

GENERAL AGREEMENT ON

RESTRICTED

TARIFFS AND TRADE

C/M/235

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MINUTES OF MEETING

Held in the Centre William Rappard
on 19 July 1989

Chairman: Mr. John M. Weekes (Canada)

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1. Trade Policy Review Mechanism

(a) Outline Format for Country Reports (C/W/602)

(b) Programme of Reviews (C/W/603)

The Chairman drew attention to the two draft Decisions related to the Trade Policy Review Mechanism (TPRM) contained in documents C/W/602 and C/W/603.

(a) Outline Format for Country Reports

The Chairman recalled that, when the TPRM had been established in April, the CONTRACTING PARTIES had decided that the country reports would be "based on an agreed format to be decided upon by the Council" (L/6490, Part I, para. B(i)). In that Decision, it was provided that "this format may be revised by the Council in the light of experience". He proposed that the Council decide that the Outline Format annexed to C/W/602 would be the agreed format for the reports to be submitted by the governments of the contracting parties under review under the TPRM.

The representative of Brazil asked whether the Chairman could confirm his delegation's understanding that the "agreed format" mentioned in paragraph 2 of C/W/602 was the "Outline Format". If this understanding was confirmed, he would suggest adding the word "outline" so that the text would read "agreed outline format".

The Council adopted the Decision in C/W/602 as amended by Brazil.

(b) Programme of Reviews

The Chairman also recalled that when the TPRM had been established, the CONTRACTING PARTIES had decided that "the Council will establish a programme of reviews for each year in consultation with the contracting parties directly concerned" (L/6490, Part I, para. D(iii)). He had held informal consultations with the contracting parties directly concerned on

the programme of reviews for 1989 and for 1990, and as a result of these consultations, there would be a programme of three reviews in 1989. There was also a clear list of eight trading entities, counting the European Communities as one, scheduled for review in 1990. However, as indicated in C/W/603, nine reviews were being planned for the following year. As for the ninth contracting party, he was in close contact with the delegations of two developing countries -- one of which was Colombia -- and had every expectation that, in the course of the following few weeks, he would be able to add the name of another contracting party to the programme indicated in C/W/603 and would make an announcement to that effect.¹ He added that in C/W/603, he had indicated that "it is my understanding that consultations on the programme of reviews to be conducted in 1991 will be completed by 30 June 1990". He then proposed that the Council take note of his understanding and decide that the Programme of Reviews for 1989 and 1990 would be as indicated in the Annex to C/W/603, with the addition that would be made subsequently.

The Council so agreed.

The Chairman added that in C/W/603, the contracting parties were listed alphabetically in each language, which would not prejudice the order in which they would be reviewed, and that the contracting parties shown on the programmes for 1989 and for 1990 would, of course, be reviewed on the basis of the "Outline Format" which the Council had just adopted.

The Council took note of the Chairman's statements.

2. Accession of Bolivia
- Working Party report (L/6542 and Add.1)

The Chairman recalled that in October 1987, the Council had established a Working Party to examine Bolivia's application to accede to the General Agreement. The Working Party's report (L/6542) and the Schedule LXXXIV - Bolivia (L/6542/Add.1) were now before the Council.

Mr. Huslid, Chairman of the Working Party, introduced the report. He said that pursuant to its mandate, the Working Party had carried out an in-depth examination of Bolivia's foreign trade régime and its compatibility with the General Agreement. During the examination, Bolivia had supplied additional information and clarification regarding the different points raised. The main points brought out in the Working Party's discussion were set out in paragraphs 8 to 43 of the report. Matters taken up by the members related to Bolivia's tariff system, the system of surveillance, export promotion, safeguards and unfair competition, government procurement and state-trading, MTN Agreements, balance of payments and integration agreements.

¹Colombia was subsequently included in the programme of reviews for 1990 (L/6554/Add.1).

Having carried out the examination of Bolivia's foreign trade régime and in the light of explanations and assurances given by Bolivia, the Working Party had reached the conclusion that, subject to the satisfactory conclusion of the relevant tariff negotiations, Bolivia should be invited to accede to the General Agreement under the provisions of Article XXXIII. Schedule LXXXIV - Bolivia, which had been annexed to the Protocol of Accession, listed the concessions resulting from the tariff negotiations between Bolivia and contracting parties. The Working Party had prepared a draft Decision and Protocol of Accession which could be found annexed to the report. It was proposed that the Council approve the texts of the draft Decision and Protocol of Accession at the same time as adopting the report of the Working Party.

The representative of Bolivia, speaking as an observer, said that the conclusion of the accession negotiations was for his country more a question of principle than a quest for immediate economic benefits. It was an act of faith both in multilateralism as an efficient way of reaching a just agreement in the international community, and in GATT's philosophy on which Bolivia had based its economic program, which had been referred to as a model of structural adjustment. By adding its efforts to those of contracting parties, Bolivia hoped that the principles of GATT would be applied efficiently and on a universal basis. Bolivia was convinced that if this objective were reached, it would be in the interests of all trading partners, particularly the developing and relatively less-developed countries which based their hope for development on the implementation of these principles. While Bolivia was pleased to be able to conclude its accession to GATT rather quickly, it was aware of the further steps that had to be taken, and as Bolivia was going to have a constitutional change of government within a few days, the present Administration was anxious to sign the Protocol of Accession. He thus appealed to contracting parties to cast their votes as rapidly as possible.

Once it became a contracting party, Bolivia intended to participate actively in the Uruguay Round. His Government felt that the concessions it had granted during the accession process in binding its whole tariff schedule represented a general contribution to the exchange of concessions in the framework of the Round, and hoped that in due course, this effort would be compensated by equivalent concessions from other contracting parties.

The representative of the United States said that Bolivia's decision to seek association with the General Agreement represented a ratification of decisions taken in Bolivia since 1985 to rationalize and liberalize its trade and economic régime. All should recognize and applaud Bolivia's decision to confirm these national actions in the multilateral sphere. Bolivia's association with the GATT at this time was a welcome affirmation of the importance and viability of the GATT as a tool to aid the economic growth and development of all its members. Bolivia had accepted all basic GATT obligations in the conduct of its trade régime. This was a remarkable vote of confidence in this organization and in its future. The Council should also commend Bolivia for the full documentation provided to contracting parties. Few GATT accession negotiations had ever had such

transparency and cooperation. As Bolivia took up its rôle as a full contracting party, the United States looked forward to Bolivia's participation in and contribution to the Uruguay Round, and to its involvement in the GATT trading system. The United States supported the approval of Bolivia's accession documents and urged contracting parties to vote expeditiously and affirmatively on Bolivia's accession request.

The representative of Uruguay said that Uruguay associated itself with the United States' statement. Her delegation had followed closely Bolivia's negotiation process, supported fully the steps taken by Bolivia and recommended full support of Bolivia's accession.

