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TARIFFS AND TRADE

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DEVELOPMENTS IN THE URUGUAY ROUND

Note by the Secretariat

Introduction

1. At the Sixtieth Session of the Committee on Trade and Development in November 1986 there was a general consensus that with the start of the Uruguay Round the Committee on Trade and Development should have an important rôle in keeping under review the progress of negotiations from the point of view of developing countries. It was understood that in carrying out this work, the Committee would not duplicate or interfere with the work of the negotiating bodies under the Trade Negotiations Committee. This note is intended to facilitate the review by the Committee at its Sixty-First Session. It summarizes developments in the Uruguay Round since the Decisions of 28 January 1987 taken by the Group on Negotiations on Goods (GNG), the Group on Negotiations on Services (GNS) and the Trade Negotiations Committee (TNC) and covers the meetings of the negotiating bodies under the Trade Negotiations Committee held up to mid-May 1987.

Trade Negotiations Committee

2. The TNC, which oversees the conduct of the Uruguay Round, met on 28 January 1987 under the Chairmanship of the Director General and took a decision on the mechanism for the surveillance of standstill and rollback. The TNC also took note of decisions reached by the GNG and the GNS on the negotiating structure and the negotiating plans of fourteen individual groups covering each of the subjects outlined in Part I of the Ministerial Declaration, and on the programme for the initial phase of negotiations on trade in services respectively.

Developments in the negotiations under Part I of the Ministerial Declaration on the Uruguay Round

Group of Negotiations on Goods (28 January 1987)

3. The GNG recommended to the TNC to establish a mechanism for the surveillance of the standstill and rollback and adopted decisions on the negotiating structure and the negotiating plans of fourteen Groups whose activities during the period under review are outlined below.

Tariffs (10 February 1987)

4. Ambassador L. Duthie (Australia) was appointed Chairman of the Negotiating Group for the initial phase.
5. A number of proposals were submitted by participants on tariff negotiations. Several delegations considered that the problem of tariff peaks and tariff escalation in developed countries needed to be given serious consideration. The view was expressed that the negotiations should be based on a request-and-offer procedure rather than a general formula, covering all products and sectors as well as all tariffs and non-tariff measures. Another view was that a formula, possibly similar to the one applied in the Tokyo Round, should be envisaged. One delegation proposed the complete elimination of customs duties by developed countries in the industrial sector. Another delegation stressed that in view of the erratic exchange rate fluctuations, low tariff rates did not really constitute barriers to trade and that it did not intend to negotiate on these tariffs. This view was challenged by other participants. Some delegations stated that a greater degree of tariff bindings at low levels should be achieved by all contracting parties.
6. As far as the basis for negotiations is concerned, it was said that these should be conducted on the rates applied erga omnes rather than on the bound rates. It was also stated that participants should agree at an early stage to base the tariff negotiations on the Harmonized System. Another point made in the discussion was that negotiations should aim at changing the existing rules of Article XXVIII in particular in regard to the concept of negotiating rights.
7. In discussing the factual basis for the negotiations, several delegations pointed out that in order to facilitate the tariff negotiations, it would be desirable that the two data bases - the Tariff Study and the Harmonized System data bank - be broadened and updated, and that more countries participate in the collection of tariff and trade data in computerized form. It was pointed out that technical assistance would be provided by the secretariat to developing countries in preparing trade data files and in supplying other relevant information.

Non-Tariff Measures (10 February 1987)

8. Ambassador L. Duthie (Australia) was appointed Chairman of the Negotiating Group for its initial phase.
9. During the discussion, many delegations stressed the importance that they attached to liberalizing non-tariff measures. Delegations pointed out relationships which they saw between the work to be undertaken by this Negotiating Group and other bodies set up under the Uruguay Round. They stressed the need for an adequate data base which would cover all participants in the Round and agreed that the documentation and analyses

built up by the Group on Quantitative Restrictions and Other Non-Tariff Measures would be very useful for the Negotiating Group as well as for those other bodies. The need to ensure transparency and surveillance in the course of the negotiations was also underlined.

10. At the end of the meeting, the Chairman drew attention to the negotiating plan for non-tariff measures whose initial phase envisaged that participants would present proposals setting out the particular problems that they wanted to address and the techniques which they considered should be used to deal with them. He urged that these proposals be submitted in time for the next meeting.

Natural Resource-Based Products (11 February 1987)

11. Ambassador L. Duthie (Australia) was appointed Chairman of the Negotiating Group for the initial phase.

12. The Chairman recalled that the Working Party on Trade in Certain Natural Resource-Based Products had covered three distinct product areas: non-ferrous metals and minerals; forestry products; and fish and fisheries products. It was generally agreed that the documentation prepared in the context of the Working Party should permit the Negotiating Group to make an early start on its work and that the question of the data base could be pursued at its next meeting.

13. The exchange of views centred on: (i) the rôle of the Group and its relationship with other Negotiating Groups; (ii) matters, or measures, to be covered by negotiations on Natural Resource-Based Products; and (iii) the scope, i.e. product coverage, of the negotiations.

14. Some delegations said that they favoured that negotiations on tariff and non-tariff barriers to trade in natural resource-based products be undertaken in the broader context of the appropriate negotiating groups, giving this Negotiating Group primarily a monitoring and surveillance function. Other delegations believed that negotiations on natural resource-based products merited a certain specificity. The view was also expressed that negotiations could not be limited to access to markets but should cover a broader range of measures affecting trade as well as production and exports as well as imports. Many delegations could not agree to enter into negotiations on subjects not within the competence of the GATT. One delegation suggested the possibility of extending the scope of negotiations to energy-related products.

Textiles and Clothing (11 February 1987)

15. Ambassador L. Duthie (Australia) was appointed Chairman of the Negotiating Group for the initial phase.

16. It was noted that during the preparatory work of the Negotiating Group on Textiles and Clothing the following sources would provide useful contributions: the annual reports of the TSB, Sub-Committee on Agriculture and the reports of the Working Party on Textiles and Clothing.

