GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

C/M/223
8 August 1988

Limited Distribution

COUNCIL
20 July 1988

MINUTES OF MEETING

Held in the Centre William Rappard
on 20 July 1988

Chairman: Mr. A.H. Jamal (Tanzania)

Subjects discussed:		Page
1.	Accession of Bulgaria - Memorandum on Bulgaria's foreign trade régime	2
2.	United States - Taxes on petroleum and certain imported substances - Follow-up on the Panel report	3
3.	Committee on Balance-of-Payments Restrictions (a) Consultation with Bangladesh (b) Consultation with Egypt (c) Meeting of 7 June	4
4.	Korea - Restrictions on imports of beef - Recourse to Article XXIII:2 by New Zealand	6
5.	European Economic Community - Restrictions on imports of apples - Recourse to Article XXIII:2 by the United States	10
6.	Committte on Budget, Finance and Administration - Progress report by the Committee Chairman	11
7.	Roster of non-governmental panelists - Proposed nomination by Austria	13

		Page
8.	Agreements among Argentina, Brazil and Uruguay	14
9.	Communication from the United States concerning the relationship of internationally-recognized labour standards to international trade	16
10.	Korea - Restrictions on imports of beef - Recourse to Article XXIII:2 by the United States	16
11.	United States - Imports of sugar - Recourse to Article XXIII:2 by Australia	17
12.	Accession of Bolivia - Memorandum on Bolivia's foreign trade régime	20
13.	Japan - Imports of beef and citrus products (a) Withdrawal of recourse to Article XXIII:2 by the United States (b) Withdrawl of recourse to Article XXIII:2 by Australia (c) Withdrawal of recourse to Article XXIII:2 by New Zealand	20
14.	Measures affecting the world market for copper ores and concentrates	23

1. Accession of Bulgaria
- Memorandum on Bulgaria's foreign trade régime (L/6364)

The Chairman recalled that at its regular meeting on 5-6 November 1986, the Council had established a Working Party to examine Bulgaria's request for accession and had agreed to consider, in due course, the procedural aspects of the its establishment. At the regular meeting on 15-16 June 1988, the representative of Bulgaria had asked that consultations be initiated regarding the drawing up of terms of reference and the designation of a chairman for the Working Party, and the Council had agreed to revert to this matter at the present meeting. He said that

he had initiated those consultations, and that some progress had been made. It appeared, though, that further time would be needed. He intended to continue the process with the hope that he would be able to report on the matter at the next meeting so that the Council could take appropriate action at that time.

The representative of Bulgaria, speaking as an observer, thanked the Chairman for his efforts. He hoped that by the next Council meeting, the Working Party would be in operation.

The Council took note of the information from the Chairman and of the statement.

2. United States - Taxes on petroleum and certain imported substances - Follow-up on the Panel report (C/W/540 and Add.1, L/6175)

The Chairman recalled that at the Council's regular meeting on 15-16 June, the Secretariat had been asked to give technical advice to the European Communities and the United States on this matter, and that the Council had agreed to revert to it at the present meeting. Pursuant to that request, the Secretariat had started on its task, and had informed him that several technical questions still remained to be answered before it would be possible to transmit the technical advice to the two parties and to other interested contracting parties. He understood that the Secretariat had so informed those delegations, and accordingly, suggested that the Council revert to this item at its next meeting.

The representative of the European Communities expressed his delegation's disappointment that it was taking so long to get the technical advice requested, but understood that there were complicated questions involved as well as time constraints in terms of the Secretariat's workload. The Community hoped and expected to have this technical advice well in advance of the next Council meeting so that this matter, which had been on the table for some time, could be solved at that meeting. However, this did not remove the need and the expectation that the United States would finally implement the Panel's recommendations or make an appropriate compensation offer. The Community urged the United States to speed up its procedures as much as possible.

The representative of Canada noted the continued lack of progress on this matter and his delegation's continued interest in the Secretariat's technical advice to both the United States and the Community.

The representative of Mexico joined in the statements by the Community and Canada on this issue, which was of particular interest to Mexico as it had been one of the complaining parties. His delegation was concerned that

more than a year after the Council's establishment of a panel in this case, it had still not been possible to implement the recommendation adopted by consensus.

The Chairman said that it appeared likely that the Secretariat could finish its work on this matter some time in August and that the technical advice should be available prior to the Council's next meeting.

The Council took note of the information from the Chairman and of the statements.

3. Committee on Balance-of-Payments Restrictions
   (a) Consultation with Bangladesh (BOP/R/175)
   (b) Consultation with Egypt (BOP/R/176)
   (c) Meeting of 7 June (BOP/R/177)

Mr. Boittin (France), Chairman of the Committee on Balance-of-Payments Restrictions, said that the Committee had met on 7 June 1988 to undertake a simplified consultation with Bangladesh (BOP/R/175) and a full consultation with Egypt (BOP/R/176).

For Bangladesh, the Committee had concluded that full consultations were not desirable and had decided to recommend to the Council that Bangladesh be deemed to have fulfilled its obligations under Article XVIII(b) for 1988. It had been also noted that there was consensus that a call for a full consultation should not be considered as a criticism of a contracting party's policies, nor regarded as an exceptional event. A decision to hold full consultations should be taken on the basis of the practical criteria laid down in the 1979 Declaration (BISD 26S/205). The Committee had noted that the opportunity of requesting a full consultation would be available at the next regular simplified consultation with Bangladesh or in the event of changes in its trade policy which might justify a call for a full consultation under Article XVIII:12(a). The possibility of technical assistance to Bangladesh in preparing for any such full consultation had been noted.

