Canada expressed his delegation's satisfaction with the outcome of this matter. India's acceptance of this panel was an important development in maintaining the credibility of GATT's dispute settlement system and also in underlining the right of any contracting party to have an Article XXIII panel established once the Council had discussed the relative merits of the case.

The representative of the European Communities said that his delegation had expected no less of India than to agree to establishment of a panel in these circumstances. The Community had already indicated its interest, both in principle and in economic terms, in this matter, and wanted to participate in consultations on the panel's terms of reference.

The representative of Yugoslavia reiterated her delegation's previous statements on this matter. Yugoslavia would not oppose a consensus on the establishment of a panel, but felt that Article XVIII:B 12(d) was a solid basis on which to deal with this subject.

The representative of Austria expressed his delegation's satisfaction with India's decision.

The representative of Peru said that his delegation did not oppose a consensus on this decision but recalled its previous statements on this matter.

The representative of Switzerland recalled his delegation's previous statements on this matter and expressed satisfaction with India's attitude on this issue.

The representative of Egypt said that his delegation would agree with the consensus on this matter but asked if the procedures of Article XVIII:B 12(d) would be applicable to this panel.

The Chairman said that the request for the panel had been made under Article XXIII. He recalled India's point regarding this question.

The representative of Yugoslavia proposed that the relevant provisions of Part IV be taken into account in consultations on the terms of reference.

The Council took note of the statements, agreed to establish a panel, and authorized the Council Chairman to draw up the terms of reference and to designate the Chairman and members of the Panel in consultation with the parties concerned.

4. Consultative Group of Eighteen
- Report by the Chairman of the Group (L/6244)

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

The Director-General, Chairman of the Group, introduced his report in L/6244. This report merely summarized the discussion in the one meeting held in 1987. There was a general feeling in the Group that it should meet at least once or twice a year, and it was agreed that the next meeting should be held early in 1988. He reminded contracting parties that the composition of the Group for 1988 would be decided at the forthcoming Session of CONTRACTING PARTIES. Consultations were currently taking place among the different groups of contracting parties represented in the Group, and he urged those involved to ensure that those consultations were satisfactorily concluded in good time.

The Council took note of the report.

5. Integrated data base
- Draft decision (C/W/532)

The Chairman recalled that at the Council meeting on 7 October, he had reported that consultations held thus far on this matter had suggested that more time was needed by some delegations in order to come to an agreed decision. In those circumstances, he had suggested that a decision on the integrated data base (IDB) be postponed to the present meeting. As a result of additional consultations that had taken place since the October meeting, the Council had before it a draft decision in document C/W/532. He understood that this was a carefully balanced text which accommodated

the concerns of all contracting parties. It had been drafted in such a way that it was a package which needed to be read and considered in its entirety, no part of which could be separated from the rest. It was hoped that it could be adopted on this basis.

The representative of Hong Kong recalled that at the July 1987 Council meeting, the Director-General had introduced the document in C/W/521 which outlined the proposal for an IDB. Since then, the proposal had been the subject of further informal consultations, the outcome of which was the draft decision in C/W/532. However, there was an important point included in C/W/521 which was not reflected in C/W/532. This point was that the establishment of the IDB should not pre-judge the way in which information derived from it would be used. In particular, it would not pre-judge any decisions concerning the choice of negotiating techniques or approaches to be adopted in any of the Uruguay Round negotiations. His delegation asked for confirmation from the Chair that this point would form part of the Council's understanding in taking a decision on this matter.

The Chairman noted that the Director-General had made a similar point at the July Council meeting. He was not aware of any suggestion of different views on this point. Therefore, he took it that there was a consensus on it.

The representative of Tanzania said that his delegation continued to have difficulty with the draft decision in C/W/532 for reasons explained previously. In addition, Tanzania was concerned by the word "initially" in paragraph 2 of C/W/532, as this envisaged an evolution of the data base along lines that were not clear.

The representative of the United States recalled that his delegation had been an early and strong supporter of the need for development of an IDB, and had worked hard with other delegations to develop an appropriate text for a Council decision. During that process, the United States had often emphasized the need for fuller participation in existing data bases. Therefore, his authorities believed that work should get underway on an IDB on the basis of full participation by all contracting parties with a significant share of world trade. This would include of necessity at least a certain number of developing countries. Once it was clear that this objective would be met, his delegation would support full access to the data base, including the Tariff Study files. Unfortunately, the draft decision in C/W/532 did not contain the assurances the United States had been seeking on the question of participation, while it did remove all conditionality regarding access to existing data bases. Rather than reopening the text at the present time, it might be more productive for contracting parties to reflect on the data requirements as elaborated in the Annex to the draft decision, with a view to announcing their intentions within the time frame envisaged in paragraph 4 -- March 1988. If sufficient progress had not been made, the Council decision would be revisited at that time. In effect, this would be a time-limited decision. In the interim, the Secretariat should be asked to proceed with some of the

purely technical work, particularly the technical assistance envisaged in paragraph 4, to facilitate contracting parties' consideration of the feasibility of providing the data needed for the IDB.

The representative of Brazil welcomed the US willingness not to try to reopen the draft decision in C/W/532, which was a balanced text providing for a pragmatic approach to the sensitive question of setting up an IDB on the basis of data elements, some of which were not subject to notification requirements. It also dealt in a realistic way with the question of participation in the light of difficulties some countries might encounter in supplying the necessary information. The draft decision was absolutely clear regarding the course of action to be taken between the present time and March 1988 and beyond, by contracting parties and also by the Secretariat. Brazil, like the United States, reserved its rights to revisit the Council decision if it considered that there had not been full compliance with the terms of the decision.

The representative of India said that the draft decision in C/W/532 was a vast improvement over earlier documents put to the Council. This was a self-contained proposal. India supported the understanding expressed in the second part of Hong Kong's statement. His delegation had noted the statement by the United States and understood that this did not in any way alter the decision proposed in C/W/532.

The representative of New Zealand said that his delegation had consistently supported the IDB, which it saw as both desirable and essential as a working tool for the Secretariat and more generally in the Uruguay Round. New Zealand welcomed the fact that the draft decision would allow preparatory work to go forward. However, it was essential to have the widest possible participation in the IDB, and to that end, a stronger linkage between paragraphs 4 and 5 would have been preferable. Nevertheless, his delegation could accept the text in C/W/532 as it stood, but urged contracting parties to make the greatest efforts to participate in the data base and to make their intentions known by the date suggested.

The representative of Canada said that his delegation would welcome a Council decision allowing the Secretariat to proceed with the initial phase of its work on an IDB. Such a data base in GATT was long overdue and would eventually provide the Secretariat and contracting parties with an important and useful tool. A key element in the success of such a data base was the fullest possible participation; too many holes in any data base would severely limit it utility. Therefore, Canada urged contracting parties with questions to seek answers or technical assistance at an early date. His delegation was confident that with the full cooperation of all, an IDB could become functional well within the time frame originally envisaged by the Secretariat.

The representative of Yugoslavia reiterated that her delegation did not oppose a decision on an IDB provided that such a decision did not affect Yugoslavia's GATT rights and obligations. In her delegation's view, a decision would not commit her Government to participate in the IDB nor could it prejudge the participation in and modalities of any Uruguay Round negotiations. Yugoslavia felt that a reference to C/W/521, either on the agenda of the present meeting or in the first paragraph of C/W/532, was uncalled for in the light of the deliberation that had taken place.

The representative of Switzerland said that his delegation had consistently supported the establishment of an IDB as an important development in GATT's methods of work. This represented an essential tool both for GATT's ordinary work as well as for the Uruguay Round. Switzerland was aware that the draft decision in C/W/532 was the result of a perhaps less than optimum compromise, but could accept it. It was hoped that participation in the IDB would be as wide as possible; otherwise, the instrument itself would lose meaning.

The representative of Uruguay expressed her delegation's full support for the IDB, which was absolutely necessary for GATT's ordinary work as well as for the Uruguay Round. The draft decision in C/W/532 included the necessary balance and pragmatism. She urged all contracting parties to participate in the decision to set up the IDB and then to contribute to it so that it might function properly. This would benefit all countries participating in the Uruguay Round and would be very useful to the developing countries.

The representative of Sweden, on behalf of the Nordic countries, expressed their strong support for the draft decision in C/W/532. It was hoped that there would be the widest possible participation, that the information given would be as detailed as possible and that it would not be necessary to revisit this question the following year.

The representative of Mexico said that his delegation had supported the establishment of the IDB. Mexico considered that the draft decision in C/W/532 was complete. In particular, paragraph 6 covered the concerns of any contracting party. His delegation would intensify its contacts with the Secretariat so as to determine the best way for Mexico to participate in the IDB as well as in the Tariff Study.

The representative of Hungary said his delegation welcomed the fact that after much preparatory work, the Council was in a position to adopt a decision on the IDB. At the same time, Hungary fully shared Hong Kong's view and supported its statement.