17. In the view of some delegations work in the Group was distinct from work in other sector specific negotiating groups as it concerned trade that had long been subject to an institutionalized framework of quantitative restrictions outside GATT. Work on reduction of tariffs and tariff escalation in this sector would be covered by the Negotiating Group on Tariffs; quantitative restrictions other than under the MFA would be covered by the Negotiating Group on Non-Tariff Measures. Other delegations did not share the view that work in this negotiating group should be confined to trade in textiles and clothing under the MFA.

18. Some suggestions were advanced on additional preparatory work which might be undertaken in this area.

Agriculture (18 February 1987)

19. Mr. Aart de Zeeuw (Netherlands) was appointed Chairman of the Negotiating Group.

20. Work began under the initial phase of the Negotiating Plan on Agriculture on the identification of major problems and their causes, including all measures affecting directly or indirectly agricultural trade, taking into account, inter alia, work done by the CTA. Some participants also outlined issues which they considered relevant to achieving the Negotiating Objective.

21. The secretariat was requested to prepare a summary of the major problems and their causes, as identified thus far by participants and of the issues considered relevant and a brief summary of the studies undertaken by selected international organizations and other bodies on the problems affecting trade in agriculture and their causes. Delegations are to provide information on measures and policies affecting trade in agriculture.

Tropical Products (26 February 1987)

22. Mr. P. Leong Khee Seong (Malaysia) was appointed by the Group as its Chairman for the initial phase. Mr. S. Coulibaly (Côte d'Ivoire) was appointed Vice-Chairman of the Group for the initial phase.

23. It was generally felt that the Group could proceed expeditiously in the light of work already accomplished in this area. A number of delegations reaffirmed the importance attached by them to the application of the principle of differential and more favourable treatment for developing countries. Other delegations while reaffirming their commitment in regard to this principle underlined that progress in the Group could only be ensured through a real process of negotiations.

24. There was general agreement in the Group that work in the initial phase could start on the basis of the seven product groups selected for the purpose of the consultations on tropical products held in the Committee on Trade and Development in 1982/84, in the understanding that this would not constitute a definition of tropical products nor an exhaustive listing and that other products might be included as negotiations proceed. As a first step in compiling background material for negotiations the Group agreed that the secretariat should be invited to update and revise the background documentation prepared for the 1982/84 consultations, including as appropriate data on the new Harmonized System of tariffs, so as to provide the Group with a summary of current trade flows and the tariff and non-tariff measures relating to the seven individual product groups covered by the consultations. Several delegations requested that the scope of the documentation be broadened in order to cover trade measures maintained by all countries with a significant involvement in trade in tropical products.

25. The Group also initiated a discussion on the question of techniques and modalities for negotiations.

GATT Articles (3 March 1987)

26. Mr. John M. Weekes (Canada) and Dr. Chulsu Kim (Korea) were appointed Chairmen of the Negotiating Groups on GATT Articles and on MTN Agreements and Arrangements for the initial phase. They were appointed on the understanding that Mr. Weekes would have primary responsibility for GATT Articles and Dr. Kim the primary responsibility for MTN Agreements and Arrangements.

27. Delegations acknowledged that several Articles (VI, XVI, XIX and XXIII) would be the subject of review in other negotiating groups and that unnecessary duplication of work should be avoided. However, it was noted that participants had the right to request the review of any GATT Article by this Group at any time. Some delegations expressed the view that any request for review should be accompanied by explanatory reasons or justifications although other delegations considered this was not essential in the preliminary stages.

28. The point was made that the Group should not seek to overhaul or to rewrite the General Agreement but rather to identify certain specific problems and to address them within the existing structure of the General Agreement. Some delegations viewed the basic problem as a political one relating to a lack of willingness of contracting parties in some instances to abide by their GATT obligations. Other delegations believed that the Group should examine the adequacy of existing rights and obligations among contracting parties. One delegation also referred to the balance of benefits derived by contracting parties from the General Agreement.

29. A number of Articles were identified for review. In recommending a review of Article XXIV, delegations expressed concern about the proliferation of customs unions and free-trade areas and its implications for non-discriminatory trade. It was noted that conformity of such arrangements with Article XXIV was debatable and that surveillance was inadequate. Also requested was a review of Article XVII, particularly with reference to the requirements that State-trading enterprises conduct their transactions in a non-discriminatory manner and on the basis of commercial considerations. Other delegations felt that the provisions of the Article were satisfactory although their application could be subject to review. Many delegations considered that the manner in which negotiating rights under Article XXVIII were defined for the purpose of tariff renegotiations was inequitable. To them the concept of "principal supplier's interest" required redefinition and provision should be made to take into consideration the interests of new market entrants, particularly developing countries, suppliers of new products lacking a trade history and suppliers of products representing a significant portion of that country's exports. Other GATT Articles proposed for review were Articles XI, XII, XIII, XV, XVIII, XXI, XXV and the Protocol of Provisional Application of the General Agreement.

MTN Agreements and Arrangements (6 March 1987)

30. Many delegations stressed that they considered it essential for all participants to the Uruguay Round to take part fully in the work of the Group. Some delegations said that signatories to the Codes could not be expected to forego their right to discuss and change any Code provisions. The complementary nature of the work of the Negotiating Group and of the Committees and Councils were acknowledged; however, there was disagreement in certain areas as to which bodies should bear the responsibility for negotiations. It was recommended that further consultations be held to explore the question of participation. Some delegations tabled topics for negotiations on certain Codes (Import Licensing Procedures, Technical Barriers to Trade).