As for Egypt, the Committee had recognized that it faced a serious balance-of-payments situation and had commended it for the liberalization efforts undertaken to date, particularly the abolition of import licensing, the reform of tariffs, and the movement towards unification of exchange rates. The Committee had encouraged Egypt to continue this process, and in this connection, had noted the problems Egypt faced in maintaining its adjustment program, and had encouraged it to consider macro-economic measures which could assist further in pursuing that program. The Committee had noted that the medium-term outlook for Egypt's balance-of-payments would also depend on the availability of external financing on

concessional terms and the expansion of non-oil exports. The Committee had noted that the operation of the exchange control system had had considerable effects on trade, and had urged Egypt to continue the streamlining of this system. In relation to the "negative list" of items subject to conditional prohibitions, which covered a substantial proportion of tariff lines, the Committee, while taking note of the difficulties encountered, had encouraged Egypt to give consideration to formulating a time schedule for the phasing out of these restrictions, or their replacement by tariff-based measures, in parallel with other adjustment measures. The Committee had noted that Egypt would seek credit in the Uruguay Round for its import liberalization. The Committee had sought further detailed information on imports under the "conditional prohibition" system and had requested Egypt to provide such information at a tariff line level.

In document BOP/R/177, the Committee had made a number of remarks on the state of documentation. He emphasized how important it was for the functioning of the Committee's work that all parties fulfill their responsibilities in order to ensure that documents were distributed according to the three-week time limit laid down by the Committee in 1970. It had also been agreed that at the next meeting of the Committee, to be held in the week beginning 3 October, a full consultation with Turkey and simplified consultations with Argentina, Nigeria, the Philippines, Tunisia and Yugoslavia would be held.

(a) Consultation with Bangladesh (BOP/R/175)

The Council adopted the report and agreed that Bangladesh be deemed to have fulfilled its obligations under Article XVIII:12(b) for 1988.

(b) Consultation with Egypt (BOP/R/176)

The representative of the European Communities said that Egypt's abolition of the 35 per cent prior import deposit requirement was one of the elements which contributed to the overall balance in the report. The Community hoped for the effective withdrawal of the measure, and with that in mind, could accept that the report be adopted. The Community took balance-of-payments surveillance seriously and not as a simple mechanical formality.

The Council took note of the statement and adopted the report.

(c) Meeting of 7 June (BOP/R/177)

The Council took note of the Committee's report in BOP/R/177.

4. Korea - Restrictions on imports of beef
- Recourse to Article XXIII:2 by New Zealand (L/6354 and Add.1)

The Chairman recalled that at its regular meeting on 15-16 June, the Council had agreed to revert to this matter at the present meeting.

The representative of New Zealand said, in summarizing the present situation, that New Zealand was one of a number of contracting parties which had a disagreement with Korea over the latter's beef imports. While the Council had already agreed to establish panels to consider the specific complaints of the United States and Australia, New Zealand had been unable to get, either from Korea or from the Council, equal treatment for its not dissimilar complaint. The blame for this lay not with the Council but with Korea which, for reasons which were difficult to follow, was deferring any progress on this issue. Despite a request made three months earlier, New Zealand had not yet had Article XXIII:1 consultations with Korea on this matter. The communication in L/6354/Add.1 detailed the chronology of New Zealand's efforts to this end. At the June Council meeting, Korea had indicated that Article XXIII:1 talks would be held "in due course", and New Zealand had asked that this be prior to the present Council meeting. Korea had now indicated that "in due course" meant 25 July or thereafter. This meant that if subsequent recourse to a panel were needed, Council agreement could not be sought before September. He said that the General Agreement contained rights and obligations of differing weight and importance. The obligation of a contracting party to consult under the provisions of the General Agreement when so requested by another contracting party was so basic to the operation of the General Agreement that it seemed extraordinary that it should be at issue. Indeed, three months after New Zealand's first formal request to Korea for Article XXIII:1 consultations, it no longer was the issue. New Zealand now sought the establishment of a panel to ensure that it was treated as equitably as the United States and Australia, for which panels on exactly the same issue had already been established. There was no procedural complication regarding New Zealand's inclusion, as his delegation had stated at the June Council meeting that it would accept whatever common procedures were agreed by Korea with the United States and Australia respectively. He reiterated that a careful reading of Article XXIII:2 made it clear that consultations under Article XXIII:1 were not a necessary prerequisite for the establishment of a panel. The reasons for this had been clearly set out in the Minutes of the June Council meeting. The only test was that the CONTRACTING PARTIES collectively agree that no satisfactory adjustment had been effected between the parties concerned within a reasonable time. In New Zealand's view a reasonable time had passed, and this issue, notwithstanding Korea's proposal for Article XXIII:1 talks the following week, could not wait until September due to the existence of the Australian and US panels. New Zealand had a right to be treated on the same basis as those two contracting parties, and in fact was a larger exporter of beef to Korea than one of them. Korea's offer of consultations, three months after

receiving New Zealand's "written representations" in the language of Article XXIII:1, had to be interpreted most carefully. New Zealand therefore repeated its request for the establishment of a panel at the present meeting.

