GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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COUNCIL
11 July 1990

MINUTES OF MEETING

Held in the Centre William Rappard
on 11 July 1990

Chairman: Mr. Rubens Ricupero (Brazil)

Subjects discussed:

1. Trade Policy Review Mechanism
- Programme of reviews for 1991 (C/W/642)

The Chairman recalled that when the Trade Policy Review Mechanism (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 also recalled that at its meeting in July 1989, the Council had taken note of the then Chairman's understanding that consultations on the programme of reviews to be conducted in 1991 would be completed by 30 June 1990. He drew attention to document C/W/642 which reflected the results of these consultations, and proposed that the Council decide that the Programme of Reviews for 1991 would be as indicated therein.

The representative of Nigeria said that it was unfortunate that Nigeria did not figure in the programme of reviews for 1991. He indicated that consultations had been taking place in this respect, and that Nigeria believed it could come up for review in September 1991.

The representative of the United States expressed his Government's serious concern at the apparent reluctance of some contracting parties to accept their responsibility to participate in the TPRM process. Under the CONTRACTING PARTIES' Decision, all contracting parties were to be subject to periodic review, with the frequency thereof being determined by trade share. The only scheduling adjustments considered had been the harmonization of the reviews with balance-of-payments consultations, although this flexibility was itself limited in that the review could not be postponed by more than twelve months. While the United States realized that some flexibility was necessary during the present year because of the Uruguay Round negotiations, it did not believe that an all-volunteer process had ever been contemplated when the TPRM was established -- there should be a presumption that a contracting party would accept an invitation to consult under the mechanism. He allowed that there was never a "good"

time to submit to the TPRM process; however, that process could not succeed unless all contracting parties supported it. In the course of developing the 1991 programme of reviews, a number of countries had indicated that they were either too busy or too short of resources to be reviewed at that time. The United States found this attempt to veto the Secretariat's proposed programme of reviews unacceptable, particularly since other contracting parties, which were faced with just as many difficulties, would then have to agree to be reviewed in the place of those that refused. The United States did not understand the attitude of certain governments which seemed to support the TPRM process strongly except when it was their turn to be reviewed. This was unacceptable. The United States would very much prefer a decision by the Council to accept the Secretariat's proposed reviews, and an acknowledgement by all governments that they had an obligation to participate in that process.

The representative of the European Communities said that the Community fully agreed with the substance of the US statement, although it would not go so far as to say that anyone was attempting to veto the process. The TPRM was one of the most important and impressive achievements of the Uruguay Round to date, and at a later stage one would see its effects. He recalled that for the time being, it was an experimental achievement and that if, as the Director-General himself had recently indicated, there was a certain amount of disinterest and a lessening of the active participation in this process, this was not the best way of strengthening the multilateral system. The Community believed that this mechanism should neither be undermined nor questioned, and called on all to shoulder their responsibilities. In this regard, the Community was pleased to hear Nigeria's statement.

The representative of Canada hoped that it would prove possible, as the proposed decision in C/W/642 envisaged, for additional parties to be added to the list, and welcomed Nigeria's statement in this regard. It was his understanding that at the time the TPRM was established, it had been envisaged that a review of all contracting parties would be completed within a six-year time frame, perhaps with some special provisions for least-developed countries. In terms of the orderly conduct of business, therefore, this suggested that the reviews should be conducted with a certain regularity so that a large number of countries would not be left for review together in the final phase of that period.

The Council took note of the statements and adopted the Decision (L/6701).

2. Accession of Venezuela
- Report of the Working Party (L/6696)

The Chairman recalled that in July 1989, the Council had established a working party to examine Venezuela's application to accede to the General Agreement. The report of the Working Party was before the Council in document L/6696.