31. Some concern was expressed about the effects of the Codes on the unity and integrity of the GATT system and the threat that the Codes could pose to the balance of rights and obligations under the General Agreement. Another view was that whilst the fullest possible participation in the MTN Agreements and Arrangements was desirable, the Codes did not undermine the unity of the GATT system insofar as they reflected differing degrees of willingness among contracting parties to enter into higher levels of contractual obligations. Representatives of developing countries referred to certain obstacles to the acceptance of MTN Codes such as lack of precision or of full observance of provisions. With respect to the Codes on Subsidies and Anti-Dumping, reference was made to the problem of "trade harassment" and to the fact that in certain cases the application of the Codes led to increased protectionism.

32. It was agreed that the secretariat would prepare a background note on MTN Agreements and Arrangements with particular reference to their provisions for special and differential treatment for developing countries.

Safeguards (10 March 1987)

33. Ambassador Georges Maciel (Brazil) was appointed Chairman of the Negotiating Group.

34. Many delegations stressed the urgency and the importance of concluding a comprehensive agreement on safeguards which would strengthen the GATT system, facilitate the observance of the standstill and rollback commitments and help the progress of the entire Multilateral Trade Negotiations. The discussions focussed particularly on the questions of whether or not a safeguard agreement should be based upon the basic principles of most-favoured-nation treatment and non-discrimination; and on the proliferation and status of "grey-area" measures. Some delegations said that an agreement permitting selectivity would legitimize "grey-area" measures, lead to more market-sharing arrangements with wider coverage of products and would stifle the economic development of developing countries.

35. The representative of a group of delegations suggested that the Group should start the negotiations, as a reference point, on the concepts of temporary nature and degressivity of Article XIX actions. While several delegations agreed that negotiations could proceed on this basis, they pointed out that the mere examination of individual elements would not give sufficient attention to the overall objective of a comprehensive agreement. Other delegations emphasized that a comprehensive agreement should incorporate all the elements enumerated in the Ministerial Declaration.

36. Several delegations suggested the application of the principle of special and differential treatment to developing countries through exempting the application of safeguard actions on the exports of developing countries and by strengthening the element of compensation as there was a lack of retaliatory power by developing countries. The representative of a group of delegations remarked that special and differential treatment in this regard would amount to selectivity the other way round and would lead to an imbalance of rights and obligations. He said that Article XIX did not talk of retaliation but of suspension of concessions. If concessions were not made, naturally they could not be suspended.

37. Several delegations announced their intentions to submit proposals or suggestions to be examined by the Group. With respect to documentation to be prepared by the secretariat the Chairman concluded that the secretariat would update and re-organize the inventory of Article XIX actions and other measures which appear to serve the same purpose (Spec(82)18/Rev.3 and L/6087) after consulting with delegations.

Subsidies and Countervailing Measures (16-17 March 1987)

38. Mr. Michael D. Cartland (Hong Kong) was appointed Chairman of the Group for the initial phase. The Group had before it two proposals, by the United States and New Zealand (MTN.GNG/NG10/W/1 and 2, respectively) relating to particular issues to be taken up in the negotiations.

39. Several delegations considered that the international disciplines over the use of subsidies in world trade had faded and that there was little or no consensus over the meaning of vital provisions of the GATT and the Subsidies Code. Furthermore, the dispute settlement provisions had not been able to provide effective recourse against subsidy practices, that affected the interests of other countries. Some delegations thought that the problem was not only one of inadequacies, because even those rules which were clear had not been observed by governments. Several delegations pointed out that a number of problems existed also in the area of countervailing measures. These problems were particularly acute for those developing participants which, despite continuing efforts, could not obtain the Subsidies Code's treatment from one important signatory.

40. There was a view that the aim of participants should be to create an atmosphere of confidence and restore the application of effective rules. There might also be a need to establish new rules ensuring increased disciplines. The view was also expressed that the objective of the negotiations should not only be increased disciplines, but the re-establishment of common disciplines for all contracting parties. It was further pointed out that there was a need to take account of the essential linkages that existed between the issues of subsidies and of countervailing duties, in order to maintain the balance of rights and obligations that had been established in this area.

41. Several developing-country representatives stressed that more favourable treatment should continue to be applied to developing countries in this area. It was also pointed out that many developing countries had, so far, been prevented from obtaining benefits of the Code and that this issue should be considered in the negotiations. It was also stressed that negotiations related to the Code's provisions should be open to all participants.

42. Also discussed were the respective roles of the subsidies and agriculture negotiating groups with respect to the treatment of subsidies affecting primary products.

43. The Group agreed that participants should submit, in time before the next meeting of the Group, written proposals on issues they wanted to be taken up in the Group. These proposals would be discussed at the next meeting. After that meeting, the secretariat would compile submissions made in a detailed, annotated checklist of issues for negotiations. This

checklist would constitute a basis for further work of the Group. Participants would be free to make further submissions or complete their existing submissions at any time during the initial phase and the checklist would be revised accordingly.

Trade-Related Aspects of Intellectual Property Rights, including Trade in Counterfeit Goods

44. Ambassador Lars E.R. Anell (Sweden) was appointed Chairman of the Negotiating Group for the initial phase.

45. The Group had an exchange of views on trade-related aspects of intellectual property rights. Some participants considered that trade problems were arising as a result of deficiencies in the protection accorded to intellectual property, both because of inadequacies in the scope and availability of intellectual property rights under many national laws and in the effectiveness of the enforcement of such rights where they existed. The view was also expressed that measures and procedures for the protection and enforcement of intellectual property rights should not constitute barriers to legitimate trade. In regard to trade in counterfeit goods some participants suggested that a multilateral framework be negotiated aiming at reducing distortions and impediments to legitimate trade resulting from trade in counterfeit goods and action to repress such trade. The view was also expressed that the objectives of the multilateral framework were a matter for negotiation, having regard to the relevant GATT obligations. A number of suggestions were made on how the Group could pursue its work both on the trade-related aspects of intellectual property rights in general and more particularly on trade in counterfeit goods.

