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GENERAL AGREEMENT ON TARIFFS AND TRADE

PREPARATORY COMMITTEE

Record of Discussions

Discussions of 27-28 January

The Chairman proposed that the provisional agenda be addressed in the following order:

1. The organization of the Preparatory Committee's work;

2. Venue and dates of the Ministerial Meeting to be held in September 1986;

3. Commencement of discussion of the objectives, subject matter and modalities for, and participation in, the Multilateral Trade Negotiations.

The agenda was adopted.

The Chairman proposed the following dates for meetings of the Committee until the end of March: 4-5 February, 25-27 February and 17-20 March. It was so agreed. The Chairman suggested the following schedule of meetings until the end of June: 14-16 April, 5-7 May, 9-12 June and 23-26 June. The Chairman also suggested that the following dates for meetings in July be maintained for indicative purposes and on the understanding that they would need to be reviewed later: 1-3 July, 9-10 July and 16-17 July. It was so agreed.

The Chairman confirmed that the Preparatory Committee would not create sub-committees dealing with particular subjects. It would, of course, benefit from the work of the permanent bodies of GATT and of the committees and working groups established under the Work Programme.

The Chairman recalled that according to the decision taken by the CONTRACTING PARTIES in November, the Preparatory Committee was established "to determine the objectives, subject matter, modalities for and participation in the Multilateral Trade Negotiations, taking into account the elements of the 1982 Ministerial Work Programme and the views expressed in the Group of Senior Officials". The essential task of the Committee was to prepare by mid-July recommendations for the programme of negotiations, for adoption at a Ministerial Meeting in September. He indicated that at the end of each meeting, he would announce the subjects to be taken up at the two following meetings.

In carrying out this task, the Committee was required to take account of the elements of the 1982 Ministerial Work Programme and of the views expressed in the Group of Senior Officials. To facilitate this, an index to the summary records of the Senior Officials Group would be distributed. The five subjects which delegations had previously suggested be included in the discussions of the Preparatory Committee - subsidies, notification and surveillance, restrictive business practices, other aspects of intellectual property and participation in the new round - would be covered in the index. He noted that delegations were free to raise new subjects at any time.

The Chairman made it clear that all discussion in the Preparatory Committee, even the discussion of texts, would be without commitment in the sense that nothing would be finally agreed until the Declaration as a whole was adopted.

The Chairman requested that in taking up each subject, speakers should keep in mind the need to provide clear answers to the following questions:

(a) Should the matter under discussion be dealt with in the recommendations at all?

(b) Assuming the subject was to figure in the Declaration, should the Preparatory Committee recommend that it be negotiated in the context of the new round, or rather that it be dealt with in the normal framework of GATT business?

(c) What should be the objectives of negotiations on each matter, taking account of the nature of the item in question - i.e., whether it basically concerned specific trade liberalizing measures or the improvement of rules and norms of behaviour?

He also stressed the importance of bearing in mind that all the discussions were aimed at drafting recommendations to Ministers. Thus, any specific suggestions that delegations might have regarding the drafting of these recommendations, even at the earliest stages, would be very helpful.

The Chairman expressed his desire to complete by the end of March a first discussion of the entire subject matter and thereafter to focus the Committee's efforts on the essential task of agreeing, by mid-July, on its recommendation to Ministers for the programme of negotiations. These should be embodied in a document for adoption by Ministers, which could be referred to as a Draft Declaration. He expressed his view that this Declaration should be short - no more than five pages long. He assumed that delegations would wish the Declaration to be as precise as possible in prescribing the objectives and modalities of a new round and the objectives for negotiation on particular subjects, and to suggest suitable negotiating machinery. Before serious drafting began, it would be necessary to have formed a reasonably clear picture of the structure of the document one hoped to produce. He asked for delegations' views on this as the discussion proceeded.

The Chairman reported that the secretariat would distribute a very short note after each meeting which would list the subjects discussed and any procedural decisions taken - such as the dates of the next meeting and subjects to be covered in the following meetings. In addition, summary records would be prepared of the Committee's discussions, though not of drafting sessions. He assumed that production of summary records would make it unnecessary to produce a separate report on the Committee's work, since the origins of the Declaration and the views of contracting parties would be sufficiently clear from the summary records. The Preparatory Committee took note of these comments.

With regard to the venue of the Ministerial Meeting, the Chairman recalled that four offers had been made - by Korea, the European Economic Community, Uruguay and Canada. He expressed the appreciation of the Preparatory Committee to these countries. He suggested that a decision should be reached as quickly as possible on the location of the meeting, in view of the heavy task of organization that would fall upon the host country, and on the dates, in view of the pressure on the time of Ministers.

It was widely felt that it would be wise to allow Ministers time for preparation in the first half of September. The choice was, therefore, between the week beginning 15 September and that beginning 22 September. The Chairman stated his preference for 15 September, but noted that this was a matter on which further consultation was necessary.

The representative of Brazil suggested that the week of 29 September should also be considered for the Ministerial Meeting. He indicated, however, that Brazil did not believe it necessary to decide the venue and date of the Ministerial Meeting in the first or second meeting of the Preparatory Committee. It would be more appropriate to concentrate first on the organization of the work of the Preparatory Committee and to advance the implementation of its mandate. The format of the Ministerial Meeting was not yet known; it could be a CONTRACTING PARTY session at the Ministerial level or a Ministerial Meeting of the member countries of the GATT. A formal decision on the dates and venue of the Ministerial Meeting could prejudge the results of the Preparatory Committee and represented a commitment which Brazil was not prepared to assume at this time. He asked for information on the financial implications for GATT of holding the Ministerial Meeting in Geneva or elsewhere.

The representative of Bangladesh expressed his country's preference for scheduling the Ministerial Meeting after the Trade and Development Board Meeting, that is, in the week starting 29 September, noting that many delegations were too small to cover the two Meetings at the same time.

The United States representative recalled the agreement by the CONTRACTING PARTIES that the Preparatory Committee would prepare by mid-July 1986 recommendations for the programme of negotiations for adoption at a Ministerial Meeting to be held in September 1986. He noted that whereas the decisions to be taken at the Ministerial Meeting were an open question, there was no question that a meeting would be held. He urged an early agreement on the dates of the Ministerial Meeting, while recognizing that a decision regarding its venue might need more time.

The representative of Japan agreed with the need for an early decision on the dates of the Ministerial Meetings, stressing the large workload before the Preparatory Committee.

The representatives of Zaire and of Austria also urged an early decision regarding the dates of the Ministerial Meeting and indicated the preference of their countries for the week of 29 September.

The representative of the European Communities indicated that they would be prepared to host the Ministerial Meeting in Brussels at any time in the latter part of September. He assumed that previous speakers' comments did not call in question the decision to hold the meeting in September, but were merely seeking to avoid conflicting commitments.

The representative of Uruguay emphasized that the decision to hold the Ministerial Meeting in September in no way prejudiced the positions of countries on the substantive matters to be discussed. He indicated that his country was prepared to host the Ministerial Meeting at any of the dates previously mentioned.

The representative of Switzerland stated his opinion that an early decision on the dates of the Meeting would have a positive effect on the work of the Preparatory Committee, and indicated his country's preference for the week beginning 15 September.

The secretariat informed the Preparatory Committee that all four offers to host the Ministerial Meeting had been made on the basis that no costs would accrue to the GATT budget beyond those which would occur if the meeting were held in Geneva.

The representative of India suggested that more time was necessary to reflect on the suggestions that had been made by various countries regarding the date of the Ministerial Meeting, and stressed the necessity of paying due regard to other important meetings in which many delegations would be participating. He expressed his opinion that the decision could appropriately be made at the end of the first phase of discussions in the Preparatory Committee by the end of March, and recommended that the possibility of holding the meeting in Geneva should not yet be totally ruled out.

The representative of Egypt agreed with the need to avoid conflicting with other meetings. He also drew attention to the additional costs to delegations of a meeting held outside Geneva, and asked that this should be taken into consideration in deciding the venue of the meeting.

The representative of the European Communities recalled that the country which hosted the Ministerial Meeting generally assumed the chairmanship of that meeting, so that the question of the presidency of the Ministerial conference was also relevant when considering this matter.

The Chairman concluded that further consultations were necessary on this matter. He noted the concern of various delegations to avoid conflicts with other meetings, but stressed that a GATT Ministerial Meeting was of sufficient importance to justify giving it a degree of priority in the scheduling of meetings. He then suggested that substantive discussions begin on the four subjects whose importance was underlined by the CONTRACTING PARTIES in their November decisions: standstill, rollback, treatment of developing countries and safeguards. He noted that the question of the objectives of the new round had not yet been taken up but suggested that the question could be addressed in a more specific manner after having undertaken a first review of the subject matter as a whole. He suggested, therefore, that the Preparatory Committee come back to the subject of the general objectives of the new round after completing the first discussion of the subject matter. It was so decided.

STANDSTILL

The Chairman recalled that most previous rounds of negotiations in the GATT had started with the adoption of a commitment to refrain from increasing levels of protection during the negotiations. He noted that this subject had been extensively debated by the Senior Officials Group (SOG) and those discussions were recorded in SR.SOG/3 pages 1-8 and SR.SOG/11 pages 1-15.

The discussion of standstill in the SOG made clear that many delegations saw a link between this concept and that of rollback. The Chairman said that though the relation between them was obviously very close, there was an important distinction in that rollback was a dynamic concept, implying action towards liberalization by contracting parties rather than preventing deterioration of an existing situation.

He reminded delegates that there was already in existence a GATT standstill commitment in the form of paragraph 7(i) of the 1982 Ministerial Declaration. Even if the implementation of the 7(i) commitment had been less than totally satisfactory he regarded its existence as a positive factor in that it was an element on which one might be able to build. In addition, since 1983, the Special Sessions of the Council had reviewed the implementation of the 7(i) commitment on the basis of secretariat reports on trade policy and developments. This too might be an element on which one could build.

He noted that the Tokyo Round, unlike most other earlier rounds of negotiations in GATT, had not started with the adoption of a standstill commitment. He expressed his view that the state of trade relations in recent years would make the adoption of a standstill commitment a very desirable and important step towards the restoration of confidence.

He suggested that the following questions be considered:

(i) the objectives or purposes of a strengthened standstill commitment;

(ii) its substantive coverage, which might be defined in terms of the kind of measures to which it would apply and/or h their GATT status;

(iii) by whom and to whom it should be applied;

(iv) its duration;

(v) its enforcement - and he noted that he attached the greatest importance to the question of surveillance or monitoring.

The representative of the European Communities noted that a number of countries appeared to be questioning whether a new round would have economic benefits for them and that such doubts would make the discussions very difficult. He suggested that the secretariat prepare, on the basis of documentation available to it, a vade-mecum on the beneficial effects of a new round for the world economy, for contracting parties in general, and specifically for the developing contracting parties.

In addition, he said that effective negotiations would require the use of adequate statistical and documentary tools permitting measurement and comparison of concessions and their effects. Thus complete, up-to-date and comparable data would have to be supplied on an appropriate computerised basis. He requested the Chairman to organise consultations on this matter as soon as possible.