The representative of the European Communities said that Bolivia had done well for itself and the multilateral system.

The representative of Brazil said that he wanted to add Brazil's voice to those of the other delegations who had congratulated Bolivia for its decision to accede to the General Agreement. The Working Party had done excellent work. The decision about to be taken was the expression of deserved support for Bolivia's commendable effort -- an example of sacrifice and economic adjustment. His country had more than three thousand kilometres of border with Bolivia, excellent relations of friendship and good commercial relations with it. Brazil, therefore, was pleased not only with the results of this economic program, but also that one consequence of that program was Bolivia's full accession to the GATT multilateral trade system.

The representative of Colombia said that his delegation could not but celebrate the step that had been taken by Bolivia in acceding to the General Agreement. He assured Bolivia of Colombia's cooperation in discharging its activities as a contracting party. His delegation would ask, as Bolivia had done, that the vote take place as rapidly as possible.

The representative of Peru said that his delegation supported wholeheartedly Bolivia's accession to GATT. The process had started in 1987 and had reached a satisfactory conclusion with the presentation of the Working Party's report, which indicated in a clear and detailed way all that had been done. The Protocol of Accession would be the result of long months of work. Peru therefore recommended that this report be adopted and that a positive vote be taken on the accession. For Peru, Bolivia's accession was one more step towards reinforcement of the GATT and represented the participation in it of another developing country, a country that participated together with Peru in the Latin American Integration Association.

The representative of Chile said that Bolivia's accession to GATT was part of that country's successful economic and structural adjustment process. Chile was also very pleased to see that Bolivia trusted this multilateral organization, and welcomed Bolivia to it.

The representative of Romania said that his delegation was very pleased with the positive results of the Working Party and wholeheartedly supported its conclusions. His delegation congratulated Bolivia for its

decision to accede and welcomed it to the GATT. That accession would benefit not only Bolivia, but also all the other GATT members and the multilateral trading system.

The representative of Mexico said that his delegation joined all those who had supported Bolivia's accession, and associated itself particularly with Brazil's statement. Mexico also admired and appreciated Bolivia's efforts to meet, with success, its economic difficulties. His delegation would also like to see a rapid completion of the accession process.

The representative of Canada said that, like the several delegations which had spoken, Canada welcomed Bolivia as a member of the GATT family. Canada had good bilateral commercial relations with Bolivia and now hoped to strengthen those in a multilateral framework.

The representative of Argentina said that his delegation joined others in congratulating Bolivia for its accession to GATT. Argentina urged that the vote on this matter be as rapid as possible.

The representative of Egypt said that like others, his delegation congratulated Bolivia and looked forward to future cooperation with it.

The representative of Finland, on behalf of the Nordic countries, said that they associated themselves with the sentiments expressed by previous speakers on this matter.

The representative of Australia added his delegation's voice to those which had welcomed Bolivia to the GATT. Australia believed that this was a further strengthening of the multilateral family and a development in the interest of all.

The Council approved the text of the draft Protocol of Accession and the text of the draft Decision, agreed that the Decision should be submitted to a vote by postal ballot, adopted the Working Party's report (L/6542 and Add.1) and took note of the statements.

3. Accession of Bulgaria
- Consultations on procedural aspects of the Working Party

The Chairman recalled that at the Council meeting on 12 April, he had indicated that further consultations on this matter would be held. He informed the Council that such consultations had taken place, but that the situation was such that further consultations were needed.

The Council took note of this information.

4. Committee on Balance-of-Payments Restrictions
- Consultation with Korea (BOP/R/183)

The Chairman drew attention to the report of the Committee on Balance-of-Payments Restrictions on its meeting of 27 and 30 June

(BOP/R/183). As indicated in paragraph 4 of that document, the Committee had agreed to resume its consultation with Korea not later than the week of 23 October 1989.

The representative of Canada said that Canada was very disappointed with the results of the previous month's Balance-of-Payments Committee discussion with Korea. For a number of years, Korea had had an exceptionally strong balance-of-payments position. The continued strength and flexibility of Korea's economy were indicative of its ability to meet foreign exchange needs without having to resort to import restrictions justified on the basis of balance-of-payments difficulties. It was Canada's expectation that Korea would disinvoke Article XVIII, preferably before the next meeting of the Committee in October.

The representative of the European Communities reiterated what his delegation had stated at the Committee's meeting, notably that the suspension of the consultation which had been agreed to was an exceptional decision which the Community had accepted only to allow Korea more time to assess what had been said in that consultation and which had led to an outline of a solution which had been supported by the majority of participants. Korea had made it known that it was not prepared, during the consultation, to join this emerging consensus. Thus the Committee had accepted the suspension of this consultation to allow Korea more time to prepare a position that would allow it to go along with this outline solution when the consultation resumed.

The representative of the United States said that his delegation seconded the statements by Canada and the Community. The United States was very disappointed that the Committee's consultation with Korea had not been concluded as scheduled. Korea clearly did not have a balance-of-payments problem justifying continued use of trade restrictions. The United States expected Korea to disinvoke Article XVIII:B before or during the Committee's October meeting, and to prepare for a rapid dismantling of its remaining restrictions. Such action was clearly in order, as Korea's balance-of-payments situation had shown obvious improvement, which had been documented at the Committee's latest meeting.

The representative of New Zealand said that his delegation shared the views expressed by the previous speakers. His authorities were very disappointed with the results of the consultation, more particularly for the reason explained by the Community that there had seemed to be the prospect of a consensus emerging from the informal discussions. His delegation urged Korea to reflect very carefully on the outline of that solution and to return to it as soon as possible.

The representative of Korea said that his delegation did not intend to engage in any substantive discussion of this issue at the present time. It would suffice to say that paragraph 4 of the Committee's report correctly reflected the main issues discussed and the rationale for the Committee's having agreed to resume the consultation at a later date. His delegation looked forward to a constructive consultation at the resumed meeting, taking into account the discussion which had taken place at the June consultation.

The representative of Egypt said that at the Committee's meeting of 27 and 30 June, Korea's balance-of-payments situation had been examined in detail. This examination had shown that Korea's economy was moving in the right direction and had registered major improvements. A consensus was emerging in the Committee. However, in the light of the particular situation -- and in order to give Korea some time to consider the situation in detail -- the Committee had agreed to resume its consultation later. This situation should not be interpreted as a precedent regarding procedure.

The Council took note of the statements and of the information in BOP/R/183.