The representative of the European Communities said that his delegation supported the draft decision in C/W/532 and agreed with Brazil's interpretation of this matter. The Community believed that this was a very balanced and pragmatic text, including the important element of allowing

work to begin. His delegation agreed that the consequences of contracting parties' individual choices within the time-frame of March 1988 would be a crucial matter.

The representative of Japan said that his delegation welcomed the decision to establish an IDB. Such a data base was indispensable for GATT, which was responsible for tariffs and trade in the world. It was hoped that useful basic data would be provided both for the Uruguay Round negotiations and also for normal GATT activities. Japan wanted to stress the importance of linkage between paragraphs 4 and 5 of C/W/532. The broadest possible participation by contracting parties was essential to make the IDB more useful. Japan asked that as many contracting parties as possible decide to participate either in the IDB or in the Tariff Study before the end of March 1988.

The Director-General, in response to Tanzania's statement, said that as stated in paragraph 4 of C/W/532, the Secretariat would be ready to provide technical assistance, as not all contracting parties had the same capacity to provide information. Regarding paragraph 2, he said that the information to be submitted under the subsequent extension of the IDB was information which was already submitted to GATT. This was not an additional request for information, but rather a way to determine how to rationalize all data furnished. Discussions on this point were foreseen in the Informal Advisory Group in order to reach a consensus; this was an example of the evolutionary process to which paragraph 2 alluded.

The Council took note of the statements and adopted the draft decision in C/W/532.

6. Committee on Tariff Concessions
- Report by the Committee Chairman (TAR/142)

The Chairman noted that the Committee on Tariff Concessions had again instructed its Chairman to report orally to the Council. In his view, a written report would have been preferable, and he suggested that this be done in future.

Mr. Montgomery (United States), Chairman of the Committee on Tariff Concessions, said that the Committee had held four meetings since its most recent report to the Council, and a fifth was planned before the end of 1987. The Committee's activities had focused mainly on negotiations under Article XXVIII that contracting parties had carried out in connection with the transposition of their schedules into the Harmonized Commodity Description and Coding System (Harmonized System), which was to be introduced on 1 January 1988. He gave information on the status of several countries' negotiations and said that the Committee had agreed to publish the results of the negotiations related to the Harmonized System in the Geneva (1987) Protocol (L/6112). The Second Geneva (1987) Protocol

(L/6122), with the same legal status but with different dates for the annexation of schedules and acceptance, had been established for contracting parties which had not been able to conclude their negotiations in time for the First Protocol. Both Protocols would enter into force on 1 January 1988, and it was expected that the Harmonized System could be implemented on that date. In August 1987, the Committee had circulated the text of the Sixth Certification of Changes to Schedules.

The representative of Chile said that with regard to one country mentioned by the Committee Chairman, negotiations linked to the introduction of the Harmonized System had not, in fact, been completed. This should be reflected in the Committee's report.

The Council took note of the report[1] and of the statement, and that the report would be before the CONTRACTING PARTIES in the form of a document at their Forty-third Session.

7. Pakistan - Renegotiation of Schedule
- Request for extension of waiver (C/W/530, L/6242)

The Chairman drew attention to the request by Pakistan (L/6242) for a further extension of the CONTRACTING PARTIES' Decision of 29 November 1977 (BISD 24S/15) granting a waiver from the provisions of Article II of the General Agreement, and to the draft Decision in C/W/530.

The representative of Pakistan recalled that in 1977, his Government had found it necessary to revise its customs tariff in view of Pakistan's difficult financial position. The tariff revision had been undertaken for purely fiscal reasons and not as a trade measure. At that time, the CONTRACTING PARTIES had decided to waive the application of the provisions of Article II to Pakistan, and had granted subsequent extensions of this waiver up to December 1987. Pakistan appreciated contracting parties' understanding and cooperation in this regard. While its Article XXVIII negotiations were advancing, they had been overtaken by Pakistan's current transposition of its Customs Tariff from the CCCN to the Harmonized System nomenclature, which it planned to implement in 1988. In order to avoid a duplication of efforts with regard to these two undertakings, Pakistan proposed that it present a new schedule of concessions in the Harmonized System nomenclature, which would take into account the negotiations already conducted with its trading partners in terms of the present waiver, and would be finalized only after a due process of negotiations and consultations. Therefore, his Government requested that the CONTRACTING PARTIES agree to extend the time limit provided for in the waiver until 31 December 1988.

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[1] Subsequently issued in TAR/142.

The representative of Sweden asked Pakistan for information on why its tariff negotiations seemed to be moving so slowly. Sweden and Pakistan had reached a mutually satisfactory agreement concerning these renegotiations in 1985, but his country had not yet received a draft agreement from Pakistan, and the matter remained outstanding. Sweden appreciated that Pakistan was currently concerned with the implementation of the Harmonized System and its effect on the previous negotiations. However, his delegation asked when the negotiations with Sweden could be formally completed. Should such an agreement be signed, Sweden could agree that vigorous efforts had been made to complete the negotiations, and it would be reasonable to grant a further extension of the waiver, considering the need for Pakistan to present a new schedule in the Harmonized System nomenclature.

The representative of Uruguay said that the reasons given by Pakistan for its requested extension had led her delegation to support fully that request, in view of the efforts made by Pakistan to improve its situation and to respect its commitments.

The representative of Bangladesh said that in view of Pakistan's explanation, his delegation supported the request for extension of the waiver.

The representative of Sri Lanka supported Pakistan's request for the reasons given by that country.

The representative of Turkey said that in view of the technical difficulties in implementing the Harmonized System, and the negotiations and consultations that would have to be carried out in 1988, it seemed appropriate to extend the waiver.

The representative of Hong Kong congratulated Pakistan on its decision to implement the Harmonized System in 1988. His delegation was aware of the tedious technicalities and negotiations this would involve and the difficulties this would cause for ongoing Article XXVIII negotiations. Therefore, Hong Kong supported Pakistan's request.

The representative of Peru said that his delegation had taken note of the difficulties facing Pakistan and understood its reasons for requesting extension of the waiver. The implementation of the Harmonized System was particularly difficult for developing countries in view of the complexity of this undertaking. Therefore, Peru supported Pakistan's request.

The representative of Nicaragua supported Pakistan's request.

The representative of Nigeria said his delegation agreed that the request was both reasonable and appropriate, and therefore supported it.

The representative of Pakistan expressed his delegation's gratitude for the support given to Pakistan's request. He reiterated that the measures taken by Pakistan under the waiver had been implemented for fiscal, and not trade, reasons, and were not designed to damage any contracting party's trade interests. His delegation assured Sweden that Pakistan would present a draft agreement for signature by Pakistan and Sweden when its negotiations with all interested contracting parties, including Sweden, had been concluded.

The representative of Sweden said that with the assurances given by Pakistan, his delegation could agree to the extension.

The Council took note of the statements, approved the text of the draft Decision extending the waiver until 31 December 1988 (C/W/530) and recommended its adoption by the CONTRACTING PARTIES by a vote at their Forty-Third Session.

8. Switzerland - Review under paragraph 4 of the Protocol of Accession (L/6101, L/6229)

The representative of Switzerland introduced the nineteenth and twentieth annual reports (L/6101) together with the twenty-first annual report (L/6229) by Switzerland submitted in conformity with paragraph 4 of its Protocol of Accession. The nineteenth and twentieth annual reports had been submitted simultaneously due to time constraints; in future, these reports would be submitted separately. He stressed that Switzerland had done its best to submit a more detailed and developed report than in the past and to analyze those aspects of its trade relations covered by paragraph 4 of its Protocol of Accession.

The representative of Australia requested that a working party be established to examine these reports in conformity with the customary practice of doing so every three years. This was an important element in the oversight of paragraph 4. The terms of reference used for the sixth triennial review would be suitable for this working party.

The representative of Canada supported Australia's suggestion. A working party would be an appropriate way for the CONTRACTING PARTIES to discharge their responsibility for the oversight of paragraph 4.

The representative of Argentina supported the suggestion to set up a working party. Important agricultural negotiations would be carried out in the Uruguay Round, and all countries would have to show the necessary political will to correct the serious imbalances in trade in this sector. A majority of countries had indicated their willingness to discuss all aspects of the sources of such imbalances, including protocols of accession and waivers, and Argentina firmly hoped that Switzerland would do likewise.

The representative of New Zealand joined Australia, Canada and Argentina in calling for a working party to fulfill the requirement of examining these reports.

The representative of Switzerland said that during the past three years, his authorities had tried to respond to contracting parties' wishes regarding the information provided in the reports. There had been no notable change in the measures applied under paragraph 4. In view of this and of time constraints on all contracting parties, his delegation did not believe a working party was necessary. There had not been a working party between 1969 and 1981, during which time this matter had been settled in the Council. However, Switzerland had taken note of the requests for establishment of a working party and would provide all the necessary information.