The representative of Jamaica requested that the secretariat provide background information on the question of standstill. For example, what had been promised by CONTRACTING PARTIES on standstill in the past and how were these promises fulfilled? He suggested that standstill commitments taken at the beginning of trade negotiations be compared with autonomous commitments which had been made outside the context of new trade negotiations, such as in paragraph 7(i) of the 1982 Ministerial Declaration. The secretariat might also address the following questions: what was the GATT definition of standstill, e.g. trade liberalization or a consolidation of legal barriers as notified to GATT? What was the scope and the coverage of a standstill? What was the time-frame within which it had been discussed or could be discussed? If standstill were proposed in the context of a new round, would it apply from the start of the negotiations or towards their conclusion, by which time standstill commitments might be folded into the results of the negotiations? What were the implications of standstill for GATT obligations and for the balance of rights of contracting parties? Did these implications differ as between the articles of the General Agreement, for example, Article I, or

Part IV of the General Agreement? Did they differ as related to the MTN Codes? Would standstill be applicable only to those areas now clearly within the GATT, or also to new areas which were being proposed, such as high technology or services? How would grey area measures be treated? What were the implications for GATT surveillance in the face of the claim by some contracting parties that they were unable to fulfil commitments because they had to respect domestic legislation. Finally, he said that a standstill commitment should clearly be applied on a most-favoured-nation basis.

The Chairman said that he would consult with the secretariat on the question of suitable documentation for further discussions on subjects before the Committee. He wished, however, to clarify the point that the notes to be distributed by the secretariat at the end of each meeting would only relate to procedural matters and not to the substantive discussion. Substantive discussion would be recorded in the summary records.

The representative of the European Communities presented a diagram of three concentric circles as a representation of the structure of the new round of negotiations. The circle in the centre was for those subjects on which negotiations would lead to "contractual commitments". The first outer circle was for subjects where negotiations would lead to "agreed undertakings". The second outer circle was for matters on which the objective should rather be "concerted understandings" on particular subjects or issues. The task of the Preparatory Committee was to decide in which circle any theme should be placed; some could even fall in more than one circle.

Standstill and rollback were subjects on which it was necessary to have agreed undertakings. A standstill commitment had been made in the 1982 Ministerial Declaration, and this commitment should be strongly reaffirmed. In effect, the 1982 commitment had been met. It would be useful to have some monitoring mechanism which would facilitate discussion of the way in which countries carried out the standstill commitment. The 1982 commitment was not contractually binding, but called for a strong effort to resist protectionist pressures in the formulation and implementation of national trade policy and in proposing legislation. Contracting parties should have no difficulty in accepting a standstill commitment along these lines. He noted that it had been a practice in other rounds of negotiations to make a commitment not to increase the general level of protection during a negotiation, and in particular, not to do so for the purpose of improving a bargaining position. No contracting party was likely to renounce its right to take Article XIX or Article XXVIII actions, for example, but it was necessary to exercise a higher level of self-restraint in using these Articles during a negotiation. As regards rollback, there was a certain rollback element in the 1982 Ministerial Declaration as well as in commitments made on other occasions. These commitments had been observed to varying degrees by different countries, and there had been some progress in eliminating restrictive measures. The implementation of Tokyo Round tariff cuts had been accelerated. In addition, the Community had made an offer covering twenty-eight quantitative restrictions last year, and was considering whether further action could be taken.

The representative of Yugoslavia said that the non-observance of standstill commitments was a major problem in international trade. The commitment to standstill reaffirmed in the Ministerial Declaration of 1982 had not been fulfilled, particularly by the most developed contracting parties. These contracting parties should submit their complete proposals on standstill to the Preparatory Committee. The position of Yugoslavia on standstill was contained in document L/5818. He said that there was a great deal in common in the approaches of a large number of contracting parties in regard to standstill. Firstly, it was widely felt that the agreement on standstill should be a fundamental element in the preparatory process, without which there could be no new multilateral trade negotiations. Secondly, a standstill commitment should be in place before the launching of negotiations. Third, the commitment should cover all measures inconsistent with GATT, both tariff and non-tariff. Fourth, the commitment should be monitored by a more strict mechanism than the existing one.

The representative of Czechoslovakia noted that the Decision of the CONTRACTING PARTIES establishing the Preparatory Committee contained three paragraphs. The first paragraph referred to the objectives, subject matter, modalities for and participation in the negotiations. The third paragraph said that recommendations must be prepared for the programme of negotiations. His delegation interpreted this to mean that anything agreed to under paragraph 1 would be included in the document referred to in paragraph 3. A good way to proceed might be to request contracting parties to submit written proposals for different parts of the draft document, so that discussions could take place on the basis of written drafts.

The representative of Sweden said that the Nordic countries had always attached importance to standstill and rollback commitments as a means of maintaining an open world trading system in particular in times of protectionist pressures. He said that the principle of standstill should govern both the work of the Preparatory Committee and the negotiation itself. It was essential to incorporate a global standstill commitment in the Ministerial Declaration. The EFTA countries had confirmed their commitment to the principle of standstill at the highest political level in 1984, agreeing to take no restrictive trade measures outside GATT. That commitment had been observed. Contracting parties had made a standstill commitment in paragraph 7(i) of the 1982 Ministerial Declaration. It was now necessary to consider how this commitment could be strengthened and more effectively implemented. Certain ideas regarding a surveillance mechanism had been put forward, and these should be further explored. With regard to the related issue of rollback, the relaxation and dismantling of trade restrictions was important for rebuilding confidence in the trade liberalization process and for promoting economic growth more generally. The Nordic countries remained attached to the political commitment they had made to this effect in the OECD. Since 1983 the Nordic countries had taken a number of actions in pursuance of this commitment, such as the advance implementation of Tokyo Round tariff cuts, the lifting of some quantitative restrictions, and improvements of GSP schemes. All countries should make efforts to remove trade barriers irrespective of the process which was now being entered into. At the same time, it was clear that major progress in this direction would only be possible through negotiations.

The representative of Hong Kong underscored the importance of preserving the m.f.n. principle at all stages of the work of the Committee. With regard to standstill, he referred to the United States President's decision on Footwear taken in August 1985, and his veto of the Jenkins Bill in December 1985 as being highly visible examples of standstill. However, only one month after the Jenkins Bill veto new legislative initiatives on textiles were already in the pipeline and this emphasized the need for a standstill commitment. Standstill should apply to trade in all sectors on an m.f.n. basis. Particular attention should be given to measures which were not in conformity with GATT. The commitment on standstill should be open-ended, and included in the Draft Declaration, and Multilateral surveillance should be an integral part of it.

The representative of Brazil said that standstill and rollback commitments were necessary for the preservation of the GATT system and for the creation of conditions favourable to a new round of multilateral trade negotiations. Such commitments had been taken in previous rounds of negotiations and had been included in the Ministerial Declaration of 1982, though the 1982 commitment had not been observed in practice. It was necessary to strengthen past commitments and not merely reaffirm them. The proponents of the new round should take the lead in accepting undertakings on standstill and rollback. Individual commitments to standstill should be made by all contracting parties before a new round of negotiations was launched. These commitments should be made at the highest political level by Executive Order, Presidential Decree or by an instrument of equivalent legal status. The commitment to standstill would constitute an undertaking not to introduce any new restrictive measures of a tariff or non-tariff nature in all sectors, unless the new measures were adopted in strict conformity with the GATT, and in particular with Articles VI, XII, XVIII and XIX.

The representative of Canada said that there were some overall negotiating objectives on which it should be possible to agree. These included trade expansion and economic growth; substantial trade liberalization and facilitation of adjustment; enhancement, predictability and security of market access; strengthening of the multilateral trading system and its management; and enhancement of trading prospects for the developing countries. With regard to standstill, he said that a commitment by governments not to introduce new trade restrictive measures would play a major role in creating a climate conducive to fruitful negotiations. Such a commitment would need to be clear, credible and realistic, with appropriate monitoring mechanisms. The standstill commitment under paragraph 7(i) of the 1982 Ministerial Declaration had not been fully effective. This had to be taken into account in determining the precise nature of the standstill now envisaged. Certain questions or issues needed to be addressed: Would a standstill commitment be related both to measures consistent with GATT and those outside GATT? Would it be applicable to all sectors, including, for example, agricultural products? Would it be accepted by all GATT contracting parties? Would it be for the duration of the negotiations? Should there also be a commitment by countries currently perceived as not providing adequate market access to avoid using the negotiations as a pretext to delay efforts towards further market-opening measures? Would it apply to trade in services? These were among the issues which Canada felt must be addressed before attention could be directed to the standstill formula, which should be clear, credible, realistic and coupled with appropriate monitoring mechanisms.

The representative of Australia said that the standstill issue was both difficult and simple at the same time. He recalled that a suggestion had been made earlier that the secretariat compile data on measures which might bear on standstill. He expressed the view, however, that the issues were primarily political; it was hardly necessary for the secretariat to undertake an expensive compilation of data which would give results which were already well known. He listed several elements which should be included in a standstill commitment. This list was not exhaustive. First, there should be agreement on a standstill prior to the commencement of negotiations. Second, the commitment should refer to the importance of arresting the present drift towards increasing protectionism, and required that the participating countries should refrain from increasing tariff and other protective and trade-distorting measures. A third element, concerning rollback, might be that participating countries undertake to phase out progressively over the period of the negotiations existing protective and other trade-distorting measures which do not conform to the principles of the General Agreement. A fourth point was that the commitment shall apply not only to trade in manufactures, but also to agricultural trade and to the effects of measures which protect and distort agricultural trade, especially subsidies. A final element of a commitment was that undertakings should be monitored by the CONTRACTING PARTIES. There should be a mandatory obligation for contracting parties to participate fully in any monitoring or surveillance arrangements.

The representative of Uruguay said that his country had suffered from the application of a succession of trade-restricting measures which had caused serious injury, and for this reason considered standstill to be of the highest importance. Paragraph 7(i) of the 1982 Ministerial Declaration had not yielded tangible benefits because a best efforts commitment was not enough. There was a close link between standstill and rollback and commitments on them should be made simultaneously. Any agreement on standstill must commit contracting parties to refrain from taking any measures incompatible with the General Agreement. Contracting parties should also agree to avoid applying measures, even when compatible with the General Agreement, which might limit or distort international trade. The commitment should apply to all products and should be transparent and subject to effective surveillance. A monitoring and surveillance body should have available to it documentation from the secretariat, notifications and "reverse" notifications from contracting parties and any other relevant information. In the application of the standstill commitment, the principle of differential and more favourable treatment for developing countries should apply.

The representative of Austria said that standstill and rollback commitments were needed to create a proper climate for the launching of new multilateral trade negotiations. The EFTA countries, and Austria among them, had already made a standstill commitment in their declarations in 1984 and 1985. Austria believed that further efforts had to be made to fulfil the rollback commitments made in GATT and elsewhere. A renewed and strengthened commitment to standstill should be introduced in the Draft Declaration.

The representative of Argentina said that his country had subscribed to document L/5818 in which a group of developing countries had stated views on the nature of a commitment on standstill and rollback. A standstill commitment must be one of the cornerstones of a new round. It was evident that the commitment undertaken in 1982 had not met the expectations of contracting parties particularly in respect of trade in certain sectors, and it did not provide a suitable basis for the standstill now envisaged. The new commitment would have to demonstrate the common will of the contracting parties to abide by the provisions of the General Agreement. Standstill was inextricably linked with rollback and the two should not be separated. The commitment should cover all areas of production and trade, and in particular, conditions of competition in third markets due to agricultural subsidies.

The representative of Hungary said that a standstill commitment was merely a reaffirmation of the existing obligation to refrain from introducing new restrictions which were contrary to GATT provisions. To deal with this issue merely as a "best efforts" undertaking would not confer credibility on the new round. For this reason, he agreed that the Ministerial Declaration of 1982 was not a good starting point for a new standstill commitment. It was necessary to reinforce the GATT system as a whole, including observance of its disciplines, and one important element of this was a clear-cut obligation on standstill. All trade measures, and their effects, should be covered by the commitment. Since such a commitment was a basic GATT obligation, it should have an indefinite duration. Effective surveillance was also important.