46. The Group invited participants to table out their suggestions for achieving the negotiating objectives in advance of the Group's next meeting, while leaving it open for participants to make suggestions in writing or orally subsequently if they so wished. It was also agreed that the secretariat would prepare factual notes on past work in GATT and on GATT provisions on trade-related aspects of intellectual property rights as well as on work already undertaken in GATT on trade-related aspects of intellectual property rights, including trade in counterfeit goods.

47. The Group discussed the relationship between the negotiations in this area and initiatives in other fora. Some participants referred to activities and initiatives in some other international organizations such as WIPO, UNESCO and CCC. The Group agreed that it would revert to this matter at its next meeting on the basis of information obtained from these organizations.

Trade-Related Investment Measures (2 April 1987)

48. Ambassador T. Kobayashi (Japan) was appointed Chairman of the Group for the initial phase. Work began on the identification and examination of the operation of GATT Articles related to the trade restrictive and

distorting effects of investment measures. The Group had before it two submissions by the United States: a proposal for the work programme of the Group and the initial views of the United States on matters of substance for negotiation by the Group.

49. In this first exchange of views on the subject several delegations stressed that the objectives of the negotiations should be neither too narrow nor too ambitious. A number of delegations emphasized that the Group did not have a mandate to carry out a rule-making exercise on the broad subject of investment flows. Discussions should rather focus on investment measures which had a direct and significant restrictive or distorting effect on trade, and which had a direct link to existing GATT Articles. Some delegations considered that local-content and export performance requirements were of particular importance in this respect.

50. The view was expressed that many countries needed to be able to apply policies to attract direct foreign investment. The point was also made that certain kinds of investment measures were warranted to channel investment in accordance with national development objectives. Some delegations considered that all governmental and non-governmental investment measures, including the investment policies of transnational corporations should have a place in the Group's discussions. Some other delegations stated that, since there had been no agreement in Punta del Este to put restrictive business practices as a separate subject in the Uruguay Round, this question would have to be brought up first in the GNG.

51. Some delegations stressed the need to take account of the GATT provisions on special and differential treatment for developing countries. Some other delegations considered that it would not be fruitful for the Group to consider the subject from a north/south perspective; both capital importers and capital exporters had a stake in the success of the negotiations.

52. There was widespread agreement that participants should be invited to make national submissions addressing the relationship between GATT Articles and the trade restrictive and distorting effects of investment measures. It should be possible for participants to take up GATT Articles and see how adequately they cover the trade restrictive and distorting effects of investment measures, or to identify trade-related investment measures having such effects and discuss how these are dealt with in GATT Articles. The process involved a certain simultaneity of approach. It had also been agreed that the secretariat should prepare a note for the next meeting on past discussions in GATT relevant to the question of the trade restrictive or distorting effects of investment measures. The secretariat was also invited to make suggestions, in the light of the national submissions received, as to how the material might usefully be organized.

Dispute Settlement (6 April 1987)

53. Mr. Lacarte-Muró (Uruguay) and Mr. Katz (United States) were appointed Chairmen of the Negotiating Groups on Dispute Settlement and on Functioning of the GATT System for the initial phase. Mr. Lacarte-Muró would have the primary responsibility for Dispute Settlement and Mr. Katz the primary responsibility for Functioning of the GATT System. The Group had before it a proposal by Mexico (MTN.GNG/NG/13/W/1) containing a non-exhaustive presentation of elements to be considered by this Group with a view to identifying issues on which negotiations are appropriate.

54. Many delegations emphasized that the dispute settlement mechanism played a decisive rôle as a means of securing compliance with GATT obligations. Prompt and effective resolution of disputes was of vital importance for the entire GATT system and to the benefit of all contracting parties. The present GATT dispute settlement mechanism had performed reasonably well in a number of disputes. However, it had displayed conspicuous shortcomings in some cases, which had diminished its credibility and the confidence in the larger institution of the GATT. It was recalled that, according to the 1982 Ministerial Declaration, no major change was required in the framework of procedures for the settlement of disputes among contracting parties, but there was scope for more effective use of the existing mechanism and for specific improvements in procedures to this end.

55. The view was expressed that the GATT dispute settlement process was primarily of a conciliatory nature calling for negotiated settlements and compromises, and that new obligations could be accepted only as an outcome of negotiations conducted according to the special procedures provided for such negotiations. Other delegations pointed to the contractual nature of GATT law, to the ambiguous meaning of many general GATT provisions, and to the law-creating element in any interpretative choice of one among other possible interpretations of GATT rules by a competent GATT dispute settlement body. Some delegations were of the view that one outcome of negotiations in this field should be a consolidated and improved language of the various existing texts on dispute settlement including a strengthened political commitment to apply and abide by the dispute settlement process.

56. Many delegations made proposals of a preliminary nature for specific subjects to be taken up in the negotiations, including the question of ensuring equal access to the GATT dispute settlement system for small trading countries. Among the subjects mentioned as warranting further discussion were the adequacy of the GATT procedures adopted on 5 April 1966 for the use of less-developed contracting parties and modalities for the application of the principle of differential and more favourable treatment of developing countries in the field of dispute settlement.

Functioning of the GATT System (7 April 1987)

57. A number of delegations noted that the mandate of the Group was concerned essentially with institutional and organizational aspects of the functioning of the GATT. To them the Group's work was distinct from the work of other negotiating groups; this might facilitate the early implementation of results in this area. Others considered that the work of the Group was closely related to all aspects of the Uruguay Round and that progress made in other Groups should be taken into account. The view was expressed by one delegation that the Group's work should be placed firmly in the context of the Punta del Este Declaration as a whole and also of the conclusions read out by the Chairman at the time of the adoption of the Declaration. In this connection, it was emphasized, the need to ensure the operation of the GATT system in such a way that there was an effective balance of rights and obligations among contracting parties. Some delegations felt that the Group should address the issue of special and differential treatment for developing countries, since in their view the relevant GATT provisions had not been fully respected.