The representative of Korea said that his country by no means denied the right of any contracting party to Article XXIII:1 consultations or to a panel. All contracting parties stood to gain by having a dispute settlement mechanism in GATT which functioned effectively; Korea was no exception. Regarding the present issue of beef imports, it had always been his Government's sincere wish to solve this problem in a mutually satisfactory way through reconciliation and negotiations. As New Zealand had indicated, there had been a number of contacts between Korea and New Zealand since the June Council meeting. Korea had explained the background and reasons which had prevented Article XXIII:1 consultations from taking place. Since beef imports had become a very sensitive political issue, his Government had planned to have prior consultations with the National Assembly earlier in July, which unfortunately had not been possible. The National Assembly was presently meeting again from 18-23 July in another special session, and his Government would seize this occasion for these consultations. He informed the Council that his authorities had already notified New Zealand of Korea's intention to hold Article XXIII:1 consultations during the week of 25 July, either in Seoul or Geneva. His Government had been striving to arrive at a mutually acceptable solution through consultations and, after consulting with the National Assembly, would be able to make a concrete proposal which would be a basis for a useful consultation with New Zealand, in which a practical solution to the problem could be found. Korea was ready to make such an effort, and hoped that the Council would agree that it was premature to establish a panel at this juncture and that this should await the outcome of consultations in accordance with well-established GATT practice.

The representative of the United States said that his delegation appreciated Korea's statement but felt that it was too little too late. The United States continued its strong support of New Zealand's request for a panel and reserved its rights to participate in it as a third party. Given Korea's prolonged refusal to hold Article XXIII:1 consultations with New Zealand, his delegation believed the latter was fully justified in asserting that it was entitled to the establishment of a panel, since no satisfactory adjustment had been effected through consultations within a reasonable time. Taking any other position would allow a defending party to frustrate completely the GATT dispute settlement process simply by refusing to consult. Contracting parties should not condone such disregard for the GATT system. He said that this was not the only example of delay in this area; under "Other Business", his delegation would report on the

continued delays which Australia and the United States were experiencing in their attempt to get their coordinated panels formed and operating.[1]

The representative of Australia said that the obligation to respond promptly to requests for consultations was perhaps the least onerous demand in GATT on contracting parties; however, it was critical to the effective operation of the GATT system, particularly the dispute settlement processes. Korea had clearly not responded promptly to New Zealand's request for Article XXIII:1 consultations. The date now proposed by Korea was six weeks after the most recent Council meeting and more than eleven weeks since New Zealand's initial request for those consultations. This was clearly a case in which the consultative process was being used as a delaying tactic, but for what reason? Korea had said that its Government wanted to have consultations with its Parliament before putting a proposal forward. There was nothing in GATT which provided for a contracting party not to respond to a request for consultations until this had been cleared through some internal process. Surely there was not an expectation that solutions in GATT would be found by ignoring requests for consultations. If a contracting party believed that it was living up to its obligations, it should welcome the opportunity to have any doubt put to rest. Australia shared the United States' remarks; Article XXIII:2 began with the words, "if no satisfactory adjustment is effected between the contracting parties concerned within a reasonable time ... the matter may be referred to the CONTRACTING PARTIES." His delegation did not think Korea could continue to invoke standard procedures by saying that it was normal to wait until Article XXIII:1 consultations had been held. A delay of at least 11 weeks in refusing to respond to a request was abnormal, and New Zealand was well within its rights to ask now for a panel. Australia supported that request.

The representative of Canada expressed his delegation's serious concern over the lengthy delays experienced by New Zealand in its efforts to conduct Article XXIII:1 consultations with Korea. From the information provided, it was evident that New Zealand had already had extensive contacts with Korea on this matter. Given this evidence, it would appear that efforts had been made to resolve this issue bilaterally. Canada believed, as did previous speakers, that these circumstances justified New Zealand's request for the establishment of a panel at the present Council meeting, and reserved its right to make a presentation to it.

The representative of the European Communities said that the Community had looked carefully at New Zealand's communication in L/6354/Add.1 and had listened to Korea's explanations. In particular, the Community noted that a request for urgent Article XXIII:1 consultations had been made on 21 April, i.e., three months earlier, that Korea had agreed to hold such

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[1] See item no. 10.

consultations only after numerous démarches and only on a date after the last Council meeting before the summer break, and that Korea had earlier accepted consultations on the same issues requested by the United States and Australia, as well as the establishment of panels requested by these countries. The Community fully understood that GATT dispute settlement procedures might cause internal political difficulties, and that positive solutions might sometimes require some time before the situation was ripe. In this sense, the Community sympathized with Korea as it had experienced such problems in similar situations. However, there did seem to be a misuse of procedures in the present instance because of the delays caused; in this context, paragraph 4 of the 1979 Understanding[2] was relevant. There was also the issue of a contracting party being treated differently, in a similar situation, from other contracting parties. The Community found this dangerous for the good functioning of the multilateral system, and urged Korea to play by the rules and in good will. With respect to New Zealand's request for the establishment of a panel, he noted that paragraph 6 of the Understanding said that "contracting parties should attempt to obtain satisfactory adjustment of the matter in accordance with the provisions of Article XXIII:1 before resorting to Article XXIII:2". While the right procedure was for Article XXII or XXIII:1 consultations to precede the establishment of a panel, in this particular case, it could be considered that New Zealand had made a serious attempt to obtain a solution through consultations. Moreover, two panels concerning Korea's import restrictions on beef had already been agreed. In this situation, the Community saw no reason not to agree to the establishment of a panel as requested by New Zealand, and reserved its rights to make a submission to that panel.