The Council took note of the reports and of the statements and agreed to establish a working party with the following terms of reference: "To conduct the seventh triennial review of the application of the provisions of paragraph 4 of the Protocol for the Accession of Switzerland, and to report to the Council." Membership would be open to all contracting parties indicating their wish to serve on the Working Party. The Council authorized the Chairman to designate the Chairman of the Working Party in consultation with delegations.

9. European Economic Community - Third-Country Meat Directive - Recourse to Article XXIII:2 by the United States (L/6218)

The representative of the United States recalled that his delegation had requested a panel under Article XXIII:2 at the 7 October Council meeting. At that time, it had explained that the Third-Country Meat Directive was in contravention of Article III:4 and nullified or impaired US rights under the General Agreement, and that bilateral consultations had not effected a satisfactory adjustment. The Community had not agreed to set up a panel in October because it believed further consultations under Article XXIII:1 were appropriate. Another round of such consultations had been held on 5 November. In the US view, efforts to reach a mutually satisfactory solution had not been successful. Therefore, his delegation again requested establishment of a panel, and renewed its request that the Community delay implementation of the Directive pending the outcome of the panel's work.

The representative of the European Communities gave the Community's interpretation of the content and results of the bilateral consultations of 5 October with the United States on this matter. As the Community wanted the Council to take a decision with full knowledge of the facts in this matter, he gave details on the eight points of divergence between the United States' and Community's systems of approval of slaughterhouses which had been raised in the consultations. The Community felt that there had

been decisive progress on two points; on another two points, there was a basis for a possible compromise; four points remained for which any modification -- in order to meet US requests -- would have to be approved by the Council of the European Communities. Obviously this could not be done in a couple of days. Prior to the bilateral consultations, about 15 US slaughterhouses could already be considered as meeting the directive's requirements, whereas after the consultations, the number might have increased to 50. Thus, the situation was evolving favourably towards a situation which would ensure in practice the actual level of the Community's imports of US meat. The Community had not rejected the US requests and was searching for practical arrangements to take them into account. In the Community's view, the process of conciliation offered promising possibilities. The Community believed that to establish a panel at the present meeting might freeze those possibilites and nullify or deviate from what had already been achieved in consultations; an amicable approach seemed a more expeditious procedure for solving the dispute. However, the Community did not want this position to be misinterpreted or negatively interpreted as obstructionist. He recalled that the Community had already recognized the legitimate right of any contracting party to request creation of a panel, while underlining, however, that a panel should not be instantly or automatically created simply because it had been requested. The Community could now take a further step in subscribing to the principle of establishing a panel but could not, at the present stage, accept that a panel be set up immediately at present meeting. He pointed out that the Community's position was dictated by other considerations, in addition to its traditional attitude towards intelligent use of dispute settlement with an emphasis on amicable solutions. The solution of the matter of slaughterhouses would inevitably have an impact on the treatment of another contentious matter involving hormones; the establishment of a panel in the former case would have a negative effect on the hormones issue, where delicate political decisions enabling amicable solutions should be reached in the next few days.

The representative of the United States said that his delegation was shocked by the Community's interpretation of the status of the consultations on this important matter. The United States appreciated the Community's reiteration of the right of any contracting party to request a panel, but was disappointed at its unwillingness to agree to set up a panel at the present meeting. Four of the eight points discussed in the consultations had shown no progress and required changes in a Directive that would come into effect in six weeks. The US request was to stop action on the Directive and to begin immediate examination of it in a panel. Such action corresponded to US rights to have addressed what it perceived to be trade impairment. Regarding the Community's threat to link this matter with the hormones issue, the Council should not allow such threats to hang over contracting parties' heads. The issue at hand concerned slaughterhouses only. He reiterated that in the US view, there had not been sufficient progress in bilateral consultations to warrant their continuance, and he repeated the US request for a panel.

The representative of Australia expressed his delegation's concern over the Community's decision to try to defer the US request for a panel. That request was reasonable, and the Community should reconsider its position and the possible implications regarding GATT's signals to the outside world. In Australia's view, there was no difference between the operations of a slaughterhouse and those of any other factory.

The representative of Canada said that his delegation would not comment on the relative merits of the points raised, as Council members were not really qualified to do so. In Canada's view, it was the complaining party's right to decide when to proceed to Article XXIII:2. The United States was following normal GATT practice in seeking a panel on this matter. Canada had commented at some length at the 7 October Council meeting on contracting parties' right to have a panel under Article XXIII:2. It was normal to have discussion in the Council, particularly where there was disagreement regarding the appropriateness of setting up a panel. However, there had already been ample discussion of the matter at hand, and the Council should agree to the US request for a panel.

The representative of the European Communities stressed that, rather than being opposed to the establishment of a panel, the Community subscribed in principle to its creation in this particular case. However, recourse to dispute settlement should not be automatic, but a well thought out and well measured step which should be taken in the light of the attitude of the contracting party concerned and of the possibilities for compromise. The first bilateral consultation, prior to the 7 October Council, had been a mere formality. Subsequently, there had been further consultations where substantive points had been discussed and real progress made; the Community could not be said to be dragging its feet. A panel should not be established merely for the sake of doing so. There were still a whole series of technical matters to be discussed further with the aim of reaching a mutually acceptable solution. Regarding the hormones issue, the Community was not trying to make a threat or to solve both issues at the same time, but rather to maximize the chances of a solution in each. Dispute settlement procedures should aim to provide the opportunity for solutions, rather than to encourage the taking of hasty decisions.

The representative of the United States said that his delegation was not being hasty in trying to take action to prevent the impending application of a measure which it thought would significantly affect its trading interests. It did not feel there had been sufficient progress to justify the expectation that the Directive would not be applied, and repeated the request for a panel.

The representative of the European Communities clarified that in future the Community would have no difficulty regarding the establishment of a panel in this case, since it already agreed in principle. It was merely asking for more time in order to try to find an amicable solution to the dispute.

The representative of the United States said that while the Community had the right not to join a consensus to set up a panel, his delegation felt that was both unfair and unwise, and did not accept the Community's argument for not creating a panel. He hoped that in future, the United States would not be accused of not allowing the dispute settlement process to move forward.

The representative of the European Communities said that this matter was not yet ripe for a decision. Both the United States and the Community had an interest in finding a mutually satisfactory solution, and dispute settlement procedures should be used intelligently. Regarding his mention of the hormones issue, this was due to the need to preserve possibilities of finding a solution, which had implications for the Community's internal procedures; it should not be misread by the United States.

The Chairman said it seemed clear that a decision to establish a panel could not be taken at the present meeting. The Community had said that it was not opposed in principle to that decision but felt that more time was needed. The United States had said that in its view, the consultation process had been exhausted and did not offer a prospect for resolving this dispute.

The representative of the European Communities said that it was the Community's sovereign right to say that it was in favour of the creation of a panel, and also to say that this decision could not yet be taken.

The representative of the United States said that in his personal view, GATT had reached a landmark negative day in its history. The Community was not allowing the dispute settlement process to go forward because of internal coordination problems.

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

10. Japan - Customs duties, taxes and labelling practices on imported wines and alcoholic beverages
- Panel report (L/6216)

The Chairman recalled that at its meeting on 4 February 1987, the Council had established a panel to examine the complaint by the European Communities. The Panel had concluded its work and its report was before the Council in L/6216.

Mr. Tello, Chairman of the Panel, in introducing its report, said that the cooperation of the parties concerned had enabled the Panel to complete its work within seven months and to submit its report on 22 September. Regarding the labelling of liquor bottles in Japan, the Panel could not find that Japan had failed to meet its obligations under Article IX:6. As

for the complaint that Japanese taxes on certain imported alcoholic beverages were inconsistent with Article III:1 and 2, the Panel had concluded that Japan's liquor taxes on whisky, grape brandy, fruit brandy, gin, vodka, "classic" liquors, unsweetened still wine and sparkling wines were inconsistent with the prohibition of tax discrimination set out in Article III:2, first sentence. The Panel had further found that Japan's taxes on distilled liquors were applied in a manner affording protection to domestic production of the directly competitive Japanese liquor "shochu", contrary to Article III:1 and 2, second sentence. He drew attention to three elements in the Panel's reasoning regarding its findings on Article III: (1) the Panel had taken great care to show that the Panel's interpretation of Article III:2, first sentence -- i.e., the prohibition of tax discrimination -- was fully consistent with the CONTRACTING PARTIES' past interpretations of this Article. (2) The report made clear that the findings with regard to Article III:2, second sentence -- i.e., the prohibition of protective taxation -- were based on the very particular circumstances of this case. (3) The Panel had emphasized in paragraph 5.13 that it agreed with the submissions of both parties that Article III:2 did not impose an obligation on contracting parties to adopt a specific tax system or specific taxation methods. It had found that the General Agreement reserved for each contracting party a large degree of freedom to decide autonomously on the objectives, level, principles and methods of its internal taxation of goods, but that it did not provide for the possibility of justifying discriminatory or protective taxes inconsistent with Article III:2 on the ground that they had been introduced for the purpose of taxation according to the tax-bearing ability of domestic consumers of imported and directly competitive domestic liquors. The Panel therefore had suggested that the CONTRACTING PARTIES recommend that Japan bring its taxes on whiskies, brandies, other distilled spirits (such as gin and vodka), liqueurs, still wines and sparkling wines into conformity with its GATT obligations. He expressed concern at the fact that, in spite of the agreed confidentiality requirement in the Panel procedures, the findings had been discussed in various European and Japanese newspapers prior to the report's circulation to contracting parties.