The representative of Korea said that it was necessary for contracting parties to commit themselves to standstill and rollback in the Ministerial Declaration in order to give credibility to the launching of a new round of negotiations. This commitment should cover all types of trade restrictions, including grey area measures and unjustified anti-dumping and countervailing duty actions which severely affected international trade. The rights of the developing countries under GATT provisions, including Part IV and the Enabling clause, should be recognized and observed. The standstill commitment should be applied until the end of the new round of negotiations. It was also necessary to establish suitable surveillance machinery to monitor the commitment.

The representative of India said that the subjects of standstill, rollback and safeguards were closely linked, but for the purpose of analytical clarity, it was useful to consider the subjects separately. The commitment in paragraph 7(i) of the 1982 Ministerial Declaration required strengthening before a new round could be launched. A standstill commitment in favour of developing countries had been in existence for some twenty years under Article XXXVII:1 and it would be instructive to see how far the commitment had been fulfilled. A commitment to standstill was nothing more than a reaffirmation of a commitment to the General Agreement itself and such a reaffirmation should not be merely rhetorical. It should be a precise commitment not to introduce any new restrictive import measures except in accordance with the

General Agreement. Wherever necessary, such a commitment should be supported by appropriate legislative measures. The commitment should cover all sectors of trade under GATT's competence, including particularly the textiles and clothing sector. He emphasized the need for an effective monitoring and surveillance mechanism. In the Senior Officials' Group India had suggested that a standstill commitment should come into force with effect from 2 October 1985. It was necessary to decide on a date prior to the preparatory process that was now beginning, since that would prevent the possibility of raising new barriers for the purpose of negotiating their removal. He questioned the utility of the suggestion that a document be prepared by the secretariat to examine the potential benefits of negotiations, particularly to developing countries. If the purpose of such a document was to persuade contracting parties to engage in a preparatory process, the suggestion was unneccesary, since such a process was already under way. If the idea was to suggest what would happen in the proposed negotiations, such a paper would be purely conjectural and hypothetical.

The representative of Japan said that his Government had honoured paragraph 7(i) of the 1982 Ministerial Declaration, and would continue to do so. It was important to have a commitment to standstill in the Declaration since in a negotiation whose objective was to reduce trade barriers, it would be strange if negotiating parties were at the same time free to create additional trade barriers. The commitment should be undertaken by both developed and developing countries and should cover all measures inconsistent with GATT rules. In addition, determined efforts should be made to avoid so-called "grey area measures" until a safeguards agreement was reached in the new round. To make the commitment on standstill more effective, there should be strengthened surveillance arrangements. Perhaps the existing Special Council meetings could be utilized for this purpose. With regard to rollback, he recalled that the Japanese Government had taken a number of trade liberalizing measures in the course of 1985 and in January 1986, and would take further measures in 1986. These measures had been notified to the GATT. The negotiation itself was an exercise in rollback and a commitment from all GATT members on rollback would more realistically be an objective to be realized in the negotiation itself.

The representative of New Zealand said it was necessary to build on paragraph 7.(i) of the 1982 Ministerial Declaration. There were three approaches to standstill; firstly, there was a standstill that amounted to a simple reiteration of a rule to abide by existing contractual commitments - a minimal approach. Secondly, there was a standstill that would amount to contractual undertakings of a kind that might be expected to figure in the negotiations themselves. This was a heroic version of standstill. Thirdly, there was an area in between, where a genuine effort was made to go beyond existing contractual commitments and to start negotiations from a stable basis. A standstill should prevent any diminution in the overall level of import access opportunity, but rights under Articles XXVIII and XIX would be preserved. A standstill would also mean no increment in the level or intensity of trade distortions on world markets. With regard to

monitoring or surveillance, it should be possible to find a way of monitoring measures fairly precisely. Surveillance arrangements could include an understanding that contracting parties could make "reverse notifications". The logic of this mechanism would be that any contracting party would know that a flagrant breach of its undertaking would, one way or another, be taken up in the monitoring body. A standstill undertaking should apply to all contracting parties and to all sectors.

The representative of Chile said that the new round could not start without an undertaking on standstill. For such an undertaking to be meaningful, it would need to be supported by domestic measures to ensure compliance. A reaffirmation of the undertaking in the terms of paragraph 7.(i) of the 1982 Ministerial Declaration would not be sufficient. It was necessary to define what the undertaking meant in respect of all trade policy instruments. The standstill undertaking had to ensure that the level of protection could not be increased during the course of the negotiations, although existing GATT rights would be preserved. As regards rollback, the elimination of measures not in conformity with the General Agreement was not a matter for negotiation or for concession. It was important to set up effective surveillance machinery to ensure that undertakings were respected.

The representative if Bangladesh said that a consensus was emerging on the need for a clear-cut and binding commitment on standstill as an essential prerequisite for negotiations. The provisions of paragraph 7.(i) of the 1982 Ministerial Declaration should be significantly strengthened. The commitment should not be of a "best efforts" nature, but rather should be binding. It should relate to all sectors and should cover tariffs and all types of non-tariff measures, including voluntary restraints, anti-dumping and countervailing measures, and quantitative restrictions. Contracting parties should undertake to refrain from taking any measure which amounted to trade restriction. Although all contracting parties should undertake such obligations, the main responsibility in this area lay with developed contracting parties. An effective surveillance mechanism was necessary to ensure that the standstill commitment was fully complied with.

The representative of Switzerland referred to three different approaches to a standstill. Firstly, a standstill could be seen as the starting point for the negotiation, or as one of the required rules of the game which should govern the negotiations. Secondly, there could be a commitment by contracting parties to maintain the legal situation under the terms of the General Agreement. Thirdly, a standstill could be a renunciation of the use of any restrictive measures. In any case, it was important not to confuse the question of political commitment with the necessity of defining the rules governing the negotiations. Standstill was not a pre-condition, but an important accompanying measure of any negotiation. Depending on the options selected the coverage of a standstill could extend to tariffs and non-tariff measures, and could include industry, agriculture and, as necessary, services. All contracting parties should accept a standstill undertaking. It was necessary to examine whether existing surveillance machinery was adequate to monitor a standstill or whether it would be necessary to introduce new arrangements. An improvement of notification procedures might be necessary. In this context a list of situations having led to restrictive measures might be established.

The representative of Romania said that standstill and rollback were necessary elements for establishing appropriate conditions for the success of the new round, as well as for ensuring the credibility of negotiations and for building confidence among the participating countries. Commitments to standstill should extend to all sectors and to all kinds of restrictive measures which were inconsistent with the GATT. Permanent surveillance of commitments should be assured by the GATT Council.

The representative of Peru said that there was a consensus, not only on the importance of assuming a clear and categorical standstill commitment but also on its inclusion in the Ministerial Declaration. It was not enough to reaffirm the commitment of the 1982 Ministerial Declaration. A few months after its adoption, that commitment had been violated by the application of restrictive measures to textiles and clothing. A commitment to standstill should be made prior to the negotiations and should cover all sectors within GATT's competence. It should be accepted by all contracting parties, bearing in mind Part IV of the GATT, particularly Article XXXVIII thereof. Standstill was directly related to rollback and must be a prerequisite for the negotiations.

The representative of Cuba recalled that the views of her country in respect of standstill and rollback were contained in document L/5818, subscribed to by a group of developing countries. Commitments to standstill and rollback were a prerequisite for credible negotiations. These commitments should come into effect before the beginning of the negotiations, and should cover all products. She supported Australia's proposal to include subsidies and the effects of subsidies within the purview of standstill and rollback commitments. As an expression of serious intent, developed countries should table their proposed commitments so that their scope could be examined. Effective surveillance and monitoring machinery should be set up in order to ensure that commitments were systematically followed up. Although certain developed countries had made efforts in the direction of fulfilling their commitments under paragraph 7(i) of the 1982 Ministerial Declaration, much yet remained to be done. As work progressed, it would be necessary to keep in view the principle of special and differential treatment for the developing countries.

The representative of Czechoslovakia said that standstill and rollback commitments were essential prerequisites for the new round. A standstill commitment should be accompanied by a rollback commitment to phase out existing restrictive measures inconsistent with GATT. These commitments should not be considered a matter for negotiation as they represented a simple undertaking to respect existing obligations assumed under the GATT. The commitments should cover tariff and non-tariff measures of all kinds and in all sectors of trade in goods and all measures infringing the most-favoured-nation principle and discriminating among contracting parties. Rollback should be implemented in accordance with a time-bound programme agreed among all contracting parties before the start of the new round. The time limit for the removal of such measures would expire before the finalization of negotiations and would be an element in the final negotiated package.

The representative of Egypt said that a standstill commitment would be needed before the launching of the new round of negotiations. The implementation of paragraph 7(i) of the 1982 Ministerial Declaration showed that there was a need for a concrete and credible commitment to standstill, which should be a permanent element of the trading system. The commitment should include both tariff and non-tariff measures and should apply to all sectors, especially those of export interest to developing countries, including textiles and clothing. There was also a need for appropriate machinery to monitor the implementation of the commitment.

The representative of the United States said that a number of proposals which had been made warranted further consideration. In his view, standstill and rollback were essential to the proper functioning of the GATT system. For that reason, the United States was prepared to try to go beyond the 1982 commitment and to try to work out something more meaningful than had been agreed in the past. For this to be possible, all countries would have to play their part. A fair and equitable standstill and rollback mechanism would have to include both tariffs and non-tariff measures. With regard to rollback, one should approach the negotiations on the assumption that all measures inconsistent with the General Agreement would be phased out during the life of the negotiations. If that could not be done, the trading system would face continuing difficulties. He noted that even in 1982 there had been some exceptions to what was agreed to and he was not certain that all countries had tried to resist protectionist pressures for the general benefit. Although the United States' record was not perfect, in the last few years, in light of the growth in imports, it was not all that bad. He suggested ways should be explored to go beyond the 1982 Ministerial to see if it were now possible, at the beginning of the new negotiation, to build a credible and firm system.

The representative of Sri Lanka stressed the importance of timing. Commitments on standstill and rollback should be taken before the launching of the negotiations. They had to be seen as confidence-building measures giving credibility to a new round and as such they were an essential prerequisite of the negotiations. As to duration, they should remain in effect until the conclusion of the negotiations. The commitments would essentially be a reaffirmation of GATT rules and obligations and a reiteration of past commitments as set out in the Ministerial Declaration of 1982. However, the commitment of 1982 had been found wanting. The new commitment would have to be strengthened and taken, as a binding commitment and not a best endeavour clause, at the highest political level. Standstill would signify a commitment to refrain from introducing any new restrictive measures which were inconsistent with the GATT or not based on the GATT. It should cover all sectors of trade including textiles. Rollback would signify a plan to phase out, within a time-bound frame, all trade restrictive measures inconsistent with GATT obligations. Such rollback actions should be autonomous. Priority should be given to the elimination of measures which affected the exports of developing countries, starting with measures introduced after the Ministerial Declaration of November 1982. Lastly, the implementation of these commitments should be subject to regular multilateral surveillance and review by an appropriate body to be established in the GATT.

The representative of Poland said that he detected a certain degree of confusion as far as the definition of standstill was concerned. Some statements which had been made implied that for some standstill was simply a commitment to refrain from further violations of the GATT. In his view, standstill should mean protection of the trading regime from further deterioration, legal or illegal, and as guaranteeing a stable degree of market access. Standstill should cover all commodities and should be a binding commitment. It should be extended by all to all without discrimination, and should remain in force until the end of a new round. Enforcement should be ensured by monitoring in the Special Sessions of the Council.