The representative of Uruguay said that his delegation fully supported New Zealand's position and shared the statements made by other representatives to this effect, for two fundamental reasons. One was the desire that GATT dispute settlement should work as effectively as possible. It was clear that delays, such as those in the present case, would make this impossible. Any precedent of this nature could have serious repercussions on a contracting party raising a complaint similar to New Zealand's. The second reason was that Uruguay was an exporter of the product in question, and it was well known that any barrier in one market had repercussions on all others. Uruguay therefore had a clear interest in seeing appropriate liberalization in Korea's beef import market, and called on the Korean delegation to do everything in its power to obtain answers from its authorities in order to respond satisfactorily to New Zealand's complaint.

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[2]Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/210).

The representative of Hungary said that his delegation supported New Zealand's request for the establishment of a panel. Hungary had an evident interest in a well-functioning dispute settlement mechanism; therefore, it would be the last to challenge that under normal conditions, Article XXII or XXIII:1 consultations should take place before a panel was established under Article XXIII:2. However, as the chronology of events in L/6354/Add.1 indicated, it had taken three months for Korea to agree to a time for the requested consultations, and the latest offer could create a situation in which, should a request for a panel be necessary, this could be considered by the Council only five months after the first official request for consultations. While the process of consultations was an important element in the dispute settlement procedure, it should not become a source of unacceptable delay in addressing a problem. Hungary believed that New Zealand had made serious efforts to hold Article XXIII:1 consultations, and in view of Korea's lack of appropriate response within a reasonable time, considered that the Council should approve, at the present meeting, New Zealand's request for the establishment of a panel.

The representative of Korea reiterated that his Government neither denied the right of a contracting party to Article XXIII:1 consultations or to a panel, nor discriminated against any particular contracting party. His Government had already proposed Article XXIII:1 consultations with New Zealand for the following week. The reason for the delayed response to New Zealand's request was the time required for prior consultations with the National Assembly. Furthermore, Korea did not regard Article XXIII:1 consultations as merely a pro forma procedure for the establishment of a panel. His Government intended to present a concrete proposal to solve the problem with New Zealand through substantive consultations under Article XXIII:1. Under these circumstances, Korea hoped that the Council would await the result of those consultations in accordance with established GATT practice.

The Chairman drew Korea's attention to the fact that seven representatives had underlined the importance they attached to progress in this matter, and expressed the Council's hope that progress would be made at its next meeting.

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

5. European Economic Community - Restrictions on imports of apples - Recourse to Article XXIII:2 by the United States (L/6371)

The Chairman drew attention to the communication from the United States in L/6371, and said that he understood that bilateral consultations were currently in progress and that the United States would like consideration of this item to be deferred.

The Council took note of this information.

6. Committee on Budget, Finance and Administration
- Progress report by the Committee Chairman

The Chairman recalled that at its regular meeting on 15-16 June, the Council had agreed to revert to this item at the present meeting.

Mr. Hill (Jamaica), Chairman of the Committee on Budget, Finance and Administration, recalled that in November 1987 the Council had mandated the Committee to review inter alia the matter of the cash situation and had asked it to make recommendations to the Council in light of a probable cash deficit in 1988. The Committee had devoted itself almost exclusively to this task since the beginning of 1988, having met nine times either formally or informally. In addition, many hours of additional informal consultations had taken place, including some with the Director-General. A great amount of work had been necessary because of the difficulty in finding common ground among the possible solutions for the different elements on which the cash situation depended. While substantive progress had been made in the preceding few days in defining the different elements of an overall solution, a number of delegations still required more time. He suggested, therefore, that the Council take note of his progress report, since he considered it preferable to present to the Council an agreed set of recommendations emerging from the Budget Committee.

The representative of Singapore said that his delegation understood that the Budget Committee's mandate was to address the issue of arrears of both major and small contracting parties, and not to address the question of equity. In the process, the Committee had come up with a creative package, to be taken as a whole, providing incentives as well as disincentives to allow contracting parties to settle their current payments in time and to settle their arrears. The crucial issue was how to provide sufficient assurance that this would happen. He hoped that sight would not be lost of this central issue in the further consultations towards reaching a meaningful, workable and practical package deal.

The representative of Malaysia said that the Committee Chairman had referred to its mandate, which was to find ways and means of solving the cash-flow problem which had reached a crisis stage in 1987 and might again in 1988. That was the problem, not equity. It had been said that the Committee was looking for overall solutions; those should thus bear a semblance of balance in solving that problem. Malaysia shared Singapore's views and hoped that the package being considered would go a long way in solving the cash-flow problem, and that contracting parties which had made a commitment to the system as such would pay up their contributions and solve this problem once and for all.

The Chairman of the Committee said that there were misconceptions in the statements by Singapore and Malaysia since he had not, as Chairman of the Committee, mentioned the word equity in his report. At the Council meeting in June 1988, he had referred to the regular meeting on 10-11 November 1987 at which the Council had requested the Committee to examine three measures, namely the minimum contribution, an incentive scheme and an increase of the Working Capital Fund. The Committee was to include in its examination any other proposals thereon, and to make recommendations on these measures, separately or otherwise, to the Council. This request had been made in the light of a probable cash deficit in 1988 and the continuing situation of outstanding and chronic arrears in contributions. He stressed that he had not mentioned equity at the June Council meeting or in his earlier statement at the present meeting.