5. Establishment of a streamlined mechanism for reconciling the interests of contracting parties in the event of trade-damaging acts

The Chairman recalled that at its meeting on 21-22 June, he had informed the Council that he had held two informal consultations, open to all delegations, to consider this matter, and that he would remain in touch with the participating delegations with a view to holding another consultation at an appropriate time. This item had been originally placed on the Council's Agenda for the April meeting at Chile's request. In May and June he had held informal consultations on this matter, during the course of which it had become clear that this matter was not specifically relevant to any single contracting party. Moreover, there seemed to have emerged a consensus among the participating delegations that the matter was of interest to all contracting parties. Another element which had emerged was that some delegations, while recognizing that a genuine problem existed, wondered about the advisability of setting up a formalized GATT structure to deal with it.

The Secretariat had prepared a draft text, available to all interested delegations, which attempted to capture the conclusions that seemed to be coming out of those consultations. In the event that further consultations were felt to be necessary with regard to this draft text, he would be prepared to hold such consultations prior to the next meeting of the Council. He hoped that such a text could be read onto the Council's record at that meeting.

The Council took note of the information.

6. Export of Domestically Prohibited Goods (C/W/580, C/W/605/Rev.1, L/6459, L/6467)

The Chairman recalled that at its meeting on 10 May, the Council had agreed that he should hold informal consultations on this matter, open to all interested delegations. He had held such consultations and could report that there was substantial agreement on the text of the draft Decision (C/W/605/Rev.1) which had been circulated informally, for the establishment of a working group to examine the trade-related aspects of the Export of Domestically Prohibited Goods and Other Hazardous Substances.

The representative of Nigeria said that his delegation welcomed the draft Decision on the Export of Domestically Prohibited Goods, which was the result of the cooperation of all parties and the determined effort of the Secretariat. The considerable time and energy spent on this matter would have been well spent if, at last, one could move forward towards the objective. This was just the beginning of the work that lay ahead, which required the continued cooperation of all contracting parties. His delegation accepted this draft Decision as the basis for setting up a working group to examine the Export of Domestically Prohibited Goods and Other Hazardous Substances. His delegation would cooperate fully with the working group and called on all contracting parties to support the draft Decision.

The representative of the United States said that in agreeing to the formation of a working group on this issue, his delegation had two concerns. First, while the United States agreed on the importance of dealing effectively with the issue of Export of Domestically Prohibited Goods, it had yet to be convinced that GATT had a rôle to play. Nevertheless, the GATT tradition had been to view its deliberative competence broadly and to accept requests for working parties if they had the support of other parties. A working party was a very useful and appropriate manner to examine all sorts of issues and to consider their relationship to GATT without prejudicing the rights of any contracting party. The United States believed that this tradition was one of the great strengths of the GATT, and it was in that spirit that his delegation could agree to the formation of a working group on domestically prohibited goods. Second, the United States was deeply concerned that other contracting parties had begun to back away from this important GATT tradition in the consideration of other requests for working parties. While at the present meeting the United States stood by principle and agreed to a request for a working group, his delegation should not be expected to continue to uphold a principle that others chose to ignore. The United States strongly believed that the Council would have to come to terms with the need for a fair and equitable understanding on the basis on which working parties were established.

The representative of Uruguay said that all the efforts that had gone into this exercise had been well spent. Uruguay supported the adoption of the draft Decision for the establishment of a working group and would participate therein.

The representative of the European Communities said that the Community accepted the establishment of the working group. He said that henceforth, delegations should try to trust each other. Recently, much tactical calculation, distrust, and mental reservation had prevented a transparent, reasonable, and sensible functioning of the GATT. He did not see why, given that a matter had drawn favourable support among delegations, a working group could not be set up in order allow everyone to debate the issue. What was to be feared? It would be seen, together, if a decision could be taken, together. For this reason, he shared the concerns expressed by the United States. The démarche for the creation of this working group should constitute a good precedent. Since the Punta del Este

Ministerial meeting, the Community and its member States had played a moderating and conciliatory rôle in this area. Moreover, the Community was in a position to provide someone to conduct the group's work in order to reach reasonable and balanced results, subject to the Council's final decision.

The representative of Côte d'Ivoire said that her delegation associated itself with the draft Decision. Her country was grateful to the United States, which until recently had been the only country to express reservations, for its change of attitude on this matter.

The representative of Tanzania appealed for an expeditious implementation of the draft Decision in order for the work it implied to be undertaken within the anticipated timetable. His delegation also expected a quick decision with regard to the chairmanship of the group.

The representative of India said that his delegation supported the draft Decision, which represented an important development, especially for affected developing countries. With regard to comments made concerning working parties in general, he noted that the working group under discussion would examine the question of exports, i.e., clearly a trade issue covered by GATT. His delegation had never had problems with requests for working parties on issues which had a clear trade aspect, but did have problems with those dealing with issues which were not covered by GATT or were not trade-related.

The Chairman proposed that the Council take note of the statements, adopt the draft Decision in C/W/605/Rev.1 and authorize him to designate the Chairman of the Working Group in consultation with the delegations principally concerned. Membership in the Working Group would be open to all contracting parties indicating their wish to participate in it.

The Council so agreed.

The Chairman said that it was his understanding that the terms of reference would permit the Group to make appropriate recommendations.

The Council took note of the Chairman's understanding.

7. Consultation on trade with Hungary
- Working Party report (L/6535)

The Chairman recalled that in October 1988, the Council had established a Working Party to carry out the seventh consultation with the Government of Hungary and to report to the Council. The report of the Working Party was before the Council in L/6535.

Mr. Groser (New Zealand) introduced the report on behalf of Mr. Fortune (New Zealand), Chairman of the Working Party. The Working Party had met on 26 and 29 June 1989 to carry out the seventh consultation with the Government of Hungary provided for in the Protocol of Accession.

The consultation had been carried out in accordance with the plan set out in Annex B to the Protocol of Accession. The Working Party had heard a detailed description of the economic reform measures taken by Hungary to move towards a market economy. It had acknowledged the importance of the reform process and had expressed support for its objectives. Although primary responsibility for the implementation of the reform lay with Hungary, the Working Party had recognized that a favourable external and trading environment was essential for success, and had noted that the conclusion of the Uruguay Round negotiations would also be a contribution. The Working Party had noted that Hungary had recently concluded a bilateral agreement with the Community on trade, commercial and economic cooperation. A number of members of the Working Party had expressed their expectations with regard to the faithful implementation of that agreement, and had supported Hungary's wish that the Community consider speeding up elimination of quantitative restrictions inconsistent with Article XIII prior to the deadline envisaged in the agreement. A suggestion had been made that Hungary might be one of the candidates for early review under the Trade Policy Review Mechanism, and Hungary had informed the Working Party that his authorities had accepted this suggestion.