The representative of the European Communities said that whether the Community was the accused or the complaining party, its attitude remained in full conformity with its philosophy regarding dispute settlement. The Panel had in this case produced a good and clear report on a very complex and delicate issue. This showed that the dispute settlement procedure could function well if the parties cooperated fully. He said that Japan's liquor tax, which was discriminatory, had been a source of concern to the Community for quite a long time. Bilateral consultations with Japan had failed completely. The proposed fiscal reform in Japan in December 1986 had not been approved, and in any case, did not go far enough. This had left the Community with no choice but to make use of the procedure available in urgent cases for establishment of a panel, in order to prevent further negative cumulative effects from this legislation -- the history of

which was outlined in paragraph 2.1 of the report -- over a number of years. The Community was not fully satisfied with the result of the Panel's work, because the Panel had not followed the Community's complaints concerning Japan's practices on labelling in the light of Article IX:6. His delegation intended to raise these shortcomings in the Uruguay Round negotiating group on intellectual property. Despite this reservation, the Community firmly supported the adoption of the report at the present meeting. The Panel's well-reasoned position on the interpretation of Article II was perfectly balanced, clear and without ambiguity regarding the present case. There had been no attempt to restrict contracting parties' freedom regarding their tax systems.

The representative of Japan said that his Government was satisfied with the Panel's findings and its interpretation of Article IX:6, as well as its understanding of Japan's labelling system. However, regarding the liquor tax, his Government had serious concern and doubts over the Panel's interpretation of Article III:1 and 2 as well as its conclusions regarding "like products" and "directly competitive or substitutable products". Japan had taken careful note of the Panel's finding that "the General Agreement reserved each contracting party a large degree of freedom to decide autonomously on the objectives, level, principles and methods of its internal taxation of goods" (paragraph 5.13). His Government wanted to stress the fact that its liquor tax was not simply a tax on alcohols, but was intended as a substantial source of revenue and, as such, was formulated so as to impose a fair tax burden on every tax payer, taking into account the need to correct the retrogressive character of an indirect tax. Japan wanted to put on record its understanding that the Panel report did not reject these basic premises which lay behind its taxation policies and liquor tax system.

Throughout the Panel proceedings, Japan had repeatedly explained that its liquor tax system was not applied to imported liquors in any discriminatory way, and he asked the Council to pay careful attention to the Panel's interpretation of Article III:2 and its grave implications. It was Japan's strong view that in so far as there was no discriminatory treatment between imported and "like" domestic products, this provision should be read as permitting the differentiation of taxes on different categories of like products in accordance with objective criteria. In Japan's taxation system, alcoholic beverages in the same category, whether imported or domestic, were uniformally levied. It did not, therefore, give rise to discriminatory taxation whereby only imported products were heavily taxed. However, the Panel seemed to have interpreted Article III:2 in its strict literal sense rather than taking full account of the provision's basic idea of non-discrimination; the Panel's conclusion on this point could be read as if the provisions required that among like products, the same tax rate had to be basically applied whether or not there was discrimination between imported and domestic products. It had drawn the conclusion of inconsistency with Article III:2 on the basis of the recognition of "likeness" between imported products belonging to a higher

tax category and domestic products belonging to a lower tax category. The Panel had neglected the important fact that domestic production of products belonging to the higher tax category was far greater than imports, and that imported products as well were included in the lower tax category. Were this interpretation to be applied generally, any contracting party which did not levy exactly the same tax on all like products would always be liable to a finding of inconsistency with Article III:2, even if there was no tax discrimination between imported and domestic products. Japan wanted to draw attention to the unreasonable situation to which this conclusion might lead.

His Government also had strong doubts over the Panel's findings and conclusions regarding "like products" and "directly competitive or substitutable products". Japan recognized the need to review the liquor tax in response to changes in consumption patterns regarding alcoholic beverages with a view to ensuring a fair tax burden, and such reviews and revisions had taken place a number of times. However, as the Community had recognized, the quality of whisky greatly varied between special grade whisky on the one hand, and first- and second-grade whiskies on the other hand. Consumption patterns also varied greatly according to grade, and it was difficult to recognize the likeness between grades. Therefore, it was doubtful whether it was appropriate to rely on the classification in tariff nomenclatures for a judgement on likeness. His Government also wanted to point out that the finding on the likeness of spirits to whiskies because of their similarity in colour, flavour and other properties did not seem appropriate even in the light of certain illustrative criteria mentioned by the Panel itself. In finding that shochu was directly competitive or substitutable with whiskies and spirits and that the lower internal taxes on it had afforded protection to this product, it appeared that the Panel had not fully taken into account the real consumption habits and patterns in Japan regarding questions of likeness and direct competitivity or substitutability. Actual consumption patterns in Japan showed that shochu was competitive with Japan's rice wine, namely sake.

For all these reasons, his Government was greatly disappointed by the Panel's findings on Japan's liquor tax and still had different views from the Panel on a number of its findings. However, his Government recognized that respect for GATT's dispute settlement procedures was vitally important to enhancing GATT's credibility and also to maintaining and strengthening the multilateral trading system. Therefore, Japan would not stand in the way of adoption of the Panel report. In conclusion, he pointed out that at the most recent Diet session, Japan had introduced a bill to revise the Liquor Tax Law, including the abolition of ad valorem tax and the grading system of whiskies to which the Panel report referred. However, the bill was part of an overall tax reform which included the proposed sales tax bill, and due to the turmoil over the latter, the attempt to revise the liquor tax had not gone forward and the bill had been buried. Efforts to review the tax system were continuing, and in that context, possible ways to revise the liquor tax system would be further considered. However, any

revision of an internal tax system such as the liquor tax system, which was a matter of great interest to the people at large, would require, in addition to legislative action, a certain amount of time to gain the Japanese people's understanding of this issue. His Government, although it was under these constraints, would make every effort to see that appropriate steps were hereafter taken, bearing in mind the Panel's recommendations.

A number of representatives paid tribute to the spirit in which Japan had stated its willingness to adopt the Panel's report.

The representative of Finland recalled that his delegation, at the time the Council had established this panel, had expressed interest in the substance of the dispute and had reserved the right to make a submission to the Panel. Finland had made a detailed submission, and having studied the findings and the recommendations in the Panel's comprehensive report, was satisfied with the outcome of the process. His delegation had taken Japan's readiness to adopt the report as a sign of a constructive spirit in which, it was hoped, Japan would approach the implementation of the Panel's recommendations.

The representative of Canada said that his authorities considered the report to be a good one and supported its adoption. Canada would study Japan's statement carefully; it had noted its positive attitude in considering the Panel's recommendations and encouraged the Japanese authorities to take positive action in the light of those recommendations.

The representative of Argentina said that his country had been interested in this matter from the outset, and had made a submission to the Panel. Argentina shared in the satisfaction with the report, and supported its adoption and Japan's speedy implementation of the Panel's recommendations.

The representative of the United States said that his country appreciated the Panel's expeditious work in unravelling a complex system of national taxation. The United States had made a submission addressing the legal issues and expressing the interest of US exporters in this case. His delegation joined the Community in its satisfaction with the report and with Japan's acceptance of it, and would follow Japan's response with great interest. The report's timing was fortuitous, as the Japanese Government was presently considering changes in its tax system, and the United States urged the early attention of Japan's tax policy-makers to this report.

The representative of Yugoslavia said the report was good, especially given the difficult subject it addressed. Her delegation would carefully study Japan's statement and welcomed its attitude toward adopting the report.

The Chairman said that he had noted a recurring theme in the statements regarding satisfaction with the speedy adoption of the Panel's report, and congratulated Japan in this regard.

The Council took note of the statements and adopted the Panel report (L/6216).

The representative of the European Communities said that the Community appreciated Japan's attitude in this matter and the Japanese Government's point of view. The Community understood and believed that Japan would fully comply with the Panel's recommendations -- which the Council had just adopted as its own -- within a reasonable time and that it would bring the taxes in question into conformity with Article III. It expected that the necessary fiscal reform regarding taxes on alcoholic beverages and liquors would be introduced by 1 April 1988 at the latest. The Community requested Japan to keep the Council informed of progress in the implementation of the recommendations.

The Council took note of the statement.