The representative of Jamaica recalled that during the preceding three years, his delegation had addressed the question of the GATT scale of contributions at several Council meetings. In a document submitted to the Council in October 1987 (L/6249 and Corr.1), Jamaica had set out its views on this matter and had made a specific recommendation that the scale for 1988 and future years be assessed for all contracting parties on the basis of their actual trade shares; i.e., the same formula should be applied to all contracting parties because this would be more equitable. As the situation presently stood, some contracting parties were assessed on the basis of trade shares and others on the basis of a fixed minimum percentage which had been set over twenty years earlier. His delegation had followed closely the discussions in the Committee, to which Jamaica's proposal had been referred for consideration in the wider context of measures to improve GATT's cash flow and to deal with outstanding and chronic arrears. He noted that a consensus seemed to be emerging in the Committee on the question of lowering the minimum contribution. A new minimum of .03 per cent had been suggested. At the October 1987 Council meeting, Jamaica had indicated its willingness to forego its own recommendation for the introduction of a scale based on trade shares and to accept a new minimum of .03 per cent, if the latter were acceptable to contracting parties. That continued to be his delegation's position, despite the fact that Jamaica's trade share exceeded .03 per cent and Jamaica would therefore not be assessed at the new minimum. Lowering the minimum contribution would be a step towards a more equitable scale of assessment and would contribute to improving the cash-flow problem. Reducing arrears -- a separate issue -- was nevertheless important. He said that addressing this issue had become more urgent in the light of a number of proposals made in the Uruguay Round, which could lead to significant increases in the GATT Budget. Without prejudging what the outcome of the Round would mean in terms of additional charges, it appeared that rationality and equality in the scale of contributions were issues which could be of even greater importance in the near future in examining the size of the Budget and Jamaica's

contribution to it. Jamaica hoped that the work of the Committee on this and related questions would be brought to an early and satisfactory conclusion.

The Director-General drew attention to the fact that the Committee had not been in a position to make proposals to the Council at the present meeting. In his view, it was unfair for representatives who had not been associated with the Committee's work and who did not know the details of its discussions, to participate in a debate for which they did not have a base. While not wanting to discourage the Council's debate of this issue, he wanted to draw attention to the unbalanced situation prevailing in this discussion. The Committee had been entrusted with a specific task and had estimated that more time was needed; it should therefore be given this additional time in order, perhaps, to be able to make proposals at the next Council meeting.

The representative of Singapore said that his delegation had no intention of entering into a debate, but merely wished to record its understanding that the Committee, in seeking a solution, would look at all issues or suggestions in the light of the Committee's mandate, as stated by its Chairman, which was to address the cash situation.

The Chairman of the Committee pointed out that at no time had he said that the Committee's mandate was to deal with the cash situation only. Quoting from Council minutes, he said that the mandate was to examine a number of measures and to make recommendations in the light of a probable cash deficit in 1988.

The Chairman expressed the hope that note had been taken of what the Committee's Chairman and the Director-General had said with regard to the process still underway. He said that at an appropriate time, his own delegation (Tanzania) would make a very comprehensive statement intended to put the whole matter in a correct perspective, historically and otherwise. In his view, the Committee had considered this matter in great detail and had made enormous efforts to understand every aspect of it. Consequently, he believed that it should be given the additional time needed to conclude the matter to everyone's satisfaction.

The Council took note of the statements.

7. Roster of non-governmental panelists
- Proposed nomination by Austria (C/W/559)

The Chairman drew attention to C/W/559 containing Austria's proposal for a nomination to the roster of non-governmental panelists.

The representative of Austria gave additional information on the nominee proposed by his Government.

The representative of Jamaica supported the proposed nomination, and said that the Roster would now consist of 41 individuals. He recalled that when the Roster had been considered by the Council, his delegation had reserved its position, although not formally, on the inclusion of certain names on that list. The Roster was now developing at a pace and in a direction which gave concern to his delegation. At the Council's regular meeting on 15-16 June, Jamaica had indicated that GATT had allocated Sw Frs 50,000 for panels in 1987, which had been overspent by Sw Frs 144,000.[3] Of the 41 persons on the roster, 13 were from developing countries. He said that at an appropriate time and in consultation with the Council Chairman, his delegation would request an item on the agenda to examine the terms of reference and the ways in which the Roster had operated, in order to ensure participation of a wider group of countries in the GATT.

The Council took note of the statements and approved the proposed nomination in C/W/559.

8. Agreements among Argentina, Brazil and Uruguay

The representative of the United States, speaking under "Other Business", said that his country had an interest in the trade agreements signed by Brazil, Argentina, Uruguay and possibly other countries under the auspices of the Latin American Integration Association (LAIA). His delegation understood that these agreements contained major preferential trading provisions for their participants. In the course of the two years since the first agreement had been signed, the United States had formally requested notification and review of the trade-related portions on several occasions both in the Council and in the Committee on Trade and Development, most recently at the July 1988 meeting of the latter. The United States had received some general information in L/6158/Add.1, but no answers to its questions or specific information as to the provisions, operation, scope and time-table for implementation of the agreements. Apparently, 18 new preferential trade agreements had been signed over the past several months under the integration accord. If Argentina, Brazil and

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[3] C/M/222, item no. 21.

Uruguay did not soon provide the requested information, the United States would have to consider the best means to ensure that these agreements conformed to the General Agreement and did not infringe upon the United States' rights and trade interests. In the absence of some indication of a positive response to its request before the next Council meeting, the United States would ask the Council to revert to this issue at that time.