The representative of Hungary said that his delegation was firmly in favour of the adoption of the Working Party's report. At the Working Party's meetings, Hungary had set out the economic policies which it had followed during the period under review and which the Working Party had examined. Hungary had also referred to the various measures undertaken within the economic reform and which were still to be taken in the near future in order to create the necessary conditions for a market economy. His delegation had emphasized the fact that the restructuring of the economy fell within the framework of a complete readjustment of Hungary's political institutions -- a process already underway. His delegation was pleased to note that all the contracting parties which had intervened in the Working Party, in particular Argentina, Australia, Austria, Brazil, Canada, the European Communities, Korea, the United States, Finland on behalf of the Nordic countries, Israel, Japan, Pakistan, Poland, Switzerland and Uruguay, had recognized the importance of Hungary's ongoing economic reform. They had expressed their support for the goals set by its authorities and had encouraged them to take the necessary measures to ensure their rapid implementation. Although Hungary itself had the prime responsibility for carrying out these reforms, the Working Party had recognized that a favourable external environment was essential to ensure their full success. He recalled that Hungary's external economic relations, and, in particular, exports, remained affected by all kinds of barriers which had been raised in some of its traditional markets. It was for this reason that Hungary attached particular importance to a stable and foreseeable multilateral trading system based on effective and operational disciplines and rules.

These considerations were at the very basis of Hungary's participation in the Uruguay Round negotiations, which should lead to substantive results within the set deadline. A favourable external environment, which Hungary needed in order to implement fully its economic restructuring program and reforms, required a new approach on the part of its trading partners, an

approach which would go beyond the scope of the Uruguay Round negotiations. Such an approach implied that Hungary, in the course of its trade relations, would be treated on an equal footing with all other contracting parties. This should be further facilitated by the changes which had come about in the legal framework of Hungary's economy and, in particular, in that of foreign trade, as a result of which the previously declared State monopoly of foreign trade had virtually ceased. The Community had just taken a step which, without any doubt, was encouraging in heading towards equal treatment for Hungary, by committing itself to eliminating, by a fixed date, all quantitative restrictions on Hungary's exports as set out in paragraph 4(a) of the Protocol of Accession, i.e., those restrictions which were not consistent with Article XIII. His delegation had noted with satisfaction that Hungary's request to speed up the process of eliminating these restrictions had, in fact, been supported by the majority of delegations, so that this process could be concluded before 1995, the date which had been set by the "Trade and Commercial and Economic Cooperation Agreement" recently concluded between the European Community and Hungary. His authorities were confident that the Community would shortly be in a position to give a favourable follow-up to this request.

Since the Working Party's meeting, there had been important occurrences and events which should have a favourable impact on Hungary's external economic relations, inter alia in the field of trade. In the course of his visit to Hungary, the US President had announced, among other things, the United States' intention to grant Hungary most-favoured-nation treatment on a permanent basis. Recognizing the importance of such action, his authorities hoped that this would constitute a decisive step towards the definitive granting of this treatment by the United States on a GATT multilateral basis. His delegation noted with satisfaction that Hungary's political and economic reforms were being followed with interest not only in GATT, but also during the Paris meeting of the seven most highly industrialized nations, which intended to give full support to Hungary's reform process. The intention of these seven countries to direct their assistance so as to sustain the momentum of Hungary's reform, and their initiatives cited, whereby new trade possibilities would open up, were most encouraging, not only from the point of view of the success of Hungary's domestic efforts, but also in terms of the future development of its external trade relations.

His Government was determined to continue its reforms towards a market economy and a fuller integration thereof into the world economy, and hoped that the encouragement given in the Working Party as well as during the recent events referred to, would lead to concrete results contributing to the favourable external environment so necessary for the success of the reforms.

The representative of the European Communities said that as the Community had been mentioned on several occasions by Hungary, he could not keep silent as that might be misinterpreted. The Community was very pleased with the work that had been done -- a good model, and the Community owed thanks to the Chairman of the Working Party. He noted that in paragraph 83 of the report, the Chairman himself had provided a conclusion

which the Community fully shared, with the exception of the part therein addressed to the Community which would see what it could do in this respect. In any event, the Community's position had been clearly stated, particularly in paragraph 11 of the report, and he would restate it again. Hungary had noted some barriers to its trade. These barriers probably resulted from differences in the economic régimes, and their removal was inevitably linked to the removal, over time, of such differences in the economic régimes; one should not try to find an explanation anywhere else. He saw a very important symbolic value in the steps taken by Hungary -- a demonstration of its attachment to market economy and its values, merits and even imperfections. The latter were no doubt due to the lack of universality of market economy and also to the differences in economic systems -- differences which could be considerably narrowed if market economy had a universal value. That was the symbolic value of Hungary's approach, which should be seen in a plurilateral and multilateral framework. As to the most recent Summit of Seven, one could talk about it if it were the Council's wish, but he was here following the disciplines, obligations and rights in the framework of a multilateral agreement, namely, the GATT. But over and above that, the Commission which he represented was available to render service, no more and no less.

The Council took note of the statements and adopted the report in L/6535.

8. United States - Section 337 of the Tariff Act of 1930
- Panel report (L/6439, L/6487, L/6500)

The Chairman recalled that in October 1987, the Council had agreed to establish a panel to examine the complaint by the European Communities. At its meetings on 8-9 February, 6 March, 12 April, 10 May and 21-22 June, the Council had considered the Panel report (L/6439), and in June had agreed to derestrict the Panel report and to revert to this item at the present meeting.

The representative of the European Communities said that it was incumbent on the Community to ask whether the United States was in a position to unblock adoption of this Panel report.

The representative of the United States said that at the most recent Council meeting, he had indicated that the United States was not in a position to accept adoption of the Panel report at that time. It was still not in a position to do so. This should not be taken as a sign of no activity on the United States' part. In fact, this matter was being thoroughly reviewed at the highest levels. The US Trade Representative was now engaged in full consultation with the Congress, the private sector and other officials within the government to determine whether, to what extent, and in what context the United States was prepared to adopt and implement this Panel report. The United States also expected to continue consulting with other parties to the dispute during this period. As a result of these actions, it expected to have its position on this matter resolved by the autumn, and would share this position with all interested parties at that

time. He pointed out that the entire matter of intellectual property protection, and particularly border enforcement, was the subject of negotiations in the Uruguay Round. The United States was mindful of the relationship of intellectual property protection to the Round and asked other contracting parties to be mindful of it as well. It was clear that changes in many contracting parties' régimes for intellectual property would be necessary if the Uruguay Round was to succeed.