11. Communication from the United States concerning the relationship of internationally-recognized labour standards to international trade - Request for working party (L/6196, L/6243)

The Chairman recalled that at its meeting on 7 October, the Council had taken note that the United States would formally propose the establishment of a working party in connection with this matter. The United States had done so in document L/6243, which was before the Council.

The representative of the United States said that the idea of a relationship between international labour standards and trade was not new to the GATT. Indeed, the Preamble to the General Agreement stated that relations among countries "in the field of trade ... should be conducted with a view to raising standards of living, ensuring full employment...." Clearly, the GATT had competence to deal with this issue. Article XXIX of the General Agreement obliged contracting parties to observe general principles of certain chapters in the Havana Charter -- including Article 7 of Chapter II, relating to "Fair Labour Standards." The United States' purpose in seeking discussion of this issue in GATT was to forestall pressure for protectionist action, not to foster protectionism. A perception that this issue was being ignored internationally was giving rise in some countries to pressures for unilateral action. The United States believed that a dialogue in the GATT on this issue would help reduce these pressures. The United States had benefitted from the informal discussions chaired by the Secretariat to find a common ground on this important subject during the preceding five months. The proposal in L/6243 took those concerns into account, most notably in using the term "internationally-recognized labour standards" to make clear the US view

that certain standards of the International Labour Organization (ILO) could provide a useful basis for the examination by the working party. He reiterated his Government's position that it had entered this exercise with no pre-conceived view as to the outcome of the working party's effort. His delegation was increasingly concerned that the GATT continue to honour the long-standing principle that any contracting party which felt strongly about discussing an issue might do so; the most appropriate vehicle for that was a working party.

The representative of Sweden, speaking on behalf of the Nordic countries, expressed their continued interest in the matter under discussion. They were aware that the matter had many aspects and that it was not uncontroversial. However, they welcomed an opportunity to examine in GATT the issues dealt with in document L/6243 in a factual and unbiased manner, without any prejudice whatsoever to any contracting party's final position as to the outcome. As they had repeatedly stated, the Nordic countries could not accept any outcome that could be misused for protectionist ends; the latest US proposal had taken their concerns into account.

The representative of New Zealand said that his country supported the establishment of a working party. It agreed with the United States' argument that an important objective of a liberal international trading system should be that trade benefits contribute to raising living standards in less-developed countries. In supporting this proposal, however, New Zealand noted that some contracting parties considered that it was being put forward in order to provide a further rationale for protectionism. His delegation did not think this was the intention, but if it were so, the proposal would be unacceptable to New Zealand. In participating fully in any working party on this issue, New Zealand would try to ensure that the issue of workers' rights was not manipulated in that way.

The representative of Mexico said his delegation had followed all the informal consultations on this issue. Mexico recognized the right of any contracting party to raise any issue in this forum, but felt that GATT had to keep to matters within its own competence. Anything related to worker rights or labour standards did not fall therein and should be dealt with in the ILO. Mexico objected to the establishment of a working party on the principle that it would set a dangerous precedent. Indeed, a point could be reached where every aspect of a country's economic life would be discussed in GATT. Mexico did not object to dealing with the issue as such; if the US delegation were to make its proposal in the ILO, Mexico would support it.

The representative of Brazil said that the earlier discussion on this issue in the Council and in informal consultations did not appear to have brought delegations any nearer to reaching a consensus. Feasible

alternatives should therefore be sought in order to reach a convergence of views. His delegation did not question the right of any contracting party to request a working party, provided, of course, that the matter to be examined had a direct and unambiguous bearing on international trade and on the General Agreement. If GATT considered questions that did not do so, then apart from wasting its valuable time and resources, other organizations would discuss -- and perhaps take action on -- trade-related matters. His delegation was aware that the US request did not presuppose the existence of a causal relationship between the observance of internationally-recognized labour standards and international trade; indeed, it was the existence or absence thereof that was sought to be established. However, Brazil did not consider that this question could or should be addressed by a GATT working party. There were also practical and procedural aspects involved. For example, such a body would need to have in-depth knowledge of international labour legislation, which would imply technical support from another institution, supposedly the ILO. Would the working party therefore be a GATT working party or a joint ILO/GATT working party? His delegation understood the concerns of the US delegation and the context in which they arose, as well as the concerns of many other delegations, including his own, regarding the GATT's competence to discuss the issue. A compromise solution should be sought. Some possible alternatives had been put forward in the informal consultations; these deserved to be explored. An appropriate body to discuss the question could be the Economic and Social Council of the United Nations (ECOSOC). This was only a preliminary suggestion, which would have to be examined in greater detail in informal consultations.

The representative of Cuba said that the changes which had been made to the original US proposal (L/6196) reinforced Cuba's conviction that the issue was totally extraneous to GATT; it belonged to the ILO and perhaps to other fora. The labour standards listed in L/6243 were already included in the ILO Conventions and recommendations. Cuba did not understand how a government could insist on dealing with this issue in GATT without having ratified any of the existing ILO Conventions. The linkage that the United States was trying to establish between the General Agreement and the Havana Charter was out of date. In this respect, her delegation noted that the United States had never ratified that Charter but was attempting to justify work on an issue foreign to GATT and of a non-commercial nature on the basis of that instrument.

The representative of India said that matters should be brought before the Council only after they had met with success in consultations, which was not the case in the present instance. The basic question was whether the matter should be discussed in GATT, which was not competent to deal with it. The reference to Article XXIX did not alter his delegation's position since, as the Panel on Canada's Foreign Investment Review Act (FIRA)[1] had said, this Article could not be invoked. The US reference to

[1] BISD 30S/161.

the Havana Charter did not improve its argument. Since GATT's workload was already very heavy and the proper use of time was very important, his delegation suggested that this matter should either be considered closed or should be left in abeyance until a mutually acceptable solution was reached in informal consultations.

The representative of Egypt noted that there was no agreement on the central question of GATT competence. His delegation did not see GATT as competent in this area and recognized that there was some degree of sensitivity to it. Moreover, the reference to Article XXIX was questionable, as could be seen from the FIRA Panel's conclusions. His delegation did not see how the treatment of this issue would bring benefits to the workers in the developing countries. That issue lay in other fora, and Egypt did not support the establishment of a working party.

The representative of Tanzania said that opening up the social issue of labour standards could lead to the consideration of other social issues. His delegation preferred an informal solution to this important problem.

The representative of Korea said that his delegation had already made its position known during the informal discussions. Korea had reservations as to the necessity of setting up a working party to handle this particular issue. Therefore, his delegation asked that an informal exchange of views continue with a view to seeing if a minimum common ground could be found.

The representative of the Philippines, speaking on behalf of the ASEAN contracting parties, said that they considered that GATT was not the appropriate forum to deal with matters relating to international labour standards. In fact, this matter had been examined 40 years earlier when the Havana Charter was being drafted. A solution had been found, but unfortunately, the Charter had been rejected. The United States had rightly referred to Article XXIX of the General Agreement as well as to Article 7 of Chapter II of the Havana Charter relating to "fair labour standards". However, paragraph 2 of Article 7 went on to say that "Members which are also members of the International Labour Organization shall co-operate with that organization in giving effect to this undertaking." Unless one wished to re-open the discussions leading to the drafting of the Havana Charter, the ASEAN delegations were of the view that it was not necessary to set up a working party.

The representative of Nigeria said that his Government had opposed considering this subject when it had first been mentioned in the preparatory stages of the Uruguay Round, and would continue along these lines until more specific and convincing details were provided to justify a different direction. Delegations that had expressed reservations on the relevance of GATT in treating this subject were not seeking to obstruct negotiations, but were only expressing their sovereign concerns of seeking to defend their vital interests. Wage levels in many countries, while they

appeared low, were not necessarily an indication of inadequate living standards. African delegations were painfully aware of the gross exploitation of workers for purely racial reasons. It might well be desirable for GATT to take cognizance of these problems and to start addressing them squarely on the basis of the US request, by way of following the steps of the United Nations. It would also be helpful if the United States were to ratify the ILO Conventions. Despite the modifications and new terms of reference in the US proposal, it was for all intents and purposes ILO-related. If something still had to be done, on the realization that standards of protection were lacking, the matter should be referred either to the ECOSOC or to the ILO.

The representative of Nicaragua agreed with Nigeria.

The representative of Romania said that practice had shown that reference to worker rights and interpretation of international labour standards could serve protectionist ends. For that reason, Romania could not accept the proposal for a working party.

The representative of Turkey said his delegation had reservations with regard to a working party examination of the issue, which might lead to a discussion of other matters not within GATT's competence.

The representative of Pakistan said his delegation continued to have serious reservations as to a discussion in the GATT because the issue was not within GATT's competence. The US proposal seemed to have protectionist motivations and implications, and could potentially neutralize the comparative advantage which remained a basic pillar of GATT. He said that the reference to internationally-recognized labour standards implied that there were other labour standards.

The representative of Bangladesh said that the least-developed countries, like his own, had other more urgent priorities for their time and resources, e.g., to ensure a minimum level of calories for their people. His delegation shared the view that this issue was alien to GATT.