58. There was widespread agreement that there was room for the expansion and improvement of surveillance activities in the GATT. In this connection various suggestions were made. The delegation of Australia circulated a document (MTN.GNG/NG14/W/1) setting out its views on how the GATT's rôle in this area might be enhanced. Many delegations regarded this document as a useful starting point for discussions, even though in some cases they were not fully in agreement with the views expressed in it. The point was also made that any arrangements in regard to surveillance should not carry an implication of contractual commitments additional to those already accepted. A number of delegations felt that there was an imbalance or asymmetry in the degree of surveillance to which different contracting parties were at present subject. There were differing views, however, as to where the asymmetry lay and which contracting parties were at a disadvantage as a result of it.

59. Regarding the question of greater Ministerial involvement in the work of the GATT, no delegation which spoke on this subject opposed the idea, but views differed as to the appropriate nature of such involvement.

60. Many delegations considered that the strengthening of relationship between GATT and international organizations responsible for monetary and financial matters would have a positive impact on policy-making in the trade, monetary and financial spheres. A number of delegations stressed, however, that it was important to respect the separate institutional competence of the organizations concerned. The view was also expressed that improved institutional coordination could assist in dealing with the problem of excessive international indebtedness. Reference was also made to problems associated with volatile exchange rates.

61. It was agreed that the secretariat would provide information for the next meeting on the following subjects: (i) all existing surveillance functions in the GATT; (ii) the past history of the involvement of Ministers in the GATT's work; (iii) the history of the CG.18 and of any previous attempts to involve officials at senior or political level from capitals in the GATT's work; and (iv) the respective mandates of the GATT, the International Monetary Fund and the World Bank, the institutional relationships between the GATT and the other two organizations and the institutional arrangements for the involvement of Ministers in the work of the IMF and the IBRD.

Surveillance Body (26 February 1987)

62. The Surveillance Body appointed Mr. M.G. Mathur, Deputy Director-General as its Chairman for the initial phase.

63. Delegations considered the rôle and functions of the Surveillance Body. Principal reference was made to the "Decision on the Mechanism for Surveillance of Standstill and Rollback" which had been adopted by the Trade Negotiations Committee on the recommendation of the Group on Negotiations of Goods. It was observed that adherence to the Ministerial commitments on standstill and rollback would be central to the success of the Uruguay Round; some delegations emphasized the need to include coverage of "grey-area" measures. The view was expressed that the Surveillance body would play a technical rôle in the surveillance mechanism while the Trade Negotiations Committee would provide an evaluation of the impact of notified measures on the Uruguay Round and on the interests of the individual participants. However, some delegations believed that the Surveillance Body could also send "political signals". There were differing opinions regarding the function of the Surveillance Body as a forum where "early warnings" on proposed and potentially trade-restrictive measures could be sounded; some delegations noted that this had not been provided for in the Ministerial Declaration and feared that the inclusion of proposed measures would result in lengthy and unproductive debate.

64. The Body agreed to certain practical suggestions by the Chairman concerning the coverage of notifications on standstill and rollback; additional information that might be supplied by the secretariat; and circulation of notifications concerning consultations on rollback.

65. One delegation announced its intention to submit to the Body, as a reference basis, a list of all restrictive measures that had been identified as constituting obstacles to exports of products of interest to developing countries.

Group of Negotiations on Goods (14 April 1987)

66. The GNG met under the Chairmanship of the Director-General. Mme Teresa de Corne' of Italy was appointed Vice-Chairman of the Group.
67. The Group reviewed progress in the negotiations under Part I of the Punta del Este Declaration. Many delegations expressed the view that the progress made so far by the Negotiating Groups in giving effect to their negotiating plans was satisfactory. It was suggested, however, that delegations needed to ensure that they were more fully prepared and ready to make substantive contributions to the work of the Groups if further progress was to be assured. In this connection, several delegations supported the Chairman's suggestion that more proposals should be developed and presented to the Groups, preferably in writing, as a basis for discussion and negotiation.
68. There was widespread concern at developments in the world trading situation and its possible negative implications for the Uruguay Round. The present difficulties demonstrated the vital necessity for progress and ultimate success in the negotiations.
69. Many delegations were of the view that there was a link between the standstill and rollback commitments in the Punta del Este Declaration and the current state of international trade relations. A demonstration of political will through strict adherence to these commitments would contribute both to the satisfactory resolution of trade disputes and to progress of the negotiations.
70. There was wide support for the idea that in certain areas of the negotiations results might be obtained and implemented, whether provisionally or definitively, before the completion of the negotiations as a whole, although views varied among delegations as to which areas of the negotiations were the most promising in terms of achieving early results.
71. A number of delegations emphasized the need for the GNG to provide support for the negotiations and sustain their momentum in carrying out its functions in coordinating the work of the Negotiating Groups and supervising the progress of the negotiations. The view was expressed that the GNG should meet three or four times a year in order to carry out these responsibilities. It was also suggested that the coordinating rôle of the GNG would facilitate the exploration of interlinkages among negotiating areas. Certain delegations also noted that the Trade Negotiations Committee had the ultimate responsibility for overseeing the negotiations as a whole.
72. A number of delegations made observations and suggestions in regard to the work of individual Negotiating Groups.
73. The Group reached an agreement on the question of observer status for international organizations in the GNG.

74. Two delegations recalled their interest in the inclusion in the negotiating agenda of certain additional subjects.

Tariffs (27 April 1987)

75. The Group continued the exchange of views on submission of proposals by participants relating to tariff negotiations. Some participants insisted on the adoption of a tariff cutting formula of general application, similar to the one adopted in the Tokyo Round. Other participants said that they had substantially reduced their tariffs in previous negotiations and consequently, the use of a request-and-offer procedure which would also take account of the problems of tariff peaks and tariff escalation, would be more appropriate for them. A further view was that the two procedures might be combined using formula cuts for rates above a certain level and requests and offers below that level. The proposal made at the first meeting by one participant for complete elimination by developed countries of industrial tariffs (except for mineral and forestry products) was further elaborated. Another participant suggested that countries should, by mid-December 1987, submit their request lists in order that the problems to be negotiated in the tariff area be clearly identified. Developing countries stressed the fact that the main problems for them remained tariff peaks and tariff escalation in the markets of the developed countries.