The representative of Argentina said that he had taken note of the United States' interest in the agreements signed by Brazil, Uruguay and Argentina, and would communicate it to his authorities, who would reply in due course and if necessary. For his delegation's part, Argentina's obligations under Part IV of the General Agreement had been satisfied by virtue of the Enabling Clause.[4]

The representative of Brazil said that he had taken note of the statement by the United States and would transmit it to his authorities for their consideration. The Committee on Trade and Development was mandated to review the implementation of the provisions of Part IV of the GATT and the operation of the Enabling Clause, and under that mandate, had examined the biennial reports submitted by the contracting parties which were members of the LAIA. The US request for further information had been considered by the competent authorities in the countries concerned and by the LAIA Secretariat, and a response had been given to the Committee. The US request for further elaboration on the issues covered by the Agreements signed by the three countries under the aegis of the Montevideo Treaty of 1980[5] was currently being examined by the Governments of the parties concerned and by the LAIA Secretariat, with a view to clarifying the issue. It was his delegation's firm belief that the parties to the agreements had in no way failed to carry out their GATT obligations, and that the issue was currently being dealt with in the appropriate GATT body, namely, the Committee on Trade and Development.

The representative of Uruguay said that his delegation fully supported the statements by Argentina and Brazil. He would transmit the US request to his Government immediately.

The Council took note of the statements.

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

[5]See L/5342.

9. Communication from the United States concerning the relationship of internationally-recognized labour standards to international trade

The representative of the United States, speaking under "Other Business", informed the Council that his country continued to believe that it would be useful to examine multilaterally the issue of internationally-recognized labour standards and trade. His delegation would continue to consult with Council members with a view to finding an approach to deal with this issue that was acceptable to all parties concerned.

The representative of Jamaica said that his delegation wanted to participate in any future consultations on this matter.

The Council took note of the statements.

10. Korea - Restrictions on imports of beef
- Recourse to Article XXIII:2 by the United States

The representative of the United States, speaking under "Other Business", recalled that the Council had agreed in May to establish panels to examine the complaints by the United States and Australia concerning Korea's prohibition of beef imports. Since then, little progress had been made on organizing the work of the two panels, despite many meetings with Korean officials and the Secretariat, and considerable flexibility on the part of the United States. The United States was particularly disturbed by Korea's behaviour in light of its refusal even to consult with New Zealand under Article XXIII:1.[6] Effective and expeditious settlement of trade disputes was a necessary part of the GATT and the world trading system, and was especially important to smaller countries. Effective multilateral dispute settlement was the remedy that his Government held out to US exporters, who often demanded unilateral action to remove unfair trade barriers. A failure of the dispute settlement process to work effectively would deprive the United States of its best argument in trying to support the multilateral system and the solution of disputes through it. The United States could not, and the Council should not, accept a continuing refusal to cooperate in one of GATT's fundamental activities.

The representative of Korea said that his country, too, had a substantive interest in the maintenance and strengthening of GATT's dispute settlement mechanism. The accusation that Korea was harming the system on which it depended was groundless. This matter was still in the process of consultations outside the GATT Council, and Korea believed that considerable progress had been made. Korea alone could not be blamed if some points remained to be settled. In a spirit of cooperation, his

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[6] See item no. 4.

delegation had made some concessions on the administrative arrangements for the two panels by agreeing to a single set of panelists and to the participation of a third country as an observer in the panel hearings. GATT records showed that it had taken considerably longer for some panels to agree on procedural details than in the present case. He assured the Council that Korea was committed to making its best efforts in the consultations, where it hoped that agreement would soon be reached on the remaining procedural matters so as to make the panels operational.

The representative of Australia expressed his country's deep concern and frustration at the delay in settling arrangements for the panel established in May to examine Australia's complaint. Eleven weeks had elapsed since then, with little or no progress made. While bilateral consultations between Australia and Korea might continue on the substance of this issue, this was separate from the formal dispute settlement proceedings in process. During the past two years, GATT had developed a fresh approach to dispute settlement, and it was against that standard that delays in the present case should be measured. While Australia recognized the sensitivity of the beef issue for Korea and had tolerated reasonable delays, it had been five months since the formal GATT dispute settlement process had begun. The fact that this case involved a ban on imports raised the issue of the concept of compensation for trade forgone. Furthermore, Korea's delay of the dispute settlement process raised wider issues of principle. The effective functioning of the dispute settlement machanism required a willingness to compromise and to seek reasonable and timely solutions, which Korea had not shown in this case. Australia suggested that other contracting parties consider carefully the serious damage that delays in settling arrangements for panels could cause to these procedures if they were allowed to become an accepted and established precedent. His delegation appealed to Korea to recognize, through prompt action, Australia's substantive trade interests and GATT rights.

The Council took note of the statements.

11. United States - Imports of sugar
- Recourse to Article XXIII:2 by Australia (L/6373)

The representative of Australia, speaking under "Other Business", recalled that at the regular Council meeting on 15-16 June, Australia had notified the CONTRACTING PARTIES that formal consultations under Article XXII had been held with the United States on 7 June to discuss the import quotas on sugar maintained by the United States since 1982. His delegation had pointed out that these quotas had become increasingly restrictive over the intervening period, resulting in US sugar imports for 1988 being at the lowest level since the formation of the GATT. Australia's own quota during that period had declined from 232,000 short tons in 1982/83 to about 58,000 in 1988. The United States' production had expanded behind the protection

of its quota régime, while imports had taken the brunt of adjustment at considerable cost to sugar suppliers. Australia's communication in L/6373 pointed out its serious concern about the impact of these restrictions on Australia's sugar exports to the United States, which served to nullify and impair benefits accruing to Australia within the meaning of Article XXIII:1. There had been no indication from the United States during the consultations that there was any prospect of the import quotas being removed in the foreseeable future. The United States further considered that its quota restraints, which had been in place for the six most recent years, were consistent with its GATT obligations. Australia held the opposite view. Thus, further consultations between the two countries on this issue were not likely to be productive; the matter could only be dealt with through the dispute settlement process. There were GATT precedents for moving from Article XXII consultations directly to a panel under Article XXIII:2. Australia therefore requested the Council to establish a panel to examine the consistency of the US sugar import quotas with the United States' GATT obligations.