The representative of Uruguay said that the ILO was the appropriate body to discuss the issue. She agreed with Mexico that it would be a dangerous precedent to set up a GATT working party to study it.

The representative of Peru said his delegation agreed that it was not appropriate to discuss this matter in GATT.

The representative of Yugoslavia said her delegation was also of the opinion that GATT was not competent to deal with this issue. Yugoslavia could not support the establishment of a working party.

The representative of Zaire said the problem raised by the United States was important because it related to the abusive use of labour to hinder international economic development. However, GATT only dealt with international trade questions, and the issue at hand did not seem to be within its competence. His delegation asked the United States to submit this problem to the ILO.

The representative of Canada said his delegation supported the US request on the grounds that any contracting party had the right to bring to GATT any matter which it considered to be related to the GATT, and to ask for a working party to examine it.

The representative of Hong Kong said his delegation was among those that had reservations on the proposal. Hong Kong had participated in the informal discussions, which had been inconclusive so far. He noted that when this issue had been raised in the ILO, the United States had been told that it belonged to GATT, and in GATT there was a view that it belonged to the ILO. He appreciated the US desire to seek a solution to the matter. However, it would not be useful to put this subject on the Council's agenda until and unless a solution was in sight in the informal process. He urged that the informal process should continue, perhaps with a view to finding a half-way solution.

The representative of South Africa said that his delegation would support establishment of a working party on the assumption that a comprehensive analysis of worker rights would be made in respect of all contracting parties across-the-board. Noting that South Africa was not a member of the ILO, his delegation welcomed a discussion of the matter in whatever forum was acceptable to its proponents.

The representative of Israel said that his delegation could support the proposal that the issue continue to be discussed in informal consultations.

The representative of Japan said his delegation did not oppose, as a procedural matter, the idea of examining this matter in GATT, including examination in a working party. Having listened to the explanation by the US representative, his delegation was unclear as to what aspect of the labour problem the United States sought to have examined in GATT, but considered that any GATT examination should be focussed on the relationship of labour standards to international trade and not on labour standards as such. In any case, the ILO's participation in some form would be necessary since the matter was being dealt with by that body.

The representative of the European Communities said that a distinction should be made between different types of competence. There was regulatory competence, which the GATT and the CONTRACTING PARTIES had in determining how the General Agreement should be interpreted, or legislative competence, i.e., the possibility for GATT to produce legislation or agreed legal

instruments. There was also deliberative competence, which was much more general, whereby the GATT could discuss matters. He did not consider it worthwhile for contracting parties to engage in a lengthy discussion about whether any particular subject was within the deliberative competence of the GATT, because that was an enormous field. He would certainly find it difficult to agree that that this subject, or many others, was outside the deliberative competence of the GATT. Whether or not it might fall into other aspects of GATT's competence was a totally different question. His remarks were made in general and were not related exclusively to the particular question before the Council. As for the US proposal, and in the light of his general remarks, the Community would have no objection to the establishment of a working party, but clearly the time was not ripe for this at the present meeting. The Community would participate in further informal consultations with the hope that at a future Council meeting, such consultations would lead to a satisfactory compromise solution, perhaps using some of the ideas which had been floated at the present meeting or in the informal consultations. It would be neither appropriate nor in the interests of the CONTRACTING PARTIES to launch a working party over the very strong opposition of a large number of contracting parties; this would be a recipe for further confrontation and could not lead to any useful result.

The representative of the United States said that his delegation appreciated the opportunity to discuss this matter in the Council, particularly in view of the concerns that had been expressed by many representatives on the question of competence. There was no better GATT body to discuss competence than the Council, as it acted on behalf of, or as an alternate to, the CONTRACTING PARTIES, which had the ultimate authority to decide on it. His delegation had noted the Community's distinctions in the types of competence; the scope of deliberative competence was very broad indeed. It seemed there was general agreement that there was a problem in the area of international labour standards, but disagreement as to how to address it. He repeated that the US proposal was designed to forestall movement toward protectionism. His delegation asked all representatives to bear that in mind. Many had supported the working party; many had said that any contracting party had the right to raise any issue -- that was a fundamental matter in GATT. The United States was asking specifically for a working party and would continue to do so. Convinced that this issue affected international trade and that it was relevant to GATT, his delegation appreciated the suggestions concerning the need for further consultations on what all agreed was a difficult and sensitive issue. His delegation also appreciated the spirit in which possible alternative proposals had been put forward. The United States was prepared to continue with informal consultations to clarify what action or working party arrangement might be possible, and hoped that a decision to proceed with a working party could be taken at a future Council meeting.

The Chairman said that clearly no consensus existed at the present meeting to establish a working party. Views had been expressed that GATT was not competent to deal with the matter, and other views had been expressed concerning the right of any contracting party to a working party. It had been said that it was better not to bring a matter before the Council until some degree of consensus had been reached in informal consultations. Finally, there seemed to be a consensus that further informal consultations were needed. The debate had shown how controversial the issue was. In conclusion, he proposed that the Council take note of the statements, agree that the Chairman hold informal consultations and agree to revert to the matter at a future Council meeting.

The Council so agreed.

12. Administrative and financial matters

(a) Report of the Committee on Budget, Finance and Administration (L/6248)
(b) Current cash situation
- Statement by the Director-General
(c) GATT income budget: Proposed scale of assessment for 1988
- Communication from Jamaica (L/6249 and Corr.1)

The Chairman suggested that the three sub-items be considered together and drew attention to the report of the Committee on Budget, Finance and Administration in L/6248.

Mr. Hill (Jamaica), Chairman of the Committee, introduced the report. He noted that this was the Committee's second report to the Council in 1987, the first having been made in April (L/6151). That report had covered, among other items, measures to encourage payment of outstanding contributions. Turning to the present report in L/6248, he outlined its various parts and said that the Committee's discussions had been based on budget estimates for 1988 in the Director-General's proposal in document L/6220, which had provided a great deal of information on which Committee members had been able to base their recommendations. He drew attention to the parts of the budget on GATT's regular activities and on the Uruguay Round.

The income budget for 1988 (sub-item VII) warranted careful reflection and discussion in the Council, bearing in mind the Council's request to the Committee in November 1986 concerning the question of the minimum contribution, and the report in L/6151. The Secretariat, in L/6220, had put forward certain proposals with a view to addressing GATT's unsatisfactory cash situation; it had forecast a cash deficit of some Sw F 2.6 million by the end of 1988, based on the present scale of contributions, i.e., the 0.12 per cent minimum assessment for some contracting parties and actual trade shares for others. The Secretariat's

proposals had been an attempt to address a central problem facing the GATT, i.e., the unsatisfactory cash situation, and had included (1) the reduction of the minimum contribution from 0.12 per cent to 0.03 per cent, (2) an incentive scheme to encourage early payment, and (3) an increase of Sw F one million in 1988 to the Working Capital Fund. The Committee had seen the three proposals as interrelated, and had been unable to reach a consensus on them. In view of the recent situation regarding possible need for an overdraft facility, the Council might want to give some attention to these proposals and to the views of Committee members reflected in L/6248, so as to provide clearer guidance to the Committee. GATT's current cash situation had to be addressed urgently. He noted that Jamaica had made a proposal in L/6249 that all contracting parties' contributions should be based on trade shares. He also drew attention to the section of the report on salaries and pensions of professional GATT staff, which had been discussed in the Council for some time.

The representative of India drew attention to the heading of paragraph 56 in L/6248, "Trade Policy Data Base", for clarification of this reference.

The Director-General said that this heading was a misnomer, and should read "Integrated Data Base", as in document C/W/532.[1]

The representative of Jamaica introduced his country's proposal in L/6249 and Corr.1. Jamaica proposed that the Council recommend that the scale of contributions to the GATT Budget for 1988 and future years be assessed for all contracting parties on the basis of actual trade shares, using figures for the most recent years available. The intent of this proposal was to make GATT's scale of assessment equitable. In Jamaica's view, this required the abolition of the existing two-tiered system of assessment, according to which, since 1968, some contracting parties were assessed on the basis of their share in total world trade, while others paid a minimum contribution of 0.12 per cent of GATT's income budget. Many developing countries' assessed contributions well exceeded their actual share in world trade -- in a number of cases, by a factor of ten or more. This situation was anomalous, when many larger contracting parties with higher income levels were assessed on the basis of their actual share in world trade. He reiterated the point made in the fourth paragraph of the proposal, that the existing scale of assessment, being regressive, put a relatively heavier burden on countries assessed at the minimum level. In addition this was also a cause of GATT's chronic arrears and cash flow problems. Therefore, his delegation urged contracting parties to consider favourably its proposal and urged the Council to recommend, by consensus, that the CONTRACTING PARTIES take a decision to this effect.

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[1] See item no.5.