76. In regard to base rates for negotiations the question of whether or not the negotiations should be based on the applied rates or on unbound rates was further discussed. It was also pointed out that the tariff negotiations should be carried out on the basis of the Harmonized System for those countries that would have adopted the new system of nomenclature at the time of the negotiations.

77. Several participants stressed that contributions by developing countries could be made in the form of increasing the degree of their tariff bindings, the actual rates depending on their level of development. It was also proposed that all participants bind the totality of their tariffs in order to ensure greater security in world trade.

78. It was suggested that all proposals related to the modifications of Article XXVIII should be discussed in the Negotiating Group on GATT Articles, with a possibility to revert to this matter at a later stage, if necessary.

79. Several participants considered that the existing data bases, the Tariff Study and the HS Data Base, needed to be expanded to include information for more contracting parties. The secretariat will prepare a

note outlining the type of information which countries would be required to submit in order to participate in the Tariff Study and/or the Harmonized System Data Base.

Non-Tariff Measures (28 April 1987)

80. Some delegations emphasized the need to distinguish between measures inconsistent with the GATT which should be phased out unilaterally before the end of the Round as stipulated by the Ministerial Declaration, and measures that were GATT-consistent and would be liberalized through negotiations or converted into tariffs. Negotiations had to take fully into account the principle of differential and more favourable treatment for developing countries, including advance implementation of concessions to be accorded to those countries. Measures affecting developing-country exports had to be removed as a starting point. Negotiations on textiles, tropical, agricultural and natural-resource products had to be carried out primarily though not exclusively in the respective negotiating groups. At least to begin with, measures covered by the MTN Codes and Arrangements also had to be dealt with in the appropriate group, in order to avoid duplication. Positive lists of non-tariff barriers which could be dealt with in this Group, could be drawn up with the help of the secretariat without prejudicing ongoing work.

81. Other delegations suggested that a request-and-offer procedure covering both tariff and non-tariff measures could be initiated on an item-specific basis and that a first exchange of requests be held by 1 December 1987. Difficulties related to classifying measures according to their consistency with the GATT should not be allowed to block progress towards liberalization which was the objective of the Group. A more realistic approach would be for each participant to examine the documentation and distinguish between those measures which could be dealt with in the Negotiating Group on Non-Tariff Measures, and those which could be dealt with in other bodies. On this point, another view was that the Negotiating Group on Non-Tariff Measures should cover all measures without exception. The view was also expressed that it was necessary to maintain a distinction between quantitative restrictions and other non-tariff measures. This Group had to concentrate on quantitative restrictions since little liberalization had been achieved in past negotiations in this area. As far as GATT-inconsistent measures were concerned, the only matter for discussion was the time-frame involved for their dismantlement and that was a question for the Surveillance Body. The Negotiating Group could start with measures whose GATT-conformity was not questioned, such as those maintained under waivers or Protocols of Accession. It was suggested that the Inventory of Non-Tariff Measures could serve as an initial request list, provided it was updated.

82. Some delegations underlined that for particular measures of concern to individual participants the most appropriate procedure was the exchange of requests and offers subject to multilateral scrutiny in the Negotiating

Group, since bilateral agreements could have effects on third parties. There were also practices, such as measures taken at the border, which could lend themselves to a concerted examination by the Group, with a view to determining whether a multilateral agreement would be appropriate. There were issues which were not adequately covered by GATT provisions and it might be necessary to formulate rules or codes for them. Others stressed that the request-and-offer procedure could only address GATT-consistent measures.

83. Many delegations indicated the importance they attached to an integrated data base comprising tariffs, non-tariff measures and trade flows. This data base should be made available as soon as possible in order to look at the impact that tariffs and non-tariff measures could together have on individual products. Some delegations stated that the data base, which should comprise up-to-date information at the tariff-line level on the measures maintained by all participants, should be based on the Harmonized System, but that in view of the already existing and comprehensive documentation, negotiations need not be delayed until it became available.

84. Delegations were invited to forward specific written proposals to the secretariat as far as possible in advance of the next meeting of the Group bearing in mind that, in the initial phase the Group was required to complete its examination of the proposals and reach an understanding on both the subjects to be dealt with multilaterally and the techniques and procedures for the negotiations.

Natural Resource-Based Products (29 April 1987)

85. The Chairman recalled that at the Group's first meeting there had been no full consensus on all the aspects relating to the envisaged scope and organization of the Group's work. Participants continued discussion on (i) matters, or measures to be covered by negotiations in this area, (ii) product coverage and scope of the negotiations and (iii) the rôle of the Group and its relationship with other Negotiating Groups.

86. Several delegations stated that, in their view, the objectives had been clearly spelt out in the Punta del Este Declaration. Questions remained, however, as to the issues to be taken up in the Negotiating Group. Adding to and further developing some of the points made at the first meeting, several delegations specified issues which, in their view, should also be the object of negotiations in natural resource-based products. The view was reiterated that the question of access to supply was outside the scope of negotiations in the Uruguay Round. Another view was that restrictions of access to supplies distorted production and trade patterns, and that attention will have to be given not only to the interests of natural-resource-rich countries but also to the interests of countries lacking natural resources. In regard to product coverage in negotiations, one participant stated that his authorities would not accept

the inclusion of energy-based products as it had been suggested at the first meeting of the Group. Others reiterated their views that the question of the product coverage should remain open.