The representative of Zaire agreed with those delegations who asked for an undertaking at the highest political level on standstill and rollback of all measures not compatible with the rules of GATT. This commitment should be accepted before the launching of a new round. Zaire had previously suggested the setting up of efficient surveillance machinery to control the observance of these commitments. This would strengthen the credibility of the GATT as a system. The surveillance machinery could not be based only on periodical review of the standstill and rollback situation. It would also be necessary to specify the dates at which the commitments on standstill and rollback would become operative. One should also be more specific as to what was meant by a commitment taken at the highest possible level. There was a risk of being blocked by the timetable of activities of various political institutions, for example, the timetable for parliamentary work was different from one country to another. This could raise questions or problems, so it was necessary to be clear that this commitment was to be undertaken by all the governments concerned.

The representative of Gabon said that the economic structure of his country was based essentially on extractive industries, whose market was a very narrow one. Liberalization of international trade was extremely important for Gabon's economy. For this reason, he supported fully what had been said regarding the effective implementation of standstill and also the views which had been expressed on this point by twenty-four developing countries in document L/5818.

The representative of Argentina said that any development of the concept of standstill should take into account two specific levels, one level dealing with measures which were clearly illegal under the GATT. Concerning these illegal measures or practices distorting international trade, the language in which the commitment should be drafted should be strictly binding. For measures authorized under the General Agreement, the contracting parties undertaking a commitment on standstill would accept the obligation not to increase tariffs, for example, but it would not be possible to ask for a total prohibition on the use of emergency measures such as Article XIX, or to prohibit recourse to Article XXVIII. On the basis of this distinction, it was obvious that the surveillance machinery could not be at the same level with respect to legal and illegal measures. He supported further exploration of

the New Zealand suggestion that the system of counter notification or reverse notification be used so that third parties could express their concern when their trade interests were affected by violation of the standstill commitment. Effective surveillance should ensure that in such cases redress could be obtained in a very short time, particularly in the case of illegal measures. In such a case, it should not perhaps be necessary to demonstrate the existence of direct trade prejudice; in view of the binding nature of the standstill commitment in the case of illegal measures it seemed reasonable that contracting parties could also bring to the surveillance body cases where there was an indirect effect on their interests. In the case of illegal measures, again, it would also be useful to give the possibility to the affected contracting party to decide to which body in GATT it would bring the case. This would include not only the traditional forms of consultations under Article XXIII but also the possibility of going directly to the surveillance body. It also had to be determined whether the surveillance body would limit its action to consultation or an exchange of views, or whether it could go beyond that in the case of illegal measures or violations of the standstill commitment. The surveillance body might perhaps decide whether there had been a prima facie violation of obligations by a contracting party. In regard to suggestions that the commitment be maintained until the end of the new round, he believed that this should be true only in the case of measures which were covered by the General Agreement. In the case of illegal measures, the standstill should be followed by their progressive and complete elimination, before the end of the negotiation, on the basis of an agreed time-table.

The representative of Singapore said that in ASEAN's view, the objective of a standstill commitment would be to ensure that at the end of the new round there were real advances in trade liberalization. The standstill commitment should be binding on all contracting parties, as opposed to the best endeavours undertaking in paragraph 7(i) of the 1982 Ministerial Declaration. There should be an effective surveillance mechanism to ensure adherence to the commitment, which should be applied by all contracting parties participating in the new round. The commitment should remain in force from the day of the launching of the new round to its completion. The ASEAN also supported the proposal made by the Ambassador of Jamaica that the secretariat prepared a background paper pertaining to the question of a standstill commitment.

The representative of Yugoslavia said that, with respect to the view that it was difficult to oblige contracting parties not to undertake legal safeguard measures during the standstill, in the conclusion of Ministers in May 1963 for the Kennedy Round, the industrialized countries had undertaken something of that nature. The standstill obligation should incorporate special and differential treatment for the developing countries. For example, instead of using grey area measures developed countries should use Article XIX, but with special consideration for the exports of developing countries.

The representative of Israel recalled that at the Special Session of September 1985, the CONTRACTING PARTIES had agreed that a preparatory process on the proposed new round had been initiated. For that reason he agreed with India that any standstill should take effect from the end of the Special Session. As far as the contents of the standstill were concerned, in view of the problems of the developing countries, special and favourable treatment should be accorded to products of special interest to these countries. With regard to rollback, in paragraph 7(i) of the Ministerial Declaration CONTRACTING PARTIES undertook to refrain from maintaining measures inconsistent with GATT. This was of major importance to Israel and this undertaking should be carried out by all contracting parties, including those who were among the strongest in calling for a rollback but also maintained such illegal measures. It had been suggested that an attempt should be made in the negotiations to eliminate legal derogations from the General Agreement. Illegal measures, however, could not be a subject for negotiations. These would have to be eliminated at latest by the end of the negotiations so that the way would be clear for implementation of the results of the negotiations.

ROLLBACK

The Chairman noted that the rollback concept was closely linked to the question of standstill. In the sense that the new round would be intended to lead to a substantial liberalization of trade most of it could be described as a rollback operation. However, this was obviously not what was usually meant when speaking of rollback and he suggested that it would be helpful in clarifying ideas to look at the distinction between negotiated liberalization and what would be expected under a rollback agreement. Some of the specific questions applicable to standstill would also be relevant here, for example, the legal status of a rollback undertaking, (i.e. whether it should be autonomous or contractual) its substantive coverage in terms of measures, whether it should cover both legal and illegal measures and from what point of time it should apply. In this context too the rôle of surveillance would be important.

The representative of Pakistan noted that all delegations had preconceptions about the objectives of the new round and these preconceptions constituted the premise from which they would look at specific subjects. Developing countries hoped that the new round would make the trading system more responsive to needs and more stable, predictable and equitable. This was the perspective from which they looked at standstill and rollback. The two concepts were organically related because a mere standstill would freeze what was an unsatisfactory status quo. Different interpretations were being attached to these commitments. So far as the developing countries were concerned, very few, if any, concrete benefits had accrued from past commitments. Therefore the requirement now was for something more credible and binding. For Pakistan the single most important area of interest was textiles, which continued to be affected by insufficient political willingness

on the part of major countries to stand by their commitments. Clear and binding commitments on standstill and rollback were crucial for the confidence building which was necessary for future multilateral trade negotiations. They should also apply to negotiations in the GATT on textiles and should take effect prior to the new round. Pakistan supported a strengthened surveillance mechanism to monitor implementation.

The representative of Bangladesh said that he interpreted paragraph 7(i) of the 1982 Ministerial Declaration as an unambiguous undertaking by the CONTRACTING PARTIES to roll back all measures inconsistent with the GATT. Regrettably there had not been much movement in this regard particularly by the major developed contracting parties which had the main responsibility for initiating this action. He agreed that rollback of measures inconsistent with GATT should not be a matter of negotiation. A firm undertaking to roll back all measures inconsistent with the GATT and other international agreements within a time-bound programme, in all sectors including textiles and clothing and agriculture, should be a prerequisite for the launching of a new round, as stated by developing countries in document L/5818. A surveillance mechanism should be introduced to ensure that the standstill and rollback commitments were fully complied with. He expressed his hope that the contracting parties could now agree on a text on the basis of the points made in the meetings of the Senior Officials' Group and elsewhere.

The representative of Uruguay said that during recent years, Uruguay had liberalized its import regime while new obstacles to its exports had been set up in foreign markets. This illustrated the essential link between standstill and rollback and the need for formal and clear undertakings. Indeed, without such undertakings he would not be able to support the holding of a new round. As a condition for a new round and in awareness that it was impossible to negotiate while there were still in existence measures not in conformity with the General Agreement, contracting parties applying such practices should commit themselves to rolling them back. This move would be achieved in two stages. The first stage would be with respect to a list of measures (representing a substantial proportion of the inconsistent measures in existence) whose elimination might take place on the opening date of the new round. For the remaining measures, a staged programme would be followed, leading to complete elimination whose completion would in Uruguay's view be indispensable to permit concluding the round. The rollback of measures in violation of the General Agreement would be without compensation or reciprocity. Other measures, whose legal status was debatable or subject to dispute, must also be covered by a rollback operation. As regarded surveillance and transparency and the treatment of developing countries, his position was the same as in respect of standstill. He noted that Uruguay had provided the secretariat with an informal document summarizing its position.

The representative of Yugoslavia said that an agreement on a time-bound rollback programme should be reached before the Ministerial Meeting. Priority should be given to the elimination of measures of a discriminatory nature, for example in textiles and clothing, affecting the exports of developing countries, starting with measures introduced after the adoption of the 1982 Ministerial Declaration. There could be no negotiation or reciprocal concessions for the rollback of measures inconsistent with GATT and their effective implementation should be monitored by an appropriate body.

The representative of Jamaica said that a fuller understanding was needed of the possible obligations of contracting parties in respect of rollback. Would it be in keeping with obligations under the General Agreement or dependent on economic circumstances, i.e., rollback in good times, but not in periods of slow growth? Did rollback imply further liberalization, or a return to the status quo ante? Should it cover both illegal measures and measures for which derogations had been given? Were grey areas to be covered? Were illegal measures to be rolled back immediately or over a time frame to be determined? He shared the views of Uruguay on the link between standstill and rollback. With regard to modalities, he asked whether rollback would be undertaken unilaterally, assuming that if it were an obligation under the General Agreement, this would be the case. He also asked what would be the position of contracting parties which had already undertaken structural adjustment programmes and made substantial progress on liberalization of both legal and illegal measures without reciprocal liberalization by other contracting parties. Would rollback be undertaken plurilaterally, or also on a multilateral basis? He agreed that the issue of surveillance needed attention, but merely to introduce yet another mechanism into GATT would not suffice - as witness Part IV, where surveillance remained a dead letter. He suggested that the dispute settlement procedures could be improved if cases were brought to the Council by third parties, i.e., countries not directly affected but who were of the view that a prima facie case could be made of violation of the General Agreement. He proposed that the secretariat prepare a paper to serve as a guide for the further discussions and recommendations of the Preparatory Committee, on the basis of his comments as well as points raised in the Senior Officials Group and by other members of the Preparatory Committee.

The representative of Brazil said he shared the view that standstill and rollback, as well as the issue of safeguards, were linked. The description of the new round as a rollback operation could lead to serious misunderstandings. The expression rollback referred to the phasing out of measures inconsistent with the General Agreement, the elimination of which could not be the object of negotiation. It must therefore occur independently of the multilateral exercise of liberalization. Brazil attached great importance to the actual implementation, on the one hand of engagements not to introduce new restrictive measures outside GATT and to phase out any such measures already in existence, and on the other hand to the negotiation of a comprehensive agreement on safeguards. Individual commitments on standstill and rollback

were indispensable for a new round of negotiations to have any meaning, while an agreement on safeguards was necessary to prevent erosion of the system by voluntary export restraints and other types of bilateral deals which escaped multilateral scrutiny. He noted that there was a wide area of consensus among participants regarding the need to strengthen past commitments in this field. Some developed countries had already taken rollback measures although these had been mainly geared to satisfy the interests of other developed countries. In the case of developing countries it was worth noting that some of them with serious balance-of-payments problems had been urged to roll back measures fully consistent with GATT provisions. As stated in document L/5818, there was a need, before the launching of a new round, for firm and credible individual commitments supported by appropriate legislative sanction, to phase out measures inconsistent with the GATT. This commitment could be made by developed contracting parties in favour of developing countries and would thus have a preferential character which was not expected in the case of standstill. The commitment to rollback should be taken at the highest political level, by executive order, presidential decree or an instrument of equivalent legal status. Where necessary under national constitutional provisions, it would require support by appropriate legislative sanction. Individual commitments could be notified to GATT at a later stage than those on standstill, but in any event should be made before the launching of the proposed new round. The GATT Council would be called on to establish appropriate machinery, such as a special committee, to monitor the implementation of individual commitments notified to GATT. The commitment on rollback by developed contracting parties should constitute an undertaking to phase out, in accordance with a time-bound scheme not exceeding three years, all existing restrictive measures of a tariff and non-tariff nature in all sectors of trade which were applied to imports from developing contracting parties and inconsistent with the General Agreement. There could be no question of negotiating the removal of measures inconsistent with GATT. The possibility that all such measures would be eliminated before the conclusion of a new round must be kept in view.