The representative of the United States said that it was highly unusual to seek establishment of a panel under "Other Business". The Council customarily made decisions only on items included on the proposed agenda, in order to ensure that all delegations had an opportunity to study the items carefully. In the absence of a document summarizing the grounds for complaint, contracting parties had no basis for making an informed decision. Accordingly, his delegation suggested that Australia put its request for the establishment of a panel on the proposed agenda for the September Council meeting, and circulate to contracting parties a summary of its complaint in advance of that meeting.

The representative of the European Communities said that the Community had also encountered difficulties and suffered prejudice because of the US restrictions on agricultural products, including sugar. The Community was consulting under Article XXIII:1 with the United States, but the scope of those consultations was broader in that they also concerned the 1955 US waiver (BISD 3S/32). The Community wanted to stress, in passing, that the maintenance of what some seemed to consider an "acquired right" would no longer be taken for granted and would no longer elicit a sort of mechanical response which assumed complacency or laxity. The Community understood Australia's démarche and supported it, albeit only morally, since from a procedural point of view the United States was not wrong. For these reasons, his delegation suggested that the request not be examined at the present meeting.

The representative of Argentina said that independently of the procedural aspects of Australia's request, his delegation believed that certain aspects of the US import régime were inconsistent with GATT. The

incidence of its application, as well as that of similar régimes maintained by other contracting parties, one of which had just spoken, had serious consequences for the international market concerned. Consequently, Argentina supported Australia's request for the establishment of a panel.

The representatives of Brazil, Nicaragua and Colombia supported the establishment of a panel as requested by Australia.

The representatives of Brazil, Thailand, Canada and Colombia reserved their respective rights to make a submission to a panel if one were established.

The representative of Canada said that his country had an interest in this matter. His delegation understood, however, that the United States and other delegations might need more time to consider Australia's request before taking a decision.

The representative of Australia said that he found it unusual for the United States to consider as unusual such a request under "Other Business" since there had been occasions in the past when the United States had sought use of unusual procedures to secure expedited consideration of matters in which it had an interest. He took the procedural point that more time might be needed, and asked for this item to be placed on the agenda of the September Council meeting. He added that Australia had very recently circulated its request for a panel in L/6373.

The representative of the United States said that the delay in the circulation of Australia's request had been due to that Government's indecision in this matter, as bilateral consultations had taken place on 7 June and there had been ample time since then to place the matter on the agenda.

The representative of Jamaica asked the Secretariat about the procedure adopted 10 years earlier with respect to the Community's sugar régime. His recollection was that a working party had been established instead of a panel.

The Director-General said that in 1978 two panels had been established to examine complaints against the European Economic Community, one by Brazil (BISD 27S/69) and the other by Australia (BISD 26S/290), and in 1980 a working party (BISD 28S/80) on the possibility of limiting the Community's subsidization of sugar exports. He said that the Secretariat would provide fuller details on this before the next meeting.

The representative of Australia said he wanted to dispel the possible impression that the earlier panels had not completed their tasks and that

their work had been subsumed by the working party. There had been two panels as well as a working party, but the panels had reported first.

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

12. Accession of Bolivia
- Memorandum on Bolivia's foreign trade régime

The representative of Bolivia, speaking as an observer and under "Other Business", said that in connection with its accession to the GATT, Bolivia would be submitting the Memorandum on its foreign trade régime at the end of July and hoped that the Working Party could start the examination thereof, subject to the usual consultations. The Memorandum described Bolivia's economic framework, policies and situation which were considered by international institutions to be a successful example of structural adjustment and reform. Hyperinflation continued to abate, as had been reflected in the appreciation of the peso, and economic policy, based on strict and sustained fiscal discipline, had, since 1985, stabilized the economy despite particularly adverse external factors such as the collapse of the tin market -- tin accounted for 60 per cent of the export earnings -- and of the exceptional external debt burden. Despite these and other factors, growth had resumed in 1987 after five years of decline. The Memorandum provided a detailed description of Bolivia's trade policy, which was based on free trade and transparency, and had led to the removal of all types of restrictions with the exception of those related to national security and public health. A simplified tariff régime had been put in place, which anticipated staged reductions from the current general level of 20 per cent to 10 per cent. His delegation asked that once the Memorandum was available[7], contracting parties proceed with their questions. Bolivia was ready to go ahead with tariff negotiations and to respond to interested parties as quickly as possible.

The Council took note of the statement.

13. Japan - Imports of beef and citrus products (L/6370)
(a) Withdrawal of recourse to Article XXIII:2 by the United States (L/6322/Add.1)
(b) Withdrawal of recourse to Article XXIII:2 by Australia (L/6333/Add.1)
(c) Withdrawal of recourse to Article XXIII:2 by New Zealand (L/6355/Add.1)

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[7]Subsequently circulated in L/6369.

The Chairman, speaking under "Other Business", drew attention to three recent communications concerning the withdrawal of complaints under Article XXIII:2 related to Japan's imports of beef and citrus products: L/6322/Add.1 from the United States on beef and citrus, L/6333/Add.1 from Australia on beef, and L/6355/Add.1 from New Zealand on beef.