87. Reference was made to a proposal made in the Negotiating Group on Tariffs concerning the elimination of tariffs on industrial products but leaving the question of tariff and NTM action on certain forest products and on fisheries products to be dealt with in the Negotiating Group on Natural Resource-Based Products; this suggested that the Group had some work to do in respect of tariffs and NTMs as well. Another view was that the Group should mainly monitor the envisaged broader action in the negotiating groups on tariffs and non-tariff measures. Similarly, certain other issues, such as subsidies, could usefully be dealt with in the Negotiating Group on Subsidies. Several delegations considered that problems before the Group were often sufficiently specific so as to merit being dealt with in the Group, with the aim of progressing in the negotiations independently, but in parallel; therefore, a mere monitoring rôle for the Group would not be sufficient.

88. Several suggestions were made on compilation of additional information for establishing a factual base for negotiations. Some delegations felt that there might be too soon to determine what further documentation and data might be required. However, data requirements should not delay the Group from progressing towards actual negotiations. It was also pointed out that the request procedure could help in identifying participants' respective negotiating interests.

Textiles and Clothing (29 April 1987)

89. Participants continued their discussion of the preparatory work in this area of negotiations. The Group had before it a note setting out the approaches proposed by the secretariat in regard to the preparatory work (MTN.GNG/NG4/W/1).

90. There was general agreement that, in updating the main statistical tables in the 1984 Textiles Study, it would not be necessary to isolate the data relating to the extended product coverage of MFA IV. The point was made, however, that the presentation of the statistics on MFA III and MFA IV should take account of the fact that there was a difference in the product coverage. It was also stated that the main objective in updating the Study should be to confirm whether certain premises held in the past continued to be valid and whether the broad trend described in that Study was sufficiently borne out by subsequent developments. A suggestion was made that a short, narrative summary of the restrictions under MFA IV be prepared. Another suggestion was to include the material prepared for the Working Party on Textiles and Clothing, as a section in the updated Study, rather than as a separate document.

91. Some delegations considered that a study of the state of the industries in countries applying MFA restrictions initially proposed in the first meeting should be undertaken separately from the other preparatory

work and be proceeded with on an urgent basis. Some others, however, stressed that such a study should not be limited only to countries applying MFA restrictions but should cover all participants.

92. Delegations also put forward some proposals for additional work to be undertaken. Further consultations with delegations would be held on this matter and the Group would revert to it at the next meeting.

93. It was suggested that concurrent with the preparatory work being undertaken by the secretariat, the Group should start its task of defining modalities under which the textile and clothing sectors could be integrated into the General Agreement. Some delegations recalled that the negotiating objective for textiles and clothing specifically referred to the formulation of modalities for the integration of these sectors into GATT, thus clearly pointing to the MFA. Moreover, areas such as tariffs and certain non-tariff measures, were already part of the General Agreement, and as such were not matters that could appropriately be dealt with in this Group but in the respective negotiating groups. Another view expressed was that the scope of the work should not be limited only to the MFA, but also cover other types of restrictions affecting trade in textiles and clothing, having regard to their conformity or otherwise with GATT. The Group should deal with all measures of protection that were inconsistent with the GATT. Another view was that, in considering the future régime for textiles and clothing, the Group should take account of the interplay between tariff and non-tariff measures.

Agriculture (5-6 May 1987)

94. The Group continued its work under the initial phase of the Negotiating Plan on Agriculture. The Group had before it a secretariat background note, prepared in consultation with the Chairman, summarizing the major problems and their causes as identified by participants at the first meeting as well as issues considered relevant (MTN.GNG/NG5/W/2), and a secretariat summary of studies on problems affecting trade in agriculture and their causes (MTN.GNG/NG5/W/3). The Group also had before it a contribution by the European Communities to the work of the Negotiating Group relating to the identification of major problems and their causes (MTN.GNG/NG5/W/4), and a submission by Argentina on problems and their causes in the agricultural trade (MTN.GNG/NG5/W/6). A statement on behalf of the Nordic countries, together with papers by Finland, Norway and Sweden on their respective supply management or stabilization measures, were also circulated (and will appear as documents MTN.GNG/NG5/W/8 to 11).

95. In the context of its consideration of general principles to govern world trade in agriculture the group discussed, *inter alia*, statements of principles submitted by the United States (MTN.GNG/NG5/W/5) and by Australia (MTN.GNG/NG5/W/7).

96. With regard to the concurrent submission of supplementary information on measures and policies affecting trade in agriculture in the AG/FOR/-series, the Group was informed that revised Formats had been received by the secretariat from Argentina, Australia and the United States. Other participants were invited to notify their measures and policies, in accordance with the secretariat guidance note MTN.GNG/NG5/W/1, as soon as possible.

97. The Group agreed to recommend to the GNG that the United Nations Secretariat, UNCTAD, the IMF, the World Bank and the FAO should be accorded observer status in the Negotiating Group on Agriculture.

98. Participants were invited to submit, in advance of the next meeting, their further views or positions on the various elements of the initial phase. The secretariat, in consultation with the Chairman, would revise MTN.GNG/NG5/W/2 in the light of the discussion held at the meeting and would prepare a summary of the main points raised in the course of the Group's consideration of general principles to govern world trade in agriculture. The secretariat would also prepare a brief paper on the agricultural trade problems of developing countries and on possible approaches and modalities for liberalizing trade in agriculture to the benefit of developing countries as a matter of priority.

Tropical Products (11 May 1987)

99. The Group discussed further the question of background material for negotiation. For this purpose the Group had before it a draft Note by the Secretariat on Tropical Beverages (MTN.GNG/NG6/W/3) providing a sample of the background material for specific products or product groups, which would be prepared by the secretariat for negotiations in this area. Some suggestions were made concerning future updating of information.

100. Several delegations reiterated their views that the documentation be expanded to cover trade measures maintained by all countries with a significant involvement in trade in tropical products. To some of these delegations a broader view of the trade situation was essential for conducting proper negotiations. Other delegations emphasized that the question of a more comprehensive data base should not hamper or delay the updating of documentation currently in progress or the start of the negotiations. It was also stressed that the documentation should reflect the special importance of trade in tropical products to developing countries and that negotiations in this area should be based on the principle of non-reciprocity as specified in Section B of the Ministerial Declaration. Further informal consultations would be held on the question of the broadening of the data base and the Group would revert to this matter at its next meeting; in the meantime, the secretariat would continue to update the documentation prepared for the 1982/84 consultations.