The representative of Hungary stated that the elimination of measures inconsistent with GATT was a basic contractual obligation of all contracting parties. It should therefore not be dependent on the state of the economy, although he recalled that there were some high level pledges of the most industrialized countries that as recovery proceeded protectionist measures would be rolled back. As yet, particularly in the United States and in Western Europe, this had not happened. He agreed that the elimination of measures not consistent with the General Agreement should be without reciprocity. In addition, any rollback undertaking should be applied to all countries subject to these illegal measures, without discrimination. He recalled that some liberalization measures had excluded Hungarian products, which was contrary to the basic GATT principles of most-favoured-nation treatment and non-discrimination.

The representative of New Zealand said that his country was rolling back, having carried out a significant degree of autonomous liberalization in recent years.

The representative of Argentina noted that everyone seemed to agree that rollback and standstill were crucial to the new round of negotiations. He believed that no operational distinction could be drawn between the two problems and that the idea of standstill plus progressive elimination taken as a whole should be at the basis of whatever decision was taken in the future. It was easier to start from the view that the progressive elimination would affect illegal measures and that, therefore, the commitment accepted by contracting parties would not be negotiable. It would be necessary to define a time-table for the elimination of remaining measures and in this regard the idea of liberalization in specific sectors might be reactivated. Some sectors were worse affected by illegal measures than others, and these might be given priority attention, taking into account in particular those that were of trade interest for developing countries. There should be a common forum for surveillance and monitoring of both standstill and progressive elimination. He agreed with Brazil that the possibility of contractual rollback commitments by developed countries in favour of developing countries should be examined. It was also necessary to decide what should be done with measures whose legal status under the General Agreement was unclear. Quantitative restrictions, phytosanitary regulations and residual restrictions should also be examined to see whether they would fall within the exercise of rollback or into another part of the negotiation. Argentina supported the idea of full transparency ensured by a surveillance body.

The representative of Korea said that despite the apparent agreement on the need for a rollback commitment, this might not be as easy as standstill: whereas standstill concerned new measures, rollback meant the elimination of existing measures and would require that powerful forces of inertia would be overcome. Ministers should be asked to commit themselves to clear-cut and concrete proposals, not a broad and abstract recommendation for rollback. If the forthcoming renegotiation of the MFA were going to produce a system more restrictive than the existing one, this would be the opposite of rolling back. It should be possible to inform Ministers that the new textile arrangement would be less restrictive than its predecessor, and that something real had thus been achieved. There were other specific measures which could be identified for reduction. He noted that there were barriers between the developed countries, and barriers of different levels against developing countries. For its part, Korea was constantly and unilaterally reducing import barriers, and hoped that in the new round industrialized countries would respond in kind to such measures of unilateral liberalization by developing countries.

The representative of Zaire said that it was difficult to consider the rollback concept in abstraction from the surveillance machinery, since it was the latter which would provide the possibility of assessing the progress made. Progressive elimination should be based on concerted action to remove barriers

to trade. It would entail agreement on a time-table for the different stages of the process. Transparency should be ensured by appropriate surveillance machinery, which should periodically report to the CONTRACTING PARTIES on the actual implementation of the programme of elimination by contracting parties. In order to give more credibility to the process it would be desirable for the contracting parties to indicate clearly the nature of the commitment undertaken by their government in the matter of the elimination of illegal measures. Developing countries had suffered heavily from the economic crisis and from restrictive measures applied by developed countries. Priority should therefore be given to the elimination of all illegal measures which restricted the expansion of the trade of developing countries.

The representative of Egypt said that his position on rollback was clearly stated in document L/5818 and that he also shared the views expressed by some of the preceding speakers, especially Brazil. A commitment by all contracting parties to rollback, which meant the elimination of all measures inconsistent with GATT provisions, would be a prerequisite for launching the new round, since it was hard to see how international trade could be liberalized if measures inconsistent with GATT were left in place. In such circumstances what would be the point or the credibility of a new round?

The representative of India said that he looked upon standstill, rollback and safeguards as three integral and logically connected elements of one single whole. There should be no confusion about the distinction between negotiated liberalization and the elimination of measures inconsistent with GATT. The latter was what was meant by rollback. It was not a part of negotiations but it would make the process of trade liberalization through negotiations credible. The process of rollback was not easy, and therefore one should seek a practical way of achieving results in the course of the work of the Preparatory Committee. The first step might be acceptance of a binding commitment to phase out measures inconsistent with GATT, or not based on GATT, and which affected the trade of developing countries. Secondly, it should include all sectors of trade and particularly the sector of textiles and clothing which was so crucial to the whole process of development for many developing countries. The overall process of rollback should be very short in duration; rollback of inconsistent measures could not be extended over the whole period of negotiations. The suggestion by Brazil of a period not exceeding three years seemed feasible and appropriate. All measures inconsistent with GATT, regardless of when they came into existence, should be covered by the process of rollback. Therefore there should be no question of reference to a past date as a starting point. A termination date by which the rollback process should be achieved was of course important. The process would necessarily be an autonomous one but would also have to be a binding commitment. To ensure transparency, both standstill and rollback should be subject to monitoring in a surveillance mechanism on whose formation, as on other matters relating to standstill and rollback, India would later submit specific proposals.

The representative of the United States said that in a previous statement addressing both standstill and rollback he had gone beyond anything that the United States had said on the subject in the Senior Officials Group or previously. He had not heard anything from other countries that was different from previous positions, but was very willing to work with any country which wished to discuss the issues seriously.

The representative of the European Communities said that rollback appeared to mean very different things to different speakers. It should be remembered that there was a difference between measures which were inconsistent with GATT provisions and measures which were inconsistent with GATT principles. The totality of trade restrictive or trade protective measures, or even of trade distortive measures, was something else again. Clarification of these concepts was required before useful discussion could take place of the timing, implementation or application to different countries of such a commitment. If the message were that all contracting parties and not just some should better respect their GATT obligations, it was difficult to quarrel with that, and if some contracting parties were at the moment not meeting their basic obligations because they maintained measures inconsistent with GATT, although presumably the contracting parties in question did not believe that, then one could give priority to the examination of those areas. But it was necessary to identify the situation more clearly than had yet been done. With regard to the argument that rollback should be done on a preferential basis, he said that if the concern were for measures which were inconsistent with GATT, it would seem to be inconsistent with GATT to eliminate them only with respect to certain contracting parties. On the other hand, it had been suggested that standstill should be implemented on an m.f.n. basis, whereas in his view there might be more sense in saying that one should have a certain element in favour of developing countries in standstill because it was a broader concept, covering a wider range of measures. The Community's reaction to the very large number of suggestions that had been made - some in conflict with others - would depend on the clarification of the issues he had mentioned and also on other important subjects which were still to be discussed, such as the treatment of developing countries and the other subjects emphasized by the Chairman of CONTRACTING PARTIES in November.

The representative of Switzerland said that it was of course desirable that any restrictive measures should be rolled back. However, there existed measures which were not inconsistent with GATT provisions even though they might be restrictive in nature. It would seem difficult to expect a rollback of these measures in so far as they derived from the existing balance of rights and obligations under the General Agreement. Other measures were taken outside the GATT. In relation to these it should be one of the objectives of negotiations to extend the rules in such a way as to cover the situations which led to the adoption of such measures. Rollback of measures of that type should be one of the objectives and indeed the results of the negotiations. He stressed that in no way should the negotiations have as their purpose legalization in terms of GATT of measures outside GATT, but rather that they should ensure that GATT covered the situations which gave rise to such measures so that future reactions to situations of this nature would take a form which would be consistent with the legal framework which would have been negotiated.

The Chairman said that it was evident that the notions of standstill and rollback were very closely linked. In the course of the Committee's examination of other subjects, further linkages with standstill and rollback would certainly become apparent. He suggested that the secretariat should prepare a factual paper or reference document on past actions in the matter of standstill and rollback. It would also be useful, to focus and facilitate future work, for the secretariat to provide a short synthesis of the main points in the discussion; It was so agreed.

TREATMENT OF DEVELOPING COUNTRIES

The Chairman said that the subject of treatment of developing countries might be regarded as a modality for the negotiations as a whole rather than a subject for negotiations in itself, since it was relevant to many of the specific sectors of negotiation. He referred to the provisions in favour of developing countries which already existed in the GATT, notably in Part IV and the Enabling Clause, and in a number of MTN codes. He said it would be useful to bear in mind that the focus of the Committee's discussions should be the terms of any general recommendation on the subject. In later discussions consideration could be given to the application of any general concepts or principles to specific negotiating areas.

The representative of Uruguay said that the principle of special and differential treatment for developing countries was an integral and indispensable part of the General Agreement and the MTN codes. Differential and preferential treatment for developing countries should not be dealt with as a separate item, but rather should be part of each specific sector or item to be dealt with in the forthcoming negotiations. In the exchange of concessions amongst developed and developing countries, for example, it would be necessary to define specific modalities wherever possible for the quantification of preferential treatment. To this end, modalities could be defined in respect of trade coverage, type of concession, degree of reduction of trade barriers and the time frame governing the application of the concessions exchanged. Appropriate surveillance and monitoring machinery would be necessary to ensure compliance with such arrangements. The Generalized System of Preferences represented a specific application of the principle of special and differential treatment, although its scope and coverage had remained seriously limited. During the negotiations developed countries should be expected to improve significantly their programmes under the GSP. In the Codes negotiated during the Tokyo Round, specific provisions relating to special and differential treatment had not been applied adequately. This matter would require attention. In the area of safeguards, any understanding should not only be based on the most-favoured-nation principle, but should also include provision for special and differential treatment for developing countries. This could apply, for example, in respect of provisions relating to compensation and the withdrawal of concessions. These kinds of arrangements were essential if developing countries were to earn the foreign exchange necessary to reduce their heavy debt burden and maintain domestic growth rates which were compatible with their development needs. In addition, special attention should be paid to the particular problems faced by the least-developed countries. Finally, developed countries should not expect reciprocity from developing countries and any concessions made by the latter should be consistent with their financial and trade needs.

The representative of Bangladesh said that the question of special treatment to the developing countries was more of a modality than a subject as such. He also subscribed to the statement just made by the representative of Uruguay. He said that the subject of special and differential treatment in favour of the developing countries had been adequately discussed and the Committee could start preparing its recommendation on this subject. In this context a number of points were particularly important. Firstly, special and differential treatment for the developing countries was a key element of the multilateral trading system. Secondly, action or measures in favour of developing countries could be established in terms of such considerations as trade coverage, types of concession, extent of reduction of tariff barriers, the timing of the implementation of concessions, and also in the operation of the principle of non-reciprocity as provided for in Article XXXVI:8. Thirdly, special and differential treatment should be elevated to a higher status of obligation than that of a "best endeavour" undertaking. Fourthly, special and differential treatment should be accorded to developing countries in all sectors, and in respect of tariff and non-tariff measures and safeguard actions. Finally, within the context of special and differential treatment to developing countries, the special problems of the least-developed countries should be given particular attention, in accordance with the relevant provisions of the Enabling Clause. The removal of all types of tariff and non-tariff barriers affecting the trade of least-developed countries, as agreed to in the Ministerial Declaration, should be one of the main elements of the new round of negotiations. In this connection, the recent proposals put forward by the Chairman of the Sub-Committee on Trade of the Least-Developed Countries for further action in favour of least-developed countries should be fully implemented.