The representative of the European Communities recalled the Chairman's enumeration of the many occasions when the Council had discussed this item without the United States having agreed to adoption of the Panel report. His delegation believed that all the arguments had by now been unveiled: the United States had made known its arguments at the April Council meeting and the Community had replied to them (L/6487) without apparently being able to convince the United States. A great many other contracting parties had spoken in favour of adoption. Regrettably there had been no movement, especially at a time when all contracting parties professed to wanting to improve the dispute settlement procedures. The adverse consequences in other areas of the Uruguay Round had been noted by all. The Council had now been told that the US Administration was finally attempting to come to grips with the problems it faced over the adoption of the report. While grateful for that information, the Community would have liked to know more about how that process would function, but recognized that it would have to wait until the autumn for that. The Community would wait -- counting on the United States' good faith in assuming its responsibilities in this very important issue -- until the next Council meeting in October for a clear statement by the United States as to its intention in connection with its own internal processes now underway. In accepting this further delay, and in order to assist this domestic process and to place it in the multilateral context, where ultimately it belonged, there was a need to go a little further at the present meeting. He recalled that at the previous Council meeting, the Chairman had suggested that he might hold consultations with directly interested parties to elucidate the positions. The Chairman, he believed, had in the interim been unable to do so. In the Community's view, these consultations should be pursued immediately after the holiday period, so that the Community could be witness, to some degree, to the process of ongoing deliberations in the United States. He asked that the matter be put on the Agenda of the next meeting.

The representative of Japan noted that his delegation had expressed its position on this matter many times. The adoption of the Panel report was long overdue. While disappointed that the report was not to be adopted at the present meeting, his delegation hoped that the ongoing study by the US authorities would result in early acceptance of the report in the autumn. Japan supported the Community's suggestion.

The Chairman said that it seemed to him that there had been a considerable amount of discussion of the report at past meetings. The record thereof clearly reflected the positions stated. The United States had expressed the hope at the present meeting that the internal process would advance to a point in the autumn at which it would be able to convey a definitive position on this matter to the Council. The Community had referred to the Chairman's suggestion at the most recent Council meeting

that consultations be held. He recalled having said that the United States had indicated that it remained open to discuss the matter of the adoption of the report and that some discussion might be useful. The Community, seconded by Japan, had now suggested that consultations might be appropriate, and if that were the Council's wish, he would be prepared to engage in such consultations. Perhaps it could be left that one could take stock in early September and see whether consultations at that stage might be productive.

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

9. Canada/Japan: Tariff on imports of spruce, pine, fir (SPF) dimension lumber
- Panel report (L/6470, L/6528)

The Chairman recalled that in March 1988, the Council had established a panel to examine the complaint by Canada related to Japan's restrictions on imports of spruce-pine-fir (SPF) dimension lumber. At its meetings on 10 May and 21-22 June, the Council had considered the Panel report (L/6470) and in June had agreed to revert to this item at the present meeting.

The representative of Canada said that her delegation had expressed its concerns at previous Council meetings regarding the fact that the Panel had not addressed the fundamental issue put to it, i.e. the issue of de facto discrimination against Canadian SPF dimension lumber. It had also expressed its concern over the Panel's interpretation of a contracting party's rights and obligations under Article I:1. In particular, Canada was concerned that the interpretation of "like products" put forward by the Panel could fundamentally alter the existing rights and obligations of contracting parties. In the interest of furthering discussion on this Panel report, and in keeping with the Decision of 12 April 1989 regarding improvements to the dispute settlement system, Canada had set out its concerns which had been circulated shortly before the June Council meeting (L/6528). At that meeting, a number of contracting parties had expressed concerns similar to Canada's. Others had expressed the desire for further time to reflect on Canada's paper. Canada would welcome hearing the views of other contracting parties.

The representative of Brazil said that Brazil also was concerned with the implications of the Panel's interpretation concerning Article I:1 obligations and the concept of "like products". Brazil would maintain its reservation but would not stand in the way of adoption of the report.

The representative of Finland, on behalf of the Nordic countries, recalled that they had expressed interest in this matter on earlier occasions. In their view, Canada had made some quite valid remarks on the report. They did not, however, wish to hinder its adoption at the present meeting. While not wishing to make any formal reservations as to its adoption, the Nordic countries felt that Canada's concerns should be registered and eventually taken up again in appropriate GATT contexts.

The representative of New Zealand said that his country's reservations concerning the Panel's interpretation of Article I:1 in relation to the "like products" provision had been summarised in the two previous Council discussions. Those reservations had not been allayed. New Zealand did not agree with the principal line of reasoning used; the explanation set forth by the Panel was obscure and left a number of interpretative issues unresolved. His delegation hoped that the Council, in any future cases involving this interpretative issue, would not support the view that a "determination" of likeness should have recourse solely to the existing tariff classification system of the importing country, as this could leave open to abuse and discrimination the otherwise legitimate administrative freedom of customs authorities to differentiate their tariffs. However, in recognition of the fact that contracting parties had had adequate time to reflect on the force of these considerations, New Zealand would not stand in the way of adopting the Panel report if that were the Council's wish.

The representative of the European Communities said that the Community had repeatedly stated its position on the adoption of the Panel report. It had examined the arguments put forward by Canada and others. While the Community did not take a position on the merits of the case itself, it had not been convinced by the legal arguments put forward by Canada. The Community continued to believe that the legal basis upon which the Panel's conclusion was based, was sound. Misunderstandings which seemed to have crept into the minds of some delegations -- such as New Zealand's -- should be avoided since the report had not said that in the context of an appreciation under Article I, recourse had to be solely to the existing tariff classification, but simply that a claim of likeness should be based on the tariff classification of the importing country (para. 5.13 of L/6470). It was then incumbent on the complaining party to establish that a tariff differentiation, which was in principle a legitimate means of trade policy, had been diverted from its normal purpose so as to become a means of discrimination in international trade (para. 5.10). He did not want to enter into a complicated debate. His delegation would simply encourage and request Canada to agree to adopt the report since such adoption would not prejudge the merits of the case for the future.

The representative of Argentina recalled his delegation's concerns at the previous Council meeting about the Panel's conclusion, in particular with regard to the interpretation of "like products".

The representative of Japan said that his delegation had examined thoroughly Canada's paper (L/6428) and had listened carefully to its statement, neither of which added any new argument; Canada was simply repeating the points which had been made during the Panel's deliberations. The Panel had reached its conclusions, which Japan believed were sound and well-reasoned, after having examined all these points. This was the third time the Council had taken up this issue, which was very unusual. Canada had had enough time to examine the Panel report and sufficient opportunity to hear the opinions of other contracting parties. Japan believed it was time to adopt the report, and urged Canada not to stand in the way of its adoption any longer.

The representative of the United States said that his authorities had closely examined the concerns expressed by Canada and certain other delegations at previous Council meetings, and had concluded that the Panel's reasoning was sound. Accordingly, the United States reaffirmed its support for adoption of this report.

The representative of India said that although his authorities still had certain reservations and concerns about the manner in which Article I:1 had been interpreted by the Panel, they would not stand in the way of adoption of the report.