Mr. Ewerlöf (Sweden), Chairman of the Working Party, said that the main points brought out in the Working Party's discussion were set out in paragraphs 12 to 89 of the report. Matters taken up by the members of the Working Party related to Venezuela's trade policy reform programme, agriculture, export policy, State enterprises, integration agreements and other policies related to trade. Having carried out an examination of the foreign trade régime of Venezuela and its compatibility with the General Agreement and in the light of the explanations and assurances given by Venezuela, the Working Party had reached the conclusion that, subject to the satisfactory conclusion of the relevant tariff negotiations, Venezuela should be invited to accede to the General Agreement under the provisions of Article XXXIII. For this purpose, the Working Party had prepared a draft Decision and Protocol of Accession which were annexed to the report. Concessions resulting from the tariff negotiations between Venezuela and contracting parties in connection with its accession would be circulated in an addendum to document L/6696 as soon as details were available and would become an annex to the Protocol. The decision regarding accession would then be submitted to the CONTRACTING PARTIES for a vote in accordance with Article XXXIII.

The representatives of Colombia, Brazil, Jamaica, Nicaragua, Australia, Argentina, Philippines on behalf of the ASEAN contracting parties, Peru, Cuba, the United States, Mexico, Chile, Uruguay, New Zealand, Canada, Tanzania, Nigeria, Austria, Romania, India, Sweden on behalf of the Nordic countries, Hungary, Switzerland, Hong Kong, Côte d'Ivoire, Ghana, Zimbabwe, the Czeck and Slovak Federal Republic, Japan, Korea, Bolivia, Senegal, Turkey, Tunisia, Poland and the European Communities expressed satisfaction with the Working Party's results. They welcomed Venezuela's decision to accede to the General Agreement and supported adoption of the report together with the draft Protocol and related decisions.

The representatives of the Philippines on behalf of the ASEAN contracting parties, Mexico and New Zealand looked forward to close cooperation with Venezuela as a GATT contracting party. The representatives of Mexico and Chile referred to Venezuela's forthcoming participation in the Uruguay Round negotiations.

The representatives of Jamaica, Nicaragua, Argentina and Chile said that Venezuela's accession to the GATT would strengthen both the GATT and the multilateral trading system, and would not only benefit Venezuela but also all contracting parties and in particular the integration of the Latin-American and Caribbean region countries into the system.

The representatives of Peru, the United States, Mexico and New Zealand welcomed the overall results of the accession negotiations and the important commitments, as reflected in the Working Party report, undertaken by Venezuela, as a developing country, and in particular with regard to the binding of its tariffs.

The representative of Colombia said that his delegation was pleased to welcome the forthcoming GATT accession of Venezuela -- a neighbouring Latin-American country with which Colombia had had very close trade and friendship links for many years.

The representative of Nicaragua said that her country had a debt of friendship towards Venezuela. In all the important moments of Nicaragua's recent history, Venezuela had been present and had helped it in a generous, fraternal way whenever there was need.

The representative of Australia said that, while welcoming Venezuela's accession, Australia was disappointed that Venezuela had not been prepared to offer secure and definite commitments to eliminate eventually all its existing export subsidy programs and to undertake not to introduce new programs generating similar effects. Throughout such working party processes, Australia was seeking to have the GATT applied fully, believing that acceding countries should accept important obligations borne by others. The commitments sought from Venezuela had been considered to be fully consistent with its level of economic development. While recognizing Venezuela's position as a developing country, Australia had been concerned principally with programs specifically applying to world-competitive sectors such as aluminium, coal and petrochemicals.

The representative of the Philippines, on behalf of the ASEAN contracting parties, said that Venezuela's accession to the GATT came at an opportune moment given the current multilateral efforts to liberalize trade in the context of the Uruguay Round negotiations. It was the ASEAN view that Venezuela's accession to the GATT was indeed a sober reminder of the increasing importance of the GATT in contributing meaningfully to the integration of the developing countries into the world economy.

The representative of the United States said that the United States believed that this decision in favour of trade liberalization would work to accelerate Venezuela's economic growth and development.