The representative of Korea said that one area where the developed countries could give special treatment to developing countries was that of standstill and rollback. In addition, the developed countries could strengthen their commitment to preferential treatment for developing countries, as laid down in the General Agreement. A further question concerned the elements of quantification which could be brought into the framework of special treatment for developing countries. Special and differential treatment should not be applied in a static manner, as conditions in developing countries were constantly changing. If they were deteriorating, more favourable treatment might be required but where they were improving the reverse could be the case. Thus, special treatment for developing countries might be provided in a dynamic way, but this dynamism would need to be linked to a more serious application of obligations and a strengthened commitment to GATT disciplines by developed countries.

The representative of Egypt supported the views expressed by the representatives of Uruguay and Korea. The subject of differential and more favourable treatment for developing countries should not be treated as an individual question, but as a modality for each specific area in the negotiations. To the extent possible, it was necessary to identify specific ways of implementing special and more favourable treatment, for example, with regard to trade coverage, the nature of concessions, the extent of reductions and the timing of the implementation of a concession. There should be no expectation that developing countries would offer full reciprocity in negotiations and they should not be asked to make concessions inconsistent with their development programmes. The interests of the least-developed countries should also be taken into consideration in the new round.

The representative of Pakistan expressed appreciation for the fact that the need to consider the subject of the treatment of developing countries as a separate and important element had been accepted. Despite the relevant GATT provisions and the undertakings accepted in the 1982 Ministerial Declaration there was a continuing erosion in the confidence that developing countries placed in the GATT. This occurred because there had been no improvement in market access in those sectors of trade in which the developing countries had major interests. In previous GATT rounds, for example, textiles and other major concerns of the developing countries had not received the attention that they deserved. The GSP schemes of developed countries had not compensated for discriminatory policies and quantitative restrictions in certain sectors. Agriculture was relevant in this connection. The real question facing contracting parties was how to elevate the concepts and provisions of Part IV to the point where they could serve as a basis for developing a stable and a durable relationship between the developing and the developed countries in GATT. The concept of special and differential treatment for the developing countries needed to be reinforced and integrated into the mainstream of the GATT rather than being relegated to an inferior status as a "best endeavours" clause. This should apply in such areas as safeguards, textiles, agriculture, quantitative restrictions and tropical products.

The representative of Sri Lanka supported the statement made by the Ambassador of Uruguay. Although the treatment of developing countries was being discussed here as a subject in itself, it was difficult to elaborate the principle of differential and more favourable treatment for less developed countries without referring to subject areas where it had relevance. The principle of special and differential treatment, though an integral part of the GATT system, needed to be further strengthened in its implementation in certain areas. Firstly, though the principle was enshrined in Part IV of the General Agreement it had not produced the results expected by developing countries. Part IV consultations, though useful, had not benefitted developing countries in any concrete way. In the tropical products sector for instance, negotiations had stalled on what was meant by "appropriate negotiations". Yet the principle of differential and more favourable treatment was very important in this area as the vast majority of the countries producing tropical products were the poorest and least-developed of the developing countries. Secondly, the provisions in the MTN Codes for special and differential treatment for developing countries had been found ineffective and inadequate. If more developing countries were to accede to these arrangements the principle had to be further strengthened. Thirdly, in the negotiation of a comprehensive safeguard clause there should be provision for special and differential treatment both in the scope of safeguard action and in the provisions relating to compensation and retaliation. In the area of trade negotiations, the principle of special and differential treatment, though accepted, had not been complied with in the Kennedy and Tokyo Rounds. Though the principle found expression in the Tokyo Declaration, the additional benefits accruing to developing countries from its application were meagre. For the effective implementation of the principle of special and differential treatment in the proposed round of negotiations, certain points had to be taken into account. Firstly, precise techniques had to be devised in the

preparatory phase as to how this principle could be applied in concrete terms, as regarded trade coverage, types of concessions, extent of preferential trade barrier reductions and advance implementation of concessions. Secondly, special attention had to be paid to the needs of the least-developed countries. Thirdly, though developing countries were not required to make concessions which were inconsistent with their development, financial and trade needs, they had in effect been making a contribution. Some developing countries had, under structural adjustment programmes, carried out economic reform including import liberalization. The autonomous actions of these developing countries in pursuing trade liberalization had to be recognized as a contribution to liberalization and to the proposed trade negotiations. Where possible the trade value of such liberalization should be quantified for this purpose.

The representative of Romania said his country considered that one of the main objectives of the new round of multilateral trade negotiations should be the improvement of the economic position of the developing countries. This was to be achieved by taking due account of their trade interests and by substantially improving the content and application of special and differential treatment provisions in favour of developing countries. The principle of special and differential treatment for developing countries should form a corner-stone for the new round of multilateral trade negotiations, and should be applied to all areas of negotiation, including any new issues which might be discussed, as well as in respect of safeguard actions and anti-dumping and countervailing duty actions. Special and differential treatment should be extended to all developing countries without discrimination. Special and differential treatment for developing countries could be applied inter alia by giving priority in the course of trade negotiations to the products of export interest to developing countries, and by agreeing to larger tariff and non-tariff measure reductions on such products. Such measures could then be implemented on the basis of an accelerated time-frame. In addition, improvements were required in the Generalized System of Preferences on a non-reciprocal and non-discriminatory basis. Special and differential treatment also meant that the developed countries did not expect the developing countries in the course of the trade negotiations to make contributions which were inconsistent with their individual development, financial and trade needs. Prior to the beginning of a new round of negotiations, concrete modalities had to be established for the application of special and more favourable treatment for the developing countries on a non-discriminatory basis. Finally, an appropriate monitoring mechanism would be necessary to ensure the effective implementation of special and differential treatment provisions for developing countries.

The representative of Zaire supported the statement made by the Ambassador of Uruguay. In the multilateral trade negotiations there would be a number of points of direct interest to the trade of developing countries: a fundamental question for developing countries was how the future trade negotiations would re-activate the implementation of Part IV of the General Agreement. Since the question of differential and more favourable treatment for developing countries was a problem which arose in the relationship between developing countries and industrialized countries, the GATT secretariat might prepare a table which would assess the degree of implementation by developed countries of Part IV of the General Agreement. On the basis of the information contained in such a table, the committee could give concrete indications to Ministers of appropriate action in this field.

The representative of Yugoslavia d that the starting point in a consideration of this issue should be ... more effective application of the basic general rules contained in Part IV of the General Agreement, in the Enabling Clause and in the MTN Agreements and Arrangements. Those rules and principles were an integral part of the GATT system. Bearing in mind the serious debt situation facing a large number of developing countries, consideration should be given to improving GSP schemes, to reducing subsidies and to withdrawing import restrictions on agricultural and tropical products. The restrictive and discriminatory measures imposed by developed countries on products from developing countries such as textile and clothing products, agricultural products and others, were seriously disturbing the balance of rights and obligations of developing countries in the GATT. The Preparatory Committee should give priority attention to defining concrete and effective actions aimed at improving the GATT system and the position of developing countries in that system, so opening the way for multilateral trade negotiations.

The representative of Japan said that his country had supported the idea of special and differential treatment for developing countries, in accordance with the relevant GATT provisions. Japan had also been flexible on the question of how much reciprocity should be requested of developing countries and was prepared to consider the need for special and differential treatment for developing countries in the new round. At the same time, it was to be hoped that developing countries would utilize the round as an opportunity to make their own national economies more open to world trade and would make contributions in the new round insofar as these were consistent with their individual development, financial and trade needs.

The representative of Brazil said that in examining the question of special and differential treatment in the context of the proposed new round of multilateral trade negotiations, it was useful to examine briefly the results of the Tokyo Round and to assess the state of trade relations during the more recent past from the perspective of developing countries. In the Tokyo Round, the multilateral trading system became considerably more complex. This complexity was justified as a response to developments in the world economy. While some of the results of the Tokyo Round created the conditions for an increased multilateral treatment of issues arising in international trade, from the point of view of developing countries, the new system could not be said to have become more equitable than before. In specific areas the operation of agreements negotiated in the Tokyo Round gave rise to new forms of discrimination against developing countries. An example of this was the conditional application by one contracting party of the injury test to imports from developing countries which had not entered into unilateral commitments to phase out the bulk of their export subsidies. Moreover, a recent tendency affecting access for exports of developing countries was increasing resort by developed countries to dumping and countervailing action. While the drafters of the MTN Code covering these actions intended to prevent such measures being used as disguised restrictions on trade, it was clear from current practices that they were being used by certain developed signatories in a protective

manner. Referring to an earlier suggestion that the secretariat make a study of possible benefits to developing countries from the proposed new round, he said it might be more appropriate to examine the impact of the Tokyo Round on areas of vital interest to developing countries. It was known, for example, that the impact of the Tokyo Round on textiles and tropical products has been marginal. Tariff reductions covering industrial products from developing countries were 25 per cent less than the average overall reduction for industrial products. Tariff reductions in agriculture only covered 30 per cent of agriculture trade, and an agreement on safeguards was not reached. These facts made for a rather unfavourable global assessment of the outcome for developing countries of the last multilateral round of trade negotiations. The need to grapple with the persistent deterioration in the world trading environment in the aftermath of the Tokyo Round prompted the CONTRACTING PARTIES to meet at Ministerial level in 1982. The Ministerial Work Programme adopted in November 1982 did not have sufficient impact to reverse the trends towards discrimination against developing countries and disrespect for GATT disciplines. Compliance with the principle that developing countries should be assured more favourable treatment was an essential ingredient of the GATT system. The strengthening of GATT in priority areas such as safeguards, and the inclusion of trade in agriculture under effective GATT discipline, would warrant consideration by developing countries of the possibility of making an additional contribution through the liberalization of their import régimes for goods. Such a contribution would have to be consistent with their development, financial and trade needs, as foreseen in the Enabling Clause. The level of reciprocity to be offered by developing countries in a negotiation would have to be agreed before the launching of negotiations on the basis of a precise formula. By agreeing in advance on a formula for the application of the principle of more favourable treatment for developing countries, contracting parties would create confidence in a new round among developing countries. Such action would lessen the suspicion of developing countries regarding the willingness of developed countries to comply with their commitments under GATT, and would give developing countries a chance to participate more fully in the trading system.

The representative of Argentina said that a number of different elements of special and differential treatment were relevant in a future negotiation. Special and differential treatment could be reflected in practical terms in the actual structure to be adopted for carrying out a negotiation. For example, priority could be given to questions which were of particular interest to developing countries. In addition, a decision could be taken before a negotiation on elements or principles which were to be reviewed during the negotiations and this could reflect the particular interests of developing countries. In regard to the modalities of a negotiation, an effort should be made to favour integration of the developing countries in the negotiation. Another question concerned the nature of the contribution of developing countries in the negotiation and this matter had been adequately addressed by the representatives of Uruguay and Brazil. Finally, it might be useful to study the possibility of determining to what extent certain "negative preferences", arising from preferential arrangements among industrial countries and affecting developing countries, could be eliminated.