The representative of Australia recalled that his delegation had expressed its views and concerns about aspects of this report at previous Council meetings. In particular, his delegation noted that it did not wish to oppose adoption of this report should there be a consensus to do so. However, the principles upon which the Panel had arrived at its conclusion in this case might not necessarily be appropriate in future disputes of a similar kind, nor should they give any endorsement of practices involving splitting of tariffs in a discriminatory manner. Should the report be adopted, his delegation considered that the Council should adopt a decision which placed on the record that such adoption was aimed at furthering the objective of conciliation and that the report should not be taken to provide precedents for the operation of Article I or the future interpretation of the term "like products".

The representative of Canada said that Canada wished to place on record its formal reservations as to the interpretation in the report of the rights and obligations of contracting parties regarding "like products" under Article I. Canada's concerns were set out in L/6528, which had been circulated to contracting parties and discussed at the Council meeting on 21-22 June. Canada also wanted to underline its concern that the Panel had not addressed the fundamental question put to it, i.e., the issue of de facto discrimination against Canadian SPF dimension lumber. The Panel had indicated that it had been unable to examine the Canadian complaint in a broader context and could not establish that the tariff treatment of Canadian dimension lumber by Japan was inconsistent with Article I:1 of the General Agreement. Accordingly, Canada reserved its rights to request further examination of its concerns under the GATT dispute settlement system. On this basis, while Canada could not join in a consensus to adopt this report, it would not stand in the way of such adoption if this were the will of the Council.

The representative of Japan expressed his delegation's appreciation of Canada's acceptance of the report, which Japan knew was a difficult decision for Canada. Japan disagreed with Canada's interpretations of the Panel's findings but would not enter into detailed discussions, because its position had been made very clear in the course of the Panel discussion and the Panel had accepted many of Japan's arguments.

The representative of the European Communities said that the Community considered Canada's statement to be one of national position.

The Council took note of the statements, adopted the Panel report in L/6470 and agreed that in accordance with the procedures adopted by the Council in May 1988, the report was thereby derestricted.

10. Korea - Restrictions on imports of beef - Panel reports
(a) Complaint by Australia (L/6504)
(b) Complaint by New Zealand (L/6505)
(c) Complaint by the United States (L/6503)

The Chairman recalled that in May and September 1988, the Council had established panels to examine the complaints by Australia, New Zealand and the United States related to Korea's restrictions on imports of beef. At its meeting on 21-22 June, the Council had considered the reports of the three Panels in documents L/6504, L/6505 and L/6503 respectively, and had agreed to revert to these matters at the present meeting.

The representative of Korea said that at the previous Council meeting, his delegation had underlined a number of implications of the Panel's findings and conclusions. His delegation was still concerned that the Panel reports, if adopted, would render the exercise of multilateral surveillance under Article XVIII:12(b) meaningless and make obsolete the procedure of Article XVIII:12(d). Furthermore, contracting parties should carefully weigh the implications emanating from the very fact that the Panel had passed its own judgement on the balance-of-payments (BOP) situation of a contracting party and had recommended to that contracting party that it work out a timetable for the removal of a measure justified for BOP reasons. He reiterated that if one allowed a Panel to pass judgement on the BOP situation of contracting parties, the Committee on Balance-of-Payments Restrictions would lose its authority. In his delegation's view, the implications of the Panel reports for future contracting parties and for the Negotiating Group on GATT Articles should also be taken into consideration. In the light of all these implications of the Panel reports and taking into account the fact that the BOP Committee had not reached a conclusion during the consultation with Korea in June, his delegation could not agree to the adoption of these reports at the present meeting. This did not mean that Korea was not interested in securing a positive solution to the dispute. Korea would start consultations with the United States, Australia and New Zealand without delay and was planning to increase beef imports in 1989 to the pre-1984/1985 level, when restrictions on beef imports had been intensified. His delegation believed that a solution could be found in the interest of everyone -- not only the parties to the dispute, but all contracting parties.

The representative of Australia said that his delegation was disappointed to hear that there was essentially no change in Korea's position, although it had had another month for reflection. The GATT dispute settlement process had shown a significant revival over recent years. There had been an attitude, shared by all contracting parties, that the process should be made to work in the interest of improving the multilateral system. His delegation had hoped that Korea would recall its

own urgings of others in this regard and would accept the Panels' findings. Australia considered that it had shown great sensitivity to Korea's concerns. When extensive bilateral contacts over four years -- for three years of which, beef imports had been virtually prohibited -- had failed to reach a fair solution, Australia had used the GATT dispute settlement process with Korea's agreement and the unanimous consent of contracting parties. Now Australia was being told that this process could not be concluded.

Korea had said that it was ready to enter into bilateral negotiations and that therefore, there was no need for a hasty adoption of the Panel report. There had been an appropriate time for such consultations, as normally provided in the dispute settlement process, in the weeks prior to circulation of the report to contracting parties, but Korea had refused to consult. Moreover, Korea's firm position, a week prior to the present meeting, was that it would enter into bilateral negotiations only after the report had been adopted. Now Korea seemed ready to begin negotiations, but not to adopt the report. This was not how the process worked. Australia had been patient and understanding, but now, more than ever, it considered the report's adoption as a necessary step in the process. Only in this way could one achieve a firm and predictable basis upon which Australia could negotiate with Korea and obtain a GATT-compatible régime acceptable to both parties.

Australia noted that Korea had already had some three months to consider the Panel's findings. This was more than adequate to study any implications. Indeed, the report's implications had been the very subject of lengthy submissions by Korea to the Panel and were reflected in detail in the Panel report. His delegation also noted that in seeking more time, Korea had referred to the meeting of a separate body in late October. This implied deferring consideration of adoption of this report to the November Council meeting, some six months after it had been circulated to the parties to the dispute. If this was Korea's intention, it was simply not acceptable, and Australia would need to consider other action to see that the Panel reports were fully aired before the Council prior to that time. Australia did not see linkages to other processes as being appropriate. In fact, such linkages could even be detrimental to these processes which, like the Panel report, should be dealt with on their merits and not influenced by extraneous situations. The Panel had made a discrete finding, which was now before the Council, on Korea's import restrictions on beef. There appeared to be a consensus on its adoption and this should be sufficient. Australia asked again that Korea reconsider its position.

The representative of the United States said that the three reports provided a strong case that there was no justification for Korea's continued restrictions on beef imports. The reports provided a comprehensive picture of the restrictions long maintained by Korea. The Panels had found the measures and restrictions, introduced in 1984-85 and amended in 1988, to be inconsistent with Article XI. The Panels had found that Korea had not justified the restrictions on BOP grounds and they had

also examined the import restrictions maintained since Korea's accession to the GATT in 1967. At the previous Council meeting and in front of the Panel, Korea had asserted that these could not be examined under Article XXIII. Under the terms of reference agreed by all parties, the Panel had a clear mandate to examine the beef import restrictions in the light of all the relevant GATT provisions, including Article XXIII. The procedural questions raised by Korea at the June Council meeting had been considered by the Panels in the course of their work. They had concluded, however, that the dispute settlement provisions of Article XXIII were, in this case, applicable. Long-maintained protective measures, such as Korea's beef import restrictions, naturally gathered a vocal domestic constituency. The United States understood that beef was a sensitive issue in Korea. On the other hand, it was clear from the escalating price of beef in Korea that its domestic beef supply fell far short of demand. These circumstances made it a propitious moment for Korea to implement the Panels' recommendations. The United States shared Australia's views and urged Korea to reconsider its position.