The representative of Mexico said that the fact that Venezuela was becoming a contracting party was an important opportunity for GATT to extend the geographical coverage of the institution -- in itself a reason for satisfaction to his delegation. Mexico welcomed the fact that there were now even more contracting parties in favour of a fairer and a more liberal international trading system.

The representative of Chile said that Chile shared many interests with Venezuela. Chile hoped that the Council's decision would contribute to consolidating the very important economic reforms which the Venezuelan Government was carrying out.

The representative of the European Communities said that he thought there had been a slightly false note in the various statements made. In

the negotiations on Venezuela's accession, the Community had been consistent in its action. It had decided and had stated that it was determined to assist Venezuela to accede to GATT in the best possible conditions, not only in the interest of bilateral relations, but also of the multilateral trading system itself.

The Chairman remarked that the Council had welcomed the completion of the procedure for Venezuela's accession. He congratulated its negotiators, its President and its Government for their tireless efforts to improve the country's economy, to integrate it into the international economy and to ensure that Venezuela played an increasingly important rôle in international relations.

The representative of Venezuela, speaking as an observer, said that the present moment was an extremely special and important one for his country, and that he personally welcomed the opportunity to hear so many expressions of good will and support for his country's membership as a contracting party to GATT. Venezuela would do all it could to make its contribution to strengthening the multilateral trading system. Venezuela had been closely linked with GATT's activities since the very beginning. It was one of the few developing countries which had participated in the Bretton Woods negotiations and in the Havana Conference. It had not participated in GATT after the conclusion of the Havana Conference because it had believed then, and continued to do so, that some points not included in the international trading system as embodied in the GATT, needed to be brought into force and emphasized if there were to be a better balance between all contracting parties. Venezuela did not wish the trading system to be influenced by only the major trading parties; everyone should work within the framework of law and specific commitments. Venezuela had found many stalwart and positive attitudes in its accession process. It had been flexible throughout this process, but had maintained the criteria which other developing contracting parties had maintained as well. Therefore, Venezuela believed that the commitments it had made, and with which it would comply, would fall within the spirit and the letter of the commitments which bound other developing contracting parties. Venezuela would work with the firm aim of ensuring that the multilateral trading system was strengthened.

The Council approved the text of the draft Protocol of Accession, with the understanding that the Schedule LXXXVI - Venezuela would be circulated as soon as possible as an addendum to the Working Party's report and would be annexed to the Protocol of Accession.

The Council approved the text of the draft decision and agreed that the decision be submitted to a vote by postal ballot when Venezuela's Schedule had been circulated.

The Council then adopted the Working Party's report in L/6696, and took note of the statements.

3. Committee on Balance-of-Payments Restrictions
(a) Consultations with Bangladesh and Egypt (BOP/R/188)
(b) Report on the meeting of June 1990 (BOP/R/189)

(a) Consultations with Bangladesh and Egypt (BOP/R/188)

Mr. Boittin, Chairman of the Committee, said that at the simplified consultations with Bangladesh and Egypt on 22 June, the Committee had concluded that full consultations with Bangladesh were not desirable, and it had decided to recommend to the Council that Bangladesh be deemed to have fulfilled its obligations under Article XVIII:12(b) for 1990. The Committee had noted that Egypt's balance-of-payments situation remained a source of concern, and had welcomed the liberalization efforts made by its government. Nevertheless, the Committee had taken note that certain restrictions remained in force, and had expressed the desire to keep under review the evolution of Egypt's external trade régime and balance of payments. The Committee had therefore proposed that a full consultation be held with Egypt in late 1991 or at the first meeting of the Committee in 1992, after consultations by the Chairman and in relation to the calendar of TPRM reviews.

The Council took note of the statement, agreed that Bangladesh be deemed to have fulfilled its obligations under Article XVIII:12(b) for 1990, took note that a full consultation was proposed to be held with Egypt in late 1991 or at the first meeting of the Committee in 1992, after consultations and in relation to the calendar of TPRM reviews, and adopted the report in BOP/R/188.