The representative of Cuba supported the statement made by the representative of Uruguay. The principle of special and differential treatment was fundamental to the interests of developing countries and was an integral part of the General Agreement and related legal instruments. There were several areas where the implementation of special and differential treatment could be pursued, including safeguards, textiles, tropical products, and settlement of disputes. A particular problem which ought to be kept in mind, in view of its importance for developing countries, was that of indebtedness. Special and differential treatment in trade matters could be of assistance to indebted countries in overcoming their economic problems. Developed countries could not expect reciprocity from developing countries, and in every area of trade in goods it would be necessary to see how special and differential treatment for developing countries might be applied. Finally, it should also be recognized that there should be no discrimination between developing countries in the implementation of special and differential treatment provisions.

The representative of Norway, on behalf of the Nordic countries, said that the treatment of developing countries was not a negotiating issue as such, but rather a set of principles which had to be adapted on a continuing basis to all aspects of the multilateral trading system. It was to be assumed that the validity and the basic principles of special and differential treatment for developing countries would not be questioned in the negotiations. Part IV and the Enabling Clause were the results of extensive negotiations in previous rounds of negotiations and were thus an integral part of the GATT system. It was necessary, however, to try to promote the dynamic and efficient implementation of these principles, thereby making them more operational. Recommendations to this end should be included in the draft Ministerial Declaration to be drawn up by the Committee. Referring to the least-developed countries, he noted that in his capacity as Chairman of the Sub-Committee on Trade of the Least-Developed Countries, he had presented a number of concrete proposals in favour of expanding the trading opportunities of these countries. A few of those proposals required solutions that would rightfully belong in a broader context, such as a new round, and it was therefore to be hoped that matters of particular interest to the least-developed countries would be reflected in the Ministerial Declaration.

The representative of the European Communities said that the Community had underlined the need for give and take so as to achieve a better balance of rights and obligations as between all contracting parties, and this included the question of the basis of negotiations between developed and developing countries. In this regard, Part IV and the Enabling Clause should not be questioned, but it was necessary to examine whether some elements, especially of the Enabling Clause, could be applied in a forward-looking and dynamic way in view of the fact that economic situations changed. The Enabling Clause referred to the process of progressive integration of developing countries into the multilateral trading system, commensurate with their development, financial and trade needs. Thus, the Enabling Clause indicated that there might be certain possibilities of looking again at the participation of developing countries in the system and in the negotiations. In the Tokyo Round developing countries did not in all cases accept obligations assumed by other contracting parties, and this had accentuated a certain asymmetry in the rights and obligations of all the contracting parties in the General Agreement. This was a subject which ought to be addressed in the new negotiations, in the LDCs' own long term interests, in the context of agreed undertakings.

The representative of Switzerland said it was clear that the CONTRACTING PARTIES recognized the particular economic situation of the developing countries. Part IV and the Enabling Clause were an expression of this. However, it was necessary to consider the question of preferential treatment within the context of the world economy and in particular within the GATT system. Preferential treatment was not merely a principle, it was also an instrument. As a principle it could not be considered independently from any other of the principles underlying the General Agreement, nor could it be considered to have primacy over any other principle in the General Agreement. As an instrument, it could not be applied in a static manner and still remain effective. The underlying question concerned the degree of reciprocity or non-reciprocity involved in preferential treatment and a static approach to this question would ultimately undermine the benefits that developing countries could derive from the system. Finally, a major element in the negotiations should be a revitalization of the GATT system, and improvement in the treatment extended to developing contracting parties was an essential part of this.

The representative of Nicaragua said that his delegation fully supported the statement made by the Ambassador of Uruguay.

The representative of Peru said that her authorities shared the sentiments expressed by Uruguay and Brazil on this matter. In particular, her delegation wished to stress the relationship between trade and indebtedness, which had been raised by several delegations at this and other meetings. Peru had made a proposal in the Senior Officials' Group whereby developed countries would bind preferential rates on all products covered by the GSP, at a zero rate and without any restrictions or conditionality of any kind, in favour of debtor developing countries. Unless developing countries were able to count on special and differential treatment of this nature during the negotiations, it would be very difficult for them to participate because they would derive no benefits and would not be in a position to contribute in any way either.

The representative of Trinidad and Tobago said that his delegation supported the statement made by the Ambassador of Uruguay with respect to differential and more favourable treatment for developing countries.

The representative of Austria said that the principles contained in Part IV and the Enabling Clause were not open to question. They provided the basis for participation by developing countries in the GATT in line with their economic development needs. They also ensured a better balance of rights and obligations. These principles should be seen in a dynamic light, and not as a permanent exception from GATT rules.

The representative of the United States noted that many developing countries would like additional developing country special and differential treatment. His authorities were not opposed to special and differential treatment as such, but it should fit its purpose. Moreover, important objectives of these negotiations were to strengthen the GATT, in particular the most-favoured-nation principle. From that standpoint, it did not make sense to work out some arrangement on special and differential treatment prior to the negotiations. It was a subject for the negotiations. Nobody had said anything different from what they had said in the Senior Officials' Group discussions and the most appropriate course would be to discuss this subject further once negotiations were under way.

The representative of India said it was gratifying that some developed contracting parties did not consider special and differential treatment a matter for negotiation. At the same time, references had been made to the implementation of this principle only in the course of negotiations. It had also been said that the principle would apply where feasible and appropriate. His delegation considered the principle of special and differential treatment as important and as integral to the GATT system as the m.f.n. principle itself. No delegations had yet said they would consider the application of the m.f.n. principle where appropriate and feasible. There had also been references to dynamism. If this meant the obliteration or dilution of a principle, then his delegation would not be in favour of any such dynamism. Dynamism should be related to the implementation of special and differential treatment, and not to its interpretation. The experience of the Part IV consultations, held pursuant to the Ministerial Declaration of 1982, provided an example of why it was worthwhile to examine the dynamic implementation of special and differential treatment. There was an awareness of the inadequacies and sometimes the feeling of frustration that arose during these consultations. Moreover, a simple request made by India in the Committee on Trade and Development for an examination of changes in the implementation of special and differential treatment at three different points in time, that is, in 1973, 1979 and the present, was found unacceptable by developed contracting parties. Another instance where little progress had been made was in the area of tropical products. A further example was textiles. While references were continually made to special and differential treatment, what really occurred was discriminatory treatment, often inconsistently with GATT. These instances illustrated why special and differential treatment had to be concretely applied in the course of negotiations. Discussions about re-interpreting or re-defining well established concepts relating to special and differential treatment would create serious doubts for developing countries about the utility of negotiations. As with standstill and rollback, it was important in order to create a credible foundation for the negotiations that contracting parties made prior commitments to take account in a concrete manner of the principle of special and differential treatment in the course of the negotiations. In regard to reciprocity, the whole philosophy behind Part IV and the Enabling Clause was to allow increasing reciprocity to emerge as a result of the process of development. Reciprocity could not be imposed or extracted as part of the negotiating process. In the case of the developing countries, there was built-in reciprocity because virtually all increases in export earnings were immediately spent on imports, largely from developed countries. The Preparatory Committee for the Tokyo Round recognized that securing additional benefits for developing countries was one of the foremost objectives of the Tokyo Round of negotiations. There was no justification, either in terms of logic or in terms of economic developments since the conclusion of the Tokyo Round, to depart from this position now. On the contrary, the current situation facing developing countries in terms of market access, commodity prices, the terms of trade or economic conditions, generally led to the conclusion that what was required was the reaffirmation of a greater commitment to the principle and implementation of special and differential treatment. Despite the difficulties developing countries had faced in terms of market access for their exports, many of them had undertaken an autonomous process of trade liberalization. It would be interesting to try to quantify this unilateral, autonomous contribution made by developing countries to the process of trade liberalization since the conclusion of the Tokyo Round. It was with this consideration in mind that the Committee should examine the whole concept of special and differential treatment.

The representative of Singapore said that he supported the very detailed statement on special and differential treatment made by the Ambassador of India. He was also optimistic about the statements of some developed countries to the effect that the application of special and differential treatment should not be static, but dynamic. He interpreted that to mean that the application of special and differential treatment had not kept up with the needs of the developing countries as their developmental needs had changed. In the light of this, it might be useful to see how the developed countries could improve their preference schemes and the application of special and differential treatment to fit in with the present day needs of developing countries.

The representative of Uruguay agreed with the observation made by the United States representative that there had been few new ideas expressed in this discussion. The reason for this was that the situation had not changed and the present exercise was to determine the objectives, the content and the modalities of the negotiations, and to draft recommendations on the programme of negotiations. The subject of special and differential treatment for developing countries was fundamental to this exercise, and in the circumstances repetitive statements were inevitable.

The Chairman said that the debate had confirmed that the treatment of developing countries was an item which could not be dealt with in isolation. As in the case of standstill and rollback, the secretariat would prepare a short note which would present in as systematic a way as possible the main points emerging from the discussion. In regard to the suggestions of some delegations for analyses of trade flows or of measures taken, he said that the secretariat would reflect on this question and the Committee could revert to it at one of its next meetings.

SAFEGUARDS

In introducing the subject of safeguards, the Chairman suggested that this would inevitably figure both in the Committee's recommendations and in any conceivable programme of negotiations. Indeed, the importance and difficulty of the problem was so widely recognized that he believed the Committee could and should focus at an early stage on the precise terms of the recommendation which it would wish to make to Ministers. He recalled that in 1982 a one-year deadline had been attached to the decision that a comprehensive agreement on safeguards should be negotiated, but despite intensive work under the chairmanship of three successive chairmen of the Council this had still not been achieved. The discussions of the Senior Officials' Group on safeguards were recorded in SR.SOG/4, pages 18-29 and SR.SOG/11, pages 16 and 17.

The representative of the European Communities said that if there was a general will to negotiate on safeguards the Community would be ready to participate despite the absence of results in the past. However, since safeguard provisions already existed in the GATT, the call for negotiations raised the question whether these provisions were in some way obsolete; if not, what was there to negotiate about? If there were a negotiation, how should the Ministerial Decision of 1982, and the six elements it contained, be taken into account? The Community saw a negotiation on safeguards as in part a matter of give and take but also as a cooperative effort to protect and strengthen the GATT system. For example, to the extent that the "building blocks" approach, as a means of creating confidence, was followed, it would not be through negotiation in the sense of an exchange of concessions. This area fell in the context of both contractual commitments and agreed undertakings.

The representative of Canada said that the question of safeguards must clearly be a key issue for a new round. It was an issue in need of a fresh approach and, as the representative of the Community had said, a matter of common interest and joint responsibility in strengthening the system itself. The Committee should focus on what the objectives for the safeguards negotiations should be, taking account of the useful work done under the GATT Work Programme. The question of safeguards could be approached differently depending on whether one was dealing with injurious imports or seeking to protect the interests of exporters. But realistically all would accept that safeguard actions were inevitable in certain situations. A good international agreement would make it easier for governments to take good decisions by providing an agreed framework of international discipline. Knowing that other countries would be following the same rules would make it easier to resist unjustified calls for protection. The issue of selectivity had been the key stumbling block to an agreement on safeguards, and it was difficult not to have sympathy with those who opposed introduction of this notion into the GATT rules governing import relief measures. Selecting out injurious imports for restriction, when they were fairly traded, could be seen as eroding the basic GATT principle of comparative advantage. On the other hand, the existence of numerous voluntary export restraints which were selective in nature, though bilaterally agreed, might be seen as a signal from the real world that the existing rules were not adequate. Three simple objectives might be considered as being central to a good agreement:

- First, a safeguards agreement should be designed to ensure that individual contracting parties do not use safeguard actions to prevent or unduly retard adjustment. Adjustment to competition, if it was fair competition, went hand-in-hand with trade liberalization and should not be frustrated. However, on occasion it was necessary for countries to slow down the pace of that adjustment to more tolerable and realistic levels. In these cases, there ought to be a credible multilateral review of the adjustment process to satisfy the various interested parties that the safeguard measure was not substituting for adjustment. The ideas in the Leutwiler Report on regular surveillance were relevant in this regard.