The representative of New Zealand said that New Zealand shared the concerns expressed by Australia and the United States. His delegation was disappointed with Korea's response. Korea's failure to agree to adopt well-reasoned reports at their second presentation was not novel, however, since one saw an increasing number of new excuses for not adopting reports that were politically difficult for particular countries. New Zealand understood Korea's difficulties in this case. New Zealand had had, over many years, a long series of consultations with Korea on market access for beef exports and was at present discussing this in Seoul. One was dealing with a different issue in the Council -- that of a Panel report which was clear, cogent and well-argued and which had taken into account all the considerations put forward by Korea, but which had dismissed them on the basis of the industry-protective nature of the closure of Korea's market. This issue was being followed closely and at a very high level in his Government, and was of considerable importance to the development of bilateral relations with Korea. His delegation hoped that Korea would be able to resolve quickly its particular problems with this Panel report so that the GATT dispute settlement process could be completed and the report adopted after the summer break. That delay was not good for the dispute settlement system.

The representative of Canada recalled that at the previous Council meeting, Canada had supported the adoption of these reports and had indicated its wish to participate in consultations to establish a timetable for the removal of Korea's import restrictions. Her delegation reiterated that position and took note of Korea's statement that it would start consultations with the United States, Australia and New Zealand without delay. Canada had intervened in the three Panels as an interested third party. She repeated Canada's interest in participating in any consultations, and, in this regard, noted in particular Korea's statement that a solution in the interests of all contracting parties could be found. Canada shared the concerns expressed by Australia over the apparent linkage of the adoption of these Panel reports to the scheduling of the IOP Committee meeting.

The representative of Chile said that his authorities had found the Panels' conclusions to be in conformity with GATT. As Chile had repeatedly said, the Council's duty was to reinforce the GATT dispute settlement system. Thus Chile supported adoption of the reports. The question of special and differential treatment for developing countries was a source of concern for Chile, but his delegation would nevertheless support adoption of the reports at the present meeting.

The representative of Brazil said that his country had consistently supported the view that Panel reports should be adopted in good faith and their recommendations implemented within a reasonable period of time. At the previous Council meeting, Brazil had indicated that it was still reviewing the Panel reports, which dealt with very sensitive issues relating to agricultural products, an area where Brazil had supported a wide liberalization and where it had a growing interest. His Government had now concluded the study of these Panel reports and would not stand in the way of adoption of the recommendations contained therein. Brazil reiterated its commitment to the dispute settlement process and to the need for strengthening the multilateral trading system. However, Brazil wished to place on record the following points: (1) Korea deserved special consideration as a developing country, especially in this case where the three other parties involved in the disputes were developed countries; this should be taken into account when contracting parties considered the time-frame for implementation of the Panels' recommendations; (2) the fact that his delegation would not oppose the adoption of the Panel reports should not be understood as an endorsement of the proceedings followed in the Panels or of all their content; (3) Brazil understood that the recommendations applied only to the beef restrictions dealt with in the reports and not to any other measure maintained for BOP purposes on any other product; and (4) Brazil did not consider that adoption of the Panels' recommendations prejudged in any way the work of the BOP Committee or the results of the Committee's current consultation with Korea.

The representative of the European Communities recalled that the Community had stated at the previous Council meeting its support with regard to the Panels' sound findings and recommendations. The Community urged Korea to allow adoption of these Panel reports and noted the clear link between this agenda item and another. The Community could not help but note Korea's inability to come up with a decision either in the BOP Committee consultation or regarding these Panels reports. These delays were not helpful for the good proceedings in this forum.

The representative of Argentina said that his authorities agreed with the Panels' conclusions and supported Australia's statement. His delegation hoped that the reports could be adopted as rapidly as possible.

The representative of Egypt said that his authorities had examined the reports and would not stand in the way of their adoption. However, his delegation had certain reservations as to the Panels' proceedings with regard to Article XVIII:B, in particular paragraph 12(d). Egypt was aware that the question of admissibility had been dismissed by the Panel. Egypt had reservations on this particular aspect and emphasized the dimension of

the problem in that these Panel reports should not prejudice the way in which the BOP Committee conducted its work and should not create precedents with regard to Article XVIII:12(d).

The representative of Uruguay said that his delegation supported the Panels' conclusions, and asked Korea to revise its position and to adopt these reports.

The representative of Korea said that he would report the statements at the present meeting to his authorities. As he had said earlier, the implications of the Panel reports were so far-reaching, and the problems relating to the Panels' findings and recommendations so sensitive and important, that more time was needed before Korea could agree to their adoption. He repeated Korea's intentions to start consultations to find a solution.

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

11. United States - Increase in the rates of duty on certain products of the European Economic Community (Presidential Proclamation No. 5759 of 24 December 1987)
 - Communication from the European Communities (L/6438)
 - Recourse to Article XXIII:2 by the European Economic Community

The Chairman recalled that at its meetings on 10 May and 21-22 June, the Council had considered this item, and in June had agreed to revert to it at the present meeting.

The representative of the European Communities said that his delegation was not pleased to have to address this matter at the present meeting. He recalled that the Community had asked for a panel in February and had been waiting ever since. One should not argue whether the new dispute settlement system applied to this case. He could see, however, that the spirit of improvement of that system was not present. He recalled the Director-General's words at the February Council meeting: "there is no exception in the General Agreement which could justify discriminating import tariffs imposed for the particular purpose of inducing another contracting party to bring its trade policies into conformity with the General Agreement" (C/163), and asked whether these words applied to all contracting parties. They applied, for one, to the Community. Unilateral measures had been decided and applied against the Community's exports and while some of these measures had been eliminated, most of them were still rigorously applied. In parallel and on top of its request for a panel, the Community urged the United States to put an end to this situation which could not be justified.

The representative of the United States said that he needed not reiterate previous US statements on this matter. The United States was actively engaged in seeking a bilateral resolution of these disputes, in which both parties had taken trade-restrictive measures on beef products.

The United States had made it clear that the Community action imposing a ban on imports of beef was not in conformity with its obligations under the Agreement on Technical Barriers to Trade (BISD 26S/8). The United States had sought appropriate dispute settlement on that issue. The United States continued to find it strange that the Community was so interested in dispute settlement only on the issue of the response to, but not on the cause of, the problem. The US request for examination of this problem in the proper forum remained on the table. He did not want to engage at the present meeting in a debate that might escalate this dispute. He believed that the Community and the United States had a responsibility to try to work the matter out, and he hoped they would continue to do so in a spirit of cooperation.