The representative of Tanzania said that the issue raised by Jamaica merited the Council's serious consideration. His country was among those which had difficulties in meeting its obligations according to the present scale of assessment. Developing countries like his should play an increasingly larger part in world trade, and the ITC/UNCTAD programs as well as financing from a number of countries were encouraging that process. His delegation supported adoption of Jamaica's proposal so that contracting parties' contributions could be assessed on a more equitable basis.

The representative of Sweden said that Jamaica had raised an important issue. The 0.12 per cent assessment might be fairly high for a number of countries with limited trade. However, this was not a primary reason for arrears. A large number of countries were, and had been, in arrears for a number of years. This necessitated greater financial discipline in GATT. Sweden would consider Jamaica's proposal if it was part of a package which would enforce that discipline.

The representative of Australia expressed his delegation's concern over GATT's current difficult financial situation. Australia supported the Budget Committee's recommendation that the financial situation be reviewed urgently with a view to making recommendations before 31 March 1988, and would participate actively in this. However, it should be clear that the problem lay in the failure of many contracting parties to pay their contributions promptly. His delegation had taken note of Jamaica's proposal and considered that the relevant issue was whether the level of the minimum contribution was disproportionate to the benefits provided by GATT to smaller contracting parties. Australia would address this issue in the Committee's considerations.

The representative of Austria said that his was one of the first countries to pay its contribution each year. Like Sweden and Australia, Austria was concerned about contracting parties' lack of discipline in paying their contributions. Regarding Jamaica's proposal, his authorities would not understand even a modest increase in Austria's assessment, given the existing arrears.

The representative of Switzerland agreed with the statements by Sweden and Australia regarding this problem.

The representative of Bangladesh supported Jamaica's proposal.

The representative of the European Communities, speaking on behalf of their member States and of the European Communities, recalled that at the 29 October Council meeting, he had insisted on the distinction between accidental delays and arrears. One of the member States had experienced the former; however, that country had just corrected that problem with a substantial payment. He had also underscored the problem of collective management and collective responsibility. Without continuing arrears, accidental delays would not have such an impact. Timely payment of

contributions was part of reinforcing the GATT system and was an important symbol. All contracting parties were responsible and all should do their utmost to ensure that there would not again be a possible need for an overdraft.

The Director-General said that this was the first time in GATT's forty years that it had faced a cash crisis. When accidents and more fundamental problems combined, the situation became serious. The contribution from the Community's member State was indeed welcome, but the cash position remained very difficult, as contracting parties still owed more than Sw F 27 million to GATT. Actual cash on hand amounted to approximately Sw F 4.5 million, sufficient to meet obligations only through 14 December. Were additional contributions not received by that time, there would be need for a bank overdraft and he would ask for another Council meeting around 10 December to examine the overdraft question. The Secretariat would be keeping this matter under continuous review, and the in the meantime, would do all it could to collect the contributions in arrears. He again urged all of those governments in arrears to make every effort to pay their overdue contributions in full and as soon as possible.

The representative of the European Communities, speaking on behalf of their member States and of the European Communities, said that regarding existing legislation and regulations in the Community, the member States would do their best in terms of their 1988 contributions. The fact remained that it was not a sound position for GATT to be under the continuing threat of the need for a bank overdraft.

The Chairman said that he had held informal consultations on the question of what recommendations to put to the Council, particularly regarding the level of contributions, since alternative proposals had formally been made. He proposed that the Council take note of the statements and of the communication from Jamaica in L/6249. In addition, he suggested the following procedure, which included a part for decision by the Council:

> "In approving the Budget Committee's report and the recommendations therein, it is the Understanding of the Chair that the Council notes that there will be a probable cash deficit in 1988, and bearing in mind the continuing situation of outstanding and chronic arrears in contributions, that the Council requests the Budget Committee to examine the three measures cited in paragraph 63 of the Budget Committee's report (L/6248), including in this examination any other proposals thereon, and make recommendations on these measures, separately or otherwise, to the Council, not later than 31 March 1988."

On the basis of the Understanding he had just read out, he proposed that the Council approve the Budget Committee's specific recommendations in Paragraphs 9, 15, 16, 17, 18, 69, 70 and 84 of its report in L/6248, and agree to submit the draft resolution referred to in Paragraph 71 to the

CONTRACTING PARTIES for consideration and approval at their Forty-Third Session. He then proposed that the Council approve the Budget Committee's report and recommend that the CONTRACTING PARTIES adopt it at their Forty-Third Session, including the recommendations contained therein and the additional recommendation cited in the Understanding he had read out, and the Resolution on the expenditure of the CONTRACTING PARTIES in 1988 and the ways and means to meet that expenditure.

The Council so agreed.

The Director-General made a statement on the personnel aspects of the 1988 budget estimates, noting with satisfaction that the Budget Committee had recommended appropriations which would permit GATT to maintain the level of regular staff, both permanent and temporary, and even complete its team of interpreters. This was important because GATT's workload was by no means diminishing. He noted with pleasure that with respect to the Uruguay Round, it had been recognized that additional staff would be necessary and that the appropriate provision had been made. The Committee had not endorsed his recommendation that a number of temporary posts be incorporated in the permanent manning table. While he understood contracting parties' wish to ensure that the number of GATT's permanent staff remained small and stable, he would have liked to have given recognition to some of the temporary staff who were carrying out tasks of a manifestly permanent nature. However, the Committee's recommendation endorsing the regrading proposals would allow career development policy to be carried out on a sound basis.

The Committee had not seen fit to endorse the recommendation, emanating from the Informal Advisory Group chaired by Mr. Feij, that two seniority salary steps be created for the professional staff. The introduction of the extra steps would have brought GATT into line with the practice in at least two other organizations of the common system, and would have represented a concrete manifestation of contracting parties' oft-expressed desire to ensure that some improvement be made in conditions of service. As it was, there would be no tangible results from the Advisory Group's work. He said that the staff were very disappointed at this turn of events, which explained why new proposals for direct action, such as suspension of overtime duties, had been considered in the Staff Assembly. These proposals remained, for the time being, suspended. He had taken the opportunity to set before the staff a number of factors which influenced the attitude of governments on these questions. The staff were, of course, also aware of steps which had been taken or were being contemplated in the common system regarding the protection of salaries and pensions. It was of vital importance that the proposals before the General Assembly relating to pensions be adopted. The Secretariat would, of course, follow events in New York very closely, but it was essentially contracting parties which could take effective steps to ensure adoption of the proposals; he was pleased to note that the Budget Committee had recognized this. He would

continue to keep these questions under close scrutiny and to ensure that GATT's voice was heard in the common system. He would also not hesitate to raise them with contracting parties at any time this seemed necessary.

The Council took note of the statement.

13. Training activities (L/6231)

The Director-General introduced his report (L/6231) on the trade policy courses organized by GATT. He recalled that at Punta del Este, Ministers had agreed that technical support by the Secretariat, adequately strengthened, should be available to the developing countries participating in the Uruguay Round. The Secretariat was considering how its training activities should be strengthened to satisfy the increasing demand by developing countries. He thanked the Canadian Government for its generosity in inviting once more the participants in the English-speaking course for a study tour in Canada and for Canada's continuing support for the training activities. He also thanked the Italian Government for the study tour organized for the French-speaking course. He thanked the Swiss authorities for the renewal of their unilateral contributions which had enabled a special workshop on trade negotiation techniques to be added to the training program and to be continued, particularly in the period of multilateral trade negotiations. Switzerland had also continued each year to invite participants in the courses to take part in a short study tour in that country. He expressed gratitude to the United Nations Development Programme for its help in the processing of applications. Finally, he thanked those members of delegations and representatives of other international organizations who had given their time to discuss various questions with the participants in the courses.

The representatives of India, Cuba, Peru, Uruguay and Israel expressed appreciation for the courses and for the Secretariat's efforts to maintain and strengthen the training program.

The representative of Canada said that due to the Uruguay Round, the need for technical assistance in GATT was perhaps greater at present than it had been over the past few years. This had been one of the subjects discussed in two important recent meetings hosted by his country -- the Francophone Summit and the Commonwealth Conference -- and he quoted from a declaration issued by the latter regarding consultations and trade policy training programs for developing countries. He suggested that the Secretariat might compile an inventory of the assistance offered in this area by GATT and by other international organizations, in order to help developing countries identify what assistance was available that would be relevant to their participation in regular GATT work and in the Uruguay Round.

The representative of Sweden, speaking on behalf of the Nordic countries, expressed their appreciation for the valuable contribution made by the International Trade Centre in this area.

The Council took note of the Director-General's report (L/6231) and of the statements.

14. Dispute settlement procedures
- Roster of non-governmental panelists (C/W/531 and Adds.1 and 2)

The Chairman recalled that in November 1984, the CONTRACTING PARTIES had decided to establish, on a trial basis and for a period of one year, a roster of non-governmental panelists so as to facilitate the composition of panels in those cases in which the parties to the disputes were unable to agree on panelists (L/5752). In November 1985, the Council had approved a list of non-governmental panelists in document L/5906, and had agreed in November 1986 to extend the list for an additional year.