- Second, safeguard action should in no situation be allowed without certain criteria having been met, particularly the tests of increased imports, or the threat thereof, and serious injury to domestic producers, as required by existing GATT Article XIX. These might well require some fine tuning.

- As a third objective, the safeguard system should be designed to minimize the disruption to trade flows caused by the taking of safeguard action. It would thereby provide some measure of security of access to markets. This would be particularly important for those contracting parties which had already, through concessions offered in the GATT, opened their own markets to the forces of adjustment from international competition. Such countries could not be expected both to open their own markets to foreign competition and at the same time be denied secure access to other markets for the competitive industries which had developed as a result of new negotiated conditions of market access in their domestic and export markets. Without this security of access, adjustment would be inhibited because investors in export industries would be worried about the uncertainty involved.

In Canada's view, setting such objectives might make it easier to find a way through the individual issues which would arise in resumed efforts tc achieve a comprehensive solution.

The representative of Hong Kong said that the crucial point in this area was the preservation of the m.f.n. principle. The work should also aim at reaching a comprehensive agreement on safeguards and at improving the disciplines of Article XIX. The consultations held since 1983 had not produced results and it appeared that the Ministerial Mandate of 1982 would need to evolve. In the Draft Declaration on the new round the inclusion of a short specific text on safeguards should serve as a guide for future concrete negotiations. Such a text might be drafted along the following lines:

> "When emergency safeguard protection for particular industries is needed this should be provided only in accordance with the rules. It should not discriminate between different suppliers, should be time-limited, should be linked to adjustment assistance and should be subject to continuing surveillance."

This text, which was a summary of recommendation number 9 of the Report on Trade Policies For a Better Future would be a good starting point for a final text on safeguards. Some changes might be required: for instance "particular industries" should read "specific product lines". Recommendation 3 of the same report also provided the answer to another crucial question, that of how to deal with grey area measures. The answer would be the establishment of a programme to abolish all such measures. Again, however, it would have to be

stipulated that no legality would be conferred on grey area measures in the process of elimination. The informal reference paper annexed to the Council Chairman's report MDF/4 dated 23 November 1984 would also be a useful reference document. On other points of substance Hong Kong shared many of the views expressed by developing country delegations and some other delegations, and in particular by the Brazilian delegation, in the Senior Officials' Group and in last year's Council meetings.

The representative of the United States said that an effective, functioning safeguard agreement was critical to the maintenance of the multilateral system. The record showed that the US imported something like sixty per cent of the imports of manufactures from developing countries. There had to be, in the US view, an equal commitment to the system by others. With regard to the m.f.n. principle, after repeated attempts to reach consensus on the basis of different approaches, the US had reached the conclusion that the rules should not be changed unless there were a compelling reason to do so. The US was prepared to move to the negotiating phase, where a broader range of subjects might make it easier to move the safeguard issue forward, but would need to be convinced that the m.f.n. principle was in some way defective.

The representative of Sweden said that the Nordic countries regarded safeguards as a crucial issue for the restoration of confidence in the GATT system and as one of the most important issues in the new round. It was obviously linked to other central issues in the round, including standstill and rollback, and this underlined the importance of making early progress in the field of safeguards. The broad objective for a negotiation on safeguards should be to find a workable comprehensive safeguard system that would resolve the problem of grey area measures and would promote structural adjustment. The Nordic countries considered that a special attempt should be made to reach agreement on elements such as transparency, surveillance, time limitation and degressivity. An appropriate surveillance mechanism should be established and the rôle of the safeguards committee should be examined in this context.

The representative of Bangladesh said that the absence of an effective and enforceable discipline for emergency action in GATT lay at the root of the proliferation of restrictive arrangements and grey area measures which was undermining the credibility of the GATT. The importance of this subject was reflected in the Ministerial Declaration of 1982, which emphasized the need for an improved and more efficient system of safeguards to provide greater predictability, security and equity for both importing and exporting countries. This would be considered essential to preserve the results of trade liberalization. The Ministerial Declaration clearly identified the elements necessary for drawing up an understanding - transparency; coverage; objective criteria; temporary nature; degressivity and structural adjustment; compensation and retaliation; and multilateral surveillance. Without such an understanding all efforts to promote general trade liberalization and avoid a proliferation of restrictive measures were bound to fail. The application of

safeguard measures should take adequately into consideration the need for special and differential treatment of developing countries, including the least-developed, particularly in sectors of importance to these countries. This had become more important in view of the fact that some least-developed countries had been subjected to harsh safeguard measures in sectors of critical importance to them by a number of major trading nations. The issue of safeguards was linked with standstill and rollback and the development of a clear understanding on safeguards would be facilitated by taking this linkage into consideration. While the elements included in the 1982 Ministerial Declaration still provided a good basis for a comprehensive understanding, Bangladesh would not oppose any effort to work out a partial agreement on the less controversial elements, provided that this did not confer legitimacy on existing measures and practices outside the disciplines of GATT and that there was an understanding that work towards developing a comprehensive understanding within a time bound programme would continue. Failure to reach an agreement on this subject would inevitably mean that the functioning and preservation of the open multilateral trading system for which GATT stood could not be ensured.

The representative of Japan said that the credibility of the General Agreement was suffering from the existence of many practices which should be unthinkable. Correcting this would be a matter for the negotiations, in which it was necessary to arrive at a comprehensive agreement which would solve at least the two main problems, namely that of an objective standard for determination of damage and that of selectivity. Many other points should also be brought into negotiations as soon as possible in order to revitalize the GATT. This time the negotiations must succeed.

The representative of the European Communities said that in relation to safeguards there was a wide gulf between the declarations of governments and their actions. The Community recognized that the safeguards provisions were a necessary safety valve for the open market system and believed that if Article XIX was no longer effective some replacement for it must be found. It was not enough to counter hard realities with repetition of past dogma. Nevertheless the Community did not seek to prescribe its own solution: it was willing to negotiate. But the Preparatory Committee clearly could not settle the issue of selectivity versus m.f.n. application - this would be for the negotiations. Meanwhile, Article XIX and other texts remained valid.

The representative of Brazil said that though the experience of the past was not good, major efforts must be made to bring about the progress on this question which was urgently required. The subject was clearly linked to standstill and rollback, and in document L/5818 a group of developing countries had stressed that an agreement on safeguards would be fundamental for securing the results of any further liberalization efforts. Developing countries could not seriously contemplate trade liberalization in the absence of an understanding on this issue. Such an understanding should be reached before the launching of the proposed new round on the basis of four points, the first being recognition of safeguards as a priority within the proposed

new round and thus as a matter for agreement at a very early stage of the negotiations. Secondly, an agreement on safeguards should be based on the m.f.n. principle. Thirdly, it should be comprehensive, as foreseen in the Ministerial Declaration of 1982. Finally, it should clarify and reinforce the disciplines of Article XIX and should be an integral part of the General Agreement.

The representative of Australia said that safeguards was not a north-south issue, but essentially one that appeared to divide the major traders and the minor traders in the GATT system. The statements made by the major traders today indicating various degrees of willingness to discuss safeguards were very welcome but what was needed was not rhetoric but commitment. He agreed with the points listed by Brazil as key components in a mandate for safeguards, which should ensure that the objective would be a non-discriminatory and comprehensive safeguards agreement. As a multilateral instrument, the GATT reflected a common view of how international trade should be organized and should not be changed to reflect one particular view, as would be the case if selectivity was legitimized.

The representative of Uruguay stated his complete agreement with the statement made by Brazil.

The representative of Argentina said that any solution to the problem of safeguards must be binding for all contracting parties: to agree to intermediate or partial solutions which would later turn into definitive solutions would not be acceptable. A solution to the problem of safeguards would also be an integral part of the standstill and rollback commitments and should therefore have a high priority in the negotiations, with a very short timetable for completion. The basis for this negotiation should be as outlined by the representative of Brazil. There appeared to be a certain confusion between selective and general protection devices, and on this it should be said that the General Agreement already contained certain instruments which allowed for a degree of selective protection: it might be dangerous to try and develop this concept of selective protection and bring it into the area of safeguards.

The representative of India said that he was reassured by the interventions of Canada, Australia, Brazil and Argentina. He referred to the discussions on this subject in the SOG and emphasized that effective standstill and rollback commitments could not exist for long without the backing of a good comprehensive understanding on safeguards. The latter should therefore be treated with urgency, despite disappointing experiences in the past. To do otherwise would imperil the prospect of genuine trade liberalization. There should be collective agreement to enter into negotiations on a comprehensive understanding on safeguards, based on the principles of the General Agreement. It should be possible to make this commitment in the Preparatory Committee. The 1982 Ministerial Declaration called for a comprehensive understanding on safeguards, not for "building blocks". Failure to achieve a comprehensive understanding would lead to an exchange of piecemeal concessions rather than a new round of negotiations aimed at genuine liberalization of trade and a strengthening the multilateral trading system.

The representative of Singapore said that ASEAN had repeatedly stressed that they were ready to negotiate a comprehensive agreement on safeguards based on the m.f.n. principle. They maintained this position and agreed with the statements by the representatives of Hong Kong, Brazil, India and Argentina. In 1982 ASEAN countries opposed strenuously the proposals for consensual selectivity put forward in the name of compromise. Today another variant of selectivity seemed to be being proposed. ASEAN would oppose any selectivity being introduced into the safeguards issue because they believed that it would totally destroy the multilateral trading system.

The representative of New Zealand said that the essential elements of a comprehensive and non-discriminatory safeguards agreement had been set out by the representatives of Brazil and Australia. This matter went to the heart of the entire GATT system, including whether to stand on the fundamental principles of the General Agreement or move down the road of pragmatic selectivity. His delegation wished to stand on the principles of the General Agreement.

The representative of Egypt expressed agreement with Bangladesh, Argentina, Brazil and India. The Ministerial Declaration stressed the need for a comprehensive understanding on safeguards on the basis of the principles of GATT - i.e. an m.f.n, non-discriminatory basis.

The representative of Yugoslavia said her country maintained the views expressed on this subject in the Senior Officials' Group.

The representative of Brazil announced the intention of his delegation to present a written text on safeguards before the next discussion of this issue by the Preparatory Committee.

The Chairman said that it would be helpful if delegations which had made clear presentations of views were able to put them on paper. In the case of safeguards a number of interventions had been made which would lend themselves to written proposals on the basis of which the work could proceed further in the direction of recommendations. The secretariat would be ready to circulate earlier papers on this subject if so requested. The Committee must keep in mind the need to proceed from the presentation of points of view to the more difficult exercise of drafting. In a number of interventions very interesting points had been made about the need to be clear about the meaning of certain words which were being used, such as "dynamic"" and "rollback". This could best be done in draft texts. The Chairman then announced that at the meeting of 4-5 February he would take up the questions of agriculture, dispute settlement, tropical products, tariffs, quantitative restrictions and other non-tariff measures, MTN agreements and arrangements, and subsidies. At the meeting of 25-27 February he proposed to take up structural adjustment and trade policy, trade in counterfeit goods and other aspects of intellectual property, exports of domestically prohibited goods, textiles and clothing, export credits for capital goods, problems of trade in certain natural resource products, exchange rate fluctuations and their effects on trade, and services. Subjects not completed at one meeting would be taken up in the next.

On the question of the dates of the Ministerial Meeting, the views made known to him during the last forty-eight hours indicated a growing sentiment in favour of the week beginning 15 September. He proposed to continue the consultations and, as soon as a consensus appeared to be emerging, to try to have the Committee take a decision on this question.

Next meeting: Tuesday, 4 February at 10 a.m.