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

12. European Economic Community - Restraints on exports of copper scrap - Recourse to Article XXIII:2 by the United States (L/6518)

The Chairman recalled that at its meeting on 21-22 June, the Council had considered this matter and had agreed to revert to it at the present meeting.

The representative of the United States said that the United States again requested the establishment of a panel to examine the Community's export restrictions on copper scrap. His delegation believed that the European Communities maintained restrictions on the exports of copper scrap in violation of the prohibition against the use of such restrictions contained in Article XI:2 of the GATT. These restrictions, which had been administered by the Commission since the early 1970s and by individual member States prior to that time, nullified and impaired benefits accruing to the United States under the General Agreement. Since consultations between the United States and the Community under Article XXIII:1 had not resulted in a mutually satisfactory resolution, the United States requested the Council to establish a panel to review this matter.

The representative of the European Communities said that at the previous Council meeting when this matter had first come up, his delegation had explained the reasons why these export restrictions on copper scrap were in force, the basis upon which they were justified under GATT, i.e., Article XI:2(b), and that the Community wanted to look again at all the arguments advanced -- in particular those by the United States -- and at additional information. The Community had done so and had reached the conclusion that these restrictions continued to be fully justified and regrettably had to be maintained. However, the Community recognized the United States' right to a panel to examine the matter and would not stand in the way of its establishment.

The representative of Canada said that her delegation was pleased with the Community's response. Canada reserved its right to make a submission to the panel.

The representative of Australia reserved its right to make a submission to the panel.

The Council took note of the statements and agreed to establish a panel with the following terms of reference:

"To examine, in the light of the relevant GATT provisions, the matter referred to the CONTRACTING PARTIES by the United States in document L/6518 and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided for in Article XXIII:2."

The Council authorized its Chairman to designate the Chairman and members of the Panel in consultation with the parties concerned.

13. Committee on Budget, Finance and Administration
- Brazil - Request for membership (L/6541)

The Chairman drew attention to a communication from Brazil (L/6541) in which that Government had asked to join the Committee on Budget, Finance and Administration, and asked whether that would be acceptable to the Council.

The Council so agreed.

The representative of Brazil expressed his authorities' gratitude to contracting parties for having acceded to Brazil's request.

The Council took note of the statement.

14. United States - Taxes on petroleum and certain imported substances
- Follow-up on the Panel report (L/6175)

The representative of Canada, speaking under "Other Business", said that her delegation wished to advise the Council that a list had been prepared which would be used in requesting authority under Article XXIII:2 to withdraw equivalent concessions from the United States for its failure to remove GATT-inconsistent aspects of its Superfund tax on oil. It was Canada's intention to circulate this list to contracting parties in the very near future. Canada intended to seek authorization from the Council at its next meeting to proceed with tariff increases on selected US products. Her delegation noted that the US Congress was currently considering legislation to modify the Superfund tax, and called on the United States to pass this legislation. Canada would prefer not to have to withdraw the concessions, and its preference remained for the United States to bring the Superfund tax into conformity with GATT obligations.

The representative of the United States said that his delegation wanted to thank Canada for creating such a favourable environment for legislative consideration of the measures to remove these restrictions. He hoped that no precipitous action by Canada would sour the legislative

environment which would, he believed, accomplish a successful change in the law that would benefit all contracting parties. He hoped that Canada would recognize that action at this particular juncture would be inappropriate.

The Council took note of the statements.

15. Canada - United States Free-Trade Agreement

The representative of the European Communities, speaking under "Other Business", recalled that at the February Council meeting, the Chairman had concluded consideration of this matter by saying that interested contracting parties were invited to submit written questions not later than six weeks after receipt of copies of the Canada - United States Free-Trade Agreement. The Community had stated its interest in this matter then and had prepared a detailed list of questions which it wanted to submit to the parties to this Agreement. The Community was anxiously awaiting the airgram inviting questions and wondered why that airgram had still not been issued, as it was now some time since the Working Party had been established.

Mr. Carlisle, Deputy Director-General, said that the basic problem had been that the Secretariat had been unable to obtain the necessary documentation, i.e., the tariff schedule, from one of the parties concerned. The Secretariat had been pressing that party vigorously, and the local delegation had assured the Secretariat that it was doing all it could. He hoped that this problem would soon be resolved and that, as the Chairman had been chosen, the Working Party could get on with its work.

The Council took note of the statements.

16. Japan - Restrictions on imports of certain agricultural products
- Follow-up on the Panel report (L/6253)

The representative of Australia, speaking under "Other Business", recalled that at the Council meeting in February 1988, the report of the Panel which had considered Japan's restrictions on imports of certain agricultural products had been adopted. Subsequently, following discussions between Japan and the United States, a document had been circulated to contracting parties (L/6389) regarding market-opening measures on imports of certain agricultural products into Japan. Although the measures notified in this document liberalized access to Japan's market for most of the items covered by the Panel, no action had been indicated in respect of two categories. One category included certain dairy products which were of export interest to Australia.

In subsequent bilateral discussions with Australia, Japan had confirmed its view that the settlement with the United States, notified in L/6389, had closed this issue. Japan had advised that no action would be taken to liberalize access for the remaining two categories of products despite the Panel's recommendations. While Australia appreciated the

sensitivity of the dairy industry in Japan and the difficulties involved in further liberalization in this sector, it could not accept Japan's right to implement selectively the Panel's recommendations. Nor did Australia accept that a bilateral settlement could legitimize measures which had been found by the CONTRACTING PARTIES not to be in conformity with GATT obligations. To allow selective implementation of Panel recommendations would be a most undesirable precedent with unfortunate implications for the GATT dispute settlement process. Australia had a substantial legitimate trade interest in some of the products involved and did not accept that its access should continue to be hindered indefinitely by GATT-inconsistent measures. Therefore, in the absence of clear indications from Japan of its intention to implement fully the Panel's recommendations, Australia reserved its rights to pursue this matter further in accordance with GATT provisions and procedures.

The representative of the European Communities said that the Community agreed with Australia, with the caveat that the recommendations in question were those of the CONTRACTING PARTIES and not just of the Panel. The Community would also like to receive an indication from Japan of when it envisaged implementing the CONTRACTING PARTIES' recommendations in those sectors where it had not already done so. The Community associated itself with Australia's concerns relating to Japan's selective, partial and incomplete implementation, particularly if that was the result of discussions with only one other contracting party.

The representative of New Zealand recalled his country's interest in this issue and associated his delegation with the views expressed by the Community and Australia.

The representative of Japan said that his delegation would report to his authorities the statements made, including Australia's unilateral perception.

The Council took note of the statements.