He proposed that the Council agree to extend the list of non-governmental panelists for an additional year as set out in document C/W/531, with the modification indicated in C/W/531/Add.1 and with the additions indicated in C/W/531/Add.2.

The Council so agreed.

The representative of Canada expressed his delegation's satisfaction that the permanent roster of panelists had been used with increasing frequency during the past year; this had made an important contribution to strengthening the dispute settlement system.

The Council took note of the statements.

15. Report of the Council (C/W/529)

The Secretariat had distributed in C/W/529 a draft of the Council's report to the CONTRACTING PARTIES on matters considered and action taken by the Council since the Forty-Second Session.

The representative of Colombia expressed his delegation's disappointment that the draft report had not yet been issued in Spanish.

The Director-General apologized for this situation, and noted that this period of the year was particularly difficult due to the number of documents to be prepared and issued. He said that in addition to GATT's regular team of translators, there were an extra 20 currently employed.

The Secretariat always did its best to bring out documents in the three languages, as far as possible at the same time, but there were physical limitations which he asked the Council to take into account.

The Chairman requested the Secretariat to insert any amendments proposed and suitable additional entries regarding discussion and action taken at the Council meetings in October and November.

The Council agreed that the report, with these amendments and additions, should be distributed and presented to the CONTRACTING PARTIES at their Forty-Third Session.

16. Mexico - United States Framework Agreement

The representative of Mexico, speaking under "Other Business", informed the Council that on 6 November 1987, the Governments of Mexico and the United States had signed an Understanding on a framework of principles and procedures for consultations on trade and investment relations between these two countries, with the goal of strengthening and improving their bilateral relations in these fields. The elements in the Understanding were fully consistent with GATT principles and the Punta del Este Declaration, as well as with each country's GATT rights and obligations. He gave details of the consultation mechanism provided for in the Understanding, noting that the textile, agriculture, steel and electronic products sectors would be subjects of immediate consultations, along with topics being developed in the Uruguay Round. The text[1] of the Understanding had been submitted to the Secretariat for circulation.

The representative of the United States reiterated the information provided by Mexico and confirmed that the text had been submitted.

The Council took note of the statements.

17. United States Agricultural Adjustment Act
- Twenty-ninth and Thirtieth annual reports

The representative of the European Communities, speaking under "Other Business", said his delegation understood that reports on the United States' Section 22 waiver had been submitted only the previous day, and asked, in view of this delay and in view of the waiver's conditions, how the United States intended to help in enabling contracting parties to carry out the required review of the application of the waiver despite this delay.

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[1] The text was subsequently circulated in L/6260.

The representative of the United States said that the US reports on the Section 22 waiver had been submitted to the Secretariat[1] and covered both fiscal years 1985 and 1986. In partial response to the Community's question, he noted that the US negotiating proposal for agriculture in the Uruguay Round included phasing out the practices covered by this waiver over ten years.

The representative of the European Communities said that the US reply seemed to suggest that the fact of placing a negotiating proposal on the table in the framework of the Uruguay Round rendered void obligations arising from the General Agreement, such as the terms of this waiver which included very precise conditions. The Community proposed that a working party be established at the present meeting to examine the US reports. The working party should be allowed to make recommendations to the Council, since it would otherwise it would be a mere formality.

The Chairman proposed that the Council take note of the statements and agree to establish a working party with the following terms of reference:

> "To examine the twenty-ninth and thirtieth annual reports submitted by the Government of the United States under the Decision of 5 March 1955 (BISD 3S/32), and to report to the Council."

Membership would be open to all contracting parties indicating their wish to participate in the working party. The Chairman of the Council would be authorized to designate the Chairman of the Working Party in consultation with the contracting parties principally concerned.

The Council so agreed.

The Chairman said that he understood that the traditional terms of reference would permit the Working Party to make appropriate recommendations.

The Council took note of the statement.

18. Agreement between the European Economic Community and Cyprus

The representative of the European Communities, speaking under "Other Business", referred to the background document prepared for the Special Council meeting (C/W/528), in which there was a full description (pages 28-29, paragraphs 128-135) of the Agreement recently signed by the Community and Cyprus establishing arrangements to implement the customs union originally foreseen in the EEC-Cyprus Association Agreement. The

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[1] The reports were subsequently circulated in L/6256.

Agreement would enter into force on 1 January 1988. The first of its two phases would result in the dismantling of virtually all trade restrictions in both directions, and in Cyprus' adoption of the Community's common external tariff during a ten-year period. The Agreement would be formally notified to the CONTRACTING PARTIES in due course, once it had been fully ratified.

The representative of the United States said that in view of the intent to have the Agreement become operational on 1 January 1988, his delegation wanted clarification as to possible changes in the duty rates of the common external tariff and the implications for the Community's obligations in its GATT Schedule.

The representative of the European Communities said that it was his understanding that Cyprus would adopt the Community's common external tariff; no changes would be made in the latter.

The representative of the United States said that to the extent that there were any changes, his country reserved its rights under the General Agreement.

The Council took note of the statements.

19. Regional agreements - Calendar of biennial reports

The representative of Australia, speaking under "Other Business", recalled that at the February 1987 Council meeting, some contracting parties had expressed the view that there was no further need to continue reporting on their trade agreements in cases where these had been fully implemented. The general matter of this reporting requirement had been subsequently discussed in informal consultations, but no agreement had been reached regarding a new calendar for 1987-1989. Australia considered the reporting requirement to be an important element in GATT's surveillance activities, and proposed that informal consultations be held with a view to having a decision taken on a new calendar at the forthcoming CONTRACTING PARTIES Session.

The Council took note of the statement.

20. United States - Unilateral measures on imports of certain Japanese products

The representative of Japan, speaking under "Other Business", referred to a recent announcement by the US Government regarding further partial removal of its unilateral measures against Japan concerning trade in semi-conductor products. This was a decision in the right direction;

however, it was extremely regrettable that some of the unilateral measures would still be maintained. Japan repeated its request that the United States withdraw all of these measures as soon as possible. Should a satisfactory solution to this matter not be attained soon, Japan would seek a panel under GATT's dispute settlement procedures.

The Council took note of the statement.

21. United States - Trade measures affecting Nicaragua - Panel report (L/6053)

The representative of Nicaragua, speaking under "Other Business", said that on 30 October 1987 the US President had proposed to the Congress that the US trade embargo against Nicaragua be renewed for an additional six months. She said that this was a further violation of international law as it represented intervention in the domestic affairs of a sovereign state. This matter was under examination by the Council, but a satisfactory solution had not yet been found. Therefore, her delegation would ask the CONTRACTING PARTIES at their Forty-Third Session to implement paragraph 21 of the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/210). Nicaragua asked that wide consultations be held prior to that Session which might lead to a satisfactory solution to this matter.

The Chairman said that he was prepared, if requested by the parties, to undertake consultations on this matter on the basis on which this had been done previously. He would contact the parties concerned.

The Council took note of the statements.

22. European Economic Community - Implementation of the Harmonized System - Recourse to Article XXII:1 by Argentina

The representative of Argentina, speaking under "Other Business", expressed his delegation's concern over one aspect of the Community's proposed implementation, as of 1 January 1988, of the Harmonized System, regarding certain beef products. Argentina reserved its rights in this matter and asked for Article XXII:1 consultations with the Community.

The representative of the European Communities said that his delegation had taken note of Argentina's statement and reserved all of its rights in this matter.

The representative of Australia asked that his delegation be included in any consultations held on this matter.

The Council took note of the statements.

23. Arrangements for GATT's 40th Anniversary

The Director-General, speaking under "Other Business", gave details regarding the events planned for Monday, 30 November to mark GATT's fortieth anniversary, which would be held in the Geneva International Conference Centre. He outlined the agenda of events, and asked delegations to inform him by 13 November of the names of Ministers who would be coming for the anniversary and in particular to indicate whether they would be willing to participate in a public roundtable discussion. Invitations and a preliminary program would be sent out within the next few days.

The Council took note of this information.

24. Accession of Bolivia
- Designation of Working Party Chairman

The Chairman said that his consultations were continuing. When they were concluded, representatives would be informed of the results either by means of a document or by an announcement at the next Council meeting.

The Council took note of this information.

25. United States - Section 337 of the Tariff Act of 1930
- Panel terms of reference and composition

The Chairman said that consultations were not yet finished. When they were concluded, representatives would be informed of the results either by means of a document or by an announcement at the next Council meeting.

The Council took note of this information.

26. Export of Domestically Prohibited Goods

The Chairman recalled that at their Forty-Second Session, the CONTRACTING PARTIES had agreed (L/6106) that consultations should be undertaken with a view to establishing guidelines for action relating to trade in domestically prohibited goods. He confirmed that a report on the consultations would be made to the CONTRACTING PARTIES at their Forty-Third Session.

The Council took note of this information.