The representative of Japan reviewed the main features of the market-opening measures on beef, citrus and other agricultural products, which the Government of Japan had decided on 5 July (L/6370). He emphasized that these measures were to be implemented unilaterally by Japan on an m.f.n. basis. His Government believed that these measures were positive contributions to the Uruguay Round negotiations, inter alia, those on agriculture which aimed at the further liberalization of world trade. Regarding citrus, the two import allocations -- on fresh oranges and on orange juice concentrate -- would be increased, and the whole of both import allocation systems would be terminated on 1 April 1991. An import allocation system on single-strength orange juice and orange juice mixtures would be set up in FY 1988, and the quota would be greatly increased in stages to a quantity corresponding to domestic demand in FY 1991; the import allocation system would then be terminated on 1 April 1992. The proportion of imported orange juice subject to the blending requirement with mikan juice would be reduced in stages over the FY 1988-1989 period and abolished on 1 April 1990. The import allocation on beef would be increased, and the whole import allocation system would be terminated on 1 April 1991. The Livestock Industry Promotion Corporation (LIPC) would no longer be involved in the pricing, purchase or sales of imported beef in FY 1991 and thereafter. The proportion of imported beef transacted under the Simultaneous Buying and Selling (SBS) system would be increased in stages over the FY 1988-1990 period. With respect to border measures over the FY 1991-1993 period, increased tariff rates would be applied and emergency adjustment measures might be taken. The import allocation system on prepared or preserved beef -- one of the 12 agricultural items[8] -- would be terminated in stages over the October 1988-April 1990 period. Parallel with the termination of the import allocation system, tariffs would be raised for certain kinds of prepared or preserved beef, whereas they would be reduced for other related products such as beef jerky, sausage, pork and beans, and pet food. Tariffs would also be reduced on such products as grapefruit, lemons, pistachios, macadamia nuts, walnuts and pecans.

The representative of Australia congratulated Japan on its market-opening measures. The measures taken by Japan on beef constituted one of, if not the, most dramatic market-opening measures taken in the history of GATT. Such action deserved the full commendation of Council members and erected a high standard for trade liberalization in the context of the

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[8]See L/6253.

Uruguay Round. Japan had proved that real trade liberalization could and should be dramatic.

The representative of Canada seconded Australia's statement and welcomed the Japanese measures, which Canada saw as an important step forward. His delegation also welcomed Japan's confirmation that the measures would be applied on an m.f.n. basis consistent with GATT obligations.

The representative of the United States commended Japan for having taken these important steps, which would benefit exporters of these products all over the world and represented an important step in GATT, particularly in the context of the Uruguay Round.

The representative of Hungary expressed appreciation for the market-opening measures announced by Japan which, when implemented, might have a positive impact on agricultural trade and would certainly contribute to the creation of the healthy negotiating climate essential to the success of the Uruguay Round. Hungary noted with satisfaction that Japan intended to implement the measures on an m.f.n. basis.

The representative of Israel associated his delegation with the appreciation expressed by other representatives. Israel had expressed an interest in Japan's imports of citrus products. It was examining the new Japanese measures and hoped to benefit from them.

The representative of New Zealand said that his delegation had discussed the products in question with Japan. New Zealand knew the difficulties that Japan had faced in this area and appreciated the efforts taken and the considerable changes embarked on in agriculture. New Zealand had made an extensive statement on this matter in the Negotiating Group on Agriculture. His country was interested in the methods Japan had undertaken to move to a tariff-based protection, which New Zealand felt was highly significant.

The representative of Jamaica joined in the expressions of support of Japan's market-opening measures. The tariff reductions involved covered a wide range of products defined as agricultural products, but in the context of the Uruguay Round, some of these were considered as tropical products, e.g., macadamia nuts. He asked if these measures would form part of amended tariff schedules, and whether the Secretariat could identify what the tariff reductions really were, in order to inform developing countries which might have a trade interest in the products in question.

The representative of Malaysia expressed his delegation's thanks for Japan's market-opening measures. He said that Jamaica had touched on an important point regarding tropical products. Malaysia had made numerous requests to Japan in the Negotiating Group on Tropical Products, and hoped that Japan's market-opening moves would also spill into the area of tropical products. His delegation believed that Japan was committed to

full liberalization in that area and hoped that these measures were a step towards that goal.

The representative of Japan, in reply to Jamaica's question, drew attention to page 8 of L/6370, which recorded details of the tariff reductions item by item.

The Council took note of the information from the Chairman and of the statements.

14. Measures affecting the world market for copper ores and concentrates

The Chairman, speaking under "Other Business", recalled that on 2 December 1987, the European Economic Community and Japan had informed the CONTRACTING PARTIES of their request for the good offices of the Director-General under paragraph 8 of the Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/210) concerning their dispute on certain pricing and trading practices for copper in Japan (SR.43/4). He informed the Council that the Director-General had appointed Mr. Gardner Patterson, ex-Deputy Director-General of GATT, as his personal representative for the good offices.

The Council took note of this information.

The representative of Jamaica asked if his delegation's understanding was correct that when the Director-General's good offices were sought, it was the Director-General himself who performed this task, and that it was not delegated outside the GATT Secretariat.

The Director-General recalled that in their 1982 Ministerial Declaration, the CONTRACTING PARTIES had agreed in respect of paragraph 8 of the 1979 Understanding that "if a dispute is not resolved through consultations, any party to a dispute may, with the agreement of the other party, seek the good offices of the Director-General or of an individual or group of persons nominated by the Director-General" (BISD 29S/14). It was by reference to this provision that he had, in agreement with the two parties, designated a personal representative in the present instance.

The Council took note of the statements.