101. With regard to techniques and modalities for negotiations several delegations reaffirmed their preference for multilateral approaches. It was recalled that the proposal made by ASEAN countries in the Committee on Trade and Development concerning the alignment of the customs duties on tropical products in developed countries to the lowest level of duty prevailing in these countries was still on the table. It was suggested that in the light of that proposal the following steps could be envisaged: submission by participants of lists of specific tropical products of export interest to them; compilation of the lists by the secretariat and classification of products according to the seven product groups selected for the 1982/84 consultations; examination by the Group, on the basis of work done by the secretariat including preparation of synoptic tables on the current commercial policy on each of the seven product groups, of the height, spread and concentration of tariff rates applied to these products; this examination would be carried out on a product-by-product basis and would include non-tariff measures.

102. A number of delegations restated the view that the traditional request and offer procedure seemed to be the most appropriate for this area of negotiations and could produce the most significant results. It was pointed out that negotiations should be engaged among all participating countries. A further view was that the request and offer procedure and multilateral approaches might be used together; it was suggested that there should be recourse to request and offer procedures when the application of multilateral approaches would not achieve the fullest liberalization.

103. The representative of a group of countries said that a procedure which would lend itself to a fruitful negotiations in this area of special attention would be one of offers and negotiations. This approach should be fully multilateral. Concomitant offers should come from all important trading partners. Under such an approach, the request and offer procedure might have a place, but only a secondary one. Delegations were invited to submit written proposals for the next meeting of the Group on techniques and modalities for negotiations.

104. With respect to observer organizations it was agreed to recommend to the Group of Negotiations on Goods that the FAO should be accorded observer status in the Negotiating Group on Tropical Products. The requests for observer status made by the United Nations Secretariat, UNCTAD, the IMF and the World Bank would be considered at a later stage. One delegation made suggestions with regard to guidelines for observers in the Negotiating Groups (MTN.GNG/NG6/W/3). Delegations were invited to submit, by the next meeting of the Group, suggestions for guidelines for observers.

Developments in the negotiations under Part II of the Ministerial Declaration on the Uruguay Round

Services (28 January, 23-25 February and 8-10 April 1987)

105. Several meetings of the Group on Negotiations of Services have taken place since the start of the Uruguay Round under the Chairmanship of Ambassador Felipe Jaramillo (Colombia). On 28 January 1987 the GNS took a decision on the programme of negotiations on trade in services. At the meetings held in February and April the Group had a general debate on the elements listed in the programme for the initial phase of negotiations and more specific discussions on these elements.

106. During the general debate, some members affirmed that negotiations towards a multilateral framework on trade in services were a legally distinct negotiating process outside GATT and that the premise of trade-offs between the area of goods and that of services had been excluded from the outset. Further, since states were the only actors in these negotiations, respect for the policy objectives of national laws and regulations were given a central status in the Ministerial Declaration. Yet certain basic principles embodied in the General Agreement might be applied to trade in services.

107. Some members stated that the major problems in the services area concerned the definition of trade in services, the identification of the factors affecting the structure of international trade in services and the effects on economic development. Some delegations stressed the importance of services to the competitiveness of other export sectors and others referred to the asymmetry in the world services economy. The point was made often that development should be an integral part of the framework on services. Several members expressed the view that developing countries required special and differential treatment.

108. With regard to the elements an important issue to definition was the identification of the various types of service transactions distinguishing between, inter alia, cross-border transactions, transactions between residents of different countries, services transmitted through networks or transported through factors of production. While some members viewed "commercial presence" as intrinsic to the definition of services trade other members believed there was a very clear line to be drawn between trade and foreign investment. There were some attempts to define services residually while one member believed the statistical exercise would help the Group to reach a definition. While deficiencies in statistics, such as a high level of aggregation and lack of international comparison, were readily acknowledged, some members felt this should not be a severe impediment to negotiations of a framework. Others considered a statistical base essential. A few members pointed out that negotiations could strengthen the political call for global harmonization of statistics.

109. On the element concerning the broad concepts on which principles and rules for trade in services, including possible disciplines for individual sectors, might be based, preliminary views were expressed with regard to matters such as transparency, mutual advantage, national regulations, national treatment, progressive liberalization and development. National treatment was considered by some an essential principle to ensure equal and fair opportunities for competition and the expansion of trade in services. At the same time there might be legitimate national policy objectives which would justify exceptions to national treatment. One representative of a group of countries considered the inclusion of an Article XXIV-type provision for trade in services necessary.

110. On the element of coverage of the multilateral framework for trade in services delegations expressed the view that this element would have to follow the establishment of a definition or should be preceded by an assessment of trade volume and existing international arrangements. Some members proposed that delegations be free to submit an illustrative list of sectors; some representatives of developing countries considered that labour and labour-intensive services should be covered.

111. It was deemed useful to proceed with an examination of international disciplines and arrangements to assess how these could be incorporated into or made compatible with, a multilateral framework. It was decided to request the secretariat to prepare for one of the next meetings a factual note summarizing the main features, coverage and objectives of existing international arrangements relevant to trade in services and, where possible, provide general comments on these arrangements.

112. Concerning the element dealing with measures and practices contributing to or limiting the expansion of trade in services, including specifically any barriers perceived by individual participants, to which the conditions of transparency and progressive liberalization might be appreciable, some members stated that an inventory including perceived barriers would be a useful analytical tool to understand the problems, and their impact on trade, encountered in international services transactions. Others suggested that such a compilation would be difficult without a prior definition or framework. Some members expressed the view that actions, or omissions, of market operators as well as governments should be included in an inventory.