(b) Report on the meeting of June 1990 (BOP/R/189)

Mr. Boittin said that at its meeting on 22 June, the Committee had welcomed the Czech and Slovak Federal Republic as a member and that two points had been raised under "Other Business": the notification to be made by Pakistan following its consultation held in 1989, and the programme of consultations for autumn 1990.

The Council took note of the statement and of the Committee's report in BOP/R/189.

4. Korea - Restrictions on imports of beef
- Follow-up on the Panel reports (L/6503, L/6504, L/6505, L/6697)

The Chairman recalled that the Council had last considered this matter at its meeting in June.

The representative of Korea said that Korea and New Zealand had held consultations on 25-26 June and had initialled and signed an agreement on 27 June and 10 July respectively. Korea had now reached mutually satisfactory agreements with all the interested contracting parties as recommended by the Panels (L/6503, L/6504, L/6505). The three agreements,

as detailed in document L/6697, were almost identical and provided for implementation on a most-favoured-nation basis. In addition to the consultations between governments, industry-to-industry dialogues had also been held, the results of which were attached to the agreements.

The main elements of the agreements were the following: 1) to ensure access to its market, Korea would maintain minimum import quotas of 58,000 metric tonnes in 1990, 62,000 in 1991 and 66,000 in 1992. Bilateral consultations would be initiated not later than 1 July 1992 for an import régime following that year; 2) Korea and the respective parties had agreed to a simultaneous buy/sell system which would be implemented for seven percent of the base quota level and used by tourist hotels, tourist restaurants, the National Livestock Co-operative Federation and the Korean Cold Storage Company Limited; 3) a joint study team would be established to examine the structural weakness of Korea's livestock industry and to review the effects of the industry structure on the appropriate timing of market liberalization. Korea understood that the United States, Australia and New Zealand, as parties to the dispute, and also Canada as an interested party, would participate in the joint study team, the results of which would be taken into consideration during future consultations.

In spite of the enormous difficulties Korea faced in the area of agriculture, it had made its utmost efforts in bilateral consultations to implement the recommendations of the Panel reports, and would faithfully implement these agreements.

The representative of New Zealand confirmed that on 27 June, New Zealand and Korea had reached agreement, as outlined by Korea, on a record of understanding defining market access arrangements for beef imports into Korea until July 1992. Bilateral negotiations had been held with Korea pursuant to the adoption in November 1989 of the Panel report (L/6505) which had recommended that Korea remove its beef import restrictions. The record of understanding was similar in content to agreements recently reached during bilateral consultations between Korea, the United States and Australia. New Zealand and Korea would meet again before 1 July 1992 to negotiate a liberalization programme aimed at fully removing Korea's beef import restrictions by 1997. While the record of understanding was a positive development, New Zealand expected Korea to maintain its commitment to liberalise wholly its beef market by 1997. New Zealand also reserved its GATT rights during the period covered by the agreed record of understanding.

The representative of Australia welcomed Korea's submission setting out the terms of the agreements reached on its beef import régime with the United States, Australia and New Zealand. As Australia had indicated at the May Council meeting, the bilateral settlements described in Korea's submission represented only a first stage in the process of bringing its beef régime into GATT conformity. He recalled that the relevant measures applied by Korea on beef were no longer covered by the GATT's balance-of-payments provisions, and that the restraint urged on contracting parties

parties in Korea's 1989 balance-of-payments report[1] was supported by a presumption that Korea would adopt a timetable to phase out, or make GATT-consistent, its current beef import régime by 1997 -- an element which was included in the bilateral agreements.

While representing welcome first steps, the bilateral agreements specifically acknowledged Korea's additional multilateral obligation flowing from the BOP report. There was an expectation that the first tranche of balance-of-payments liberalization, when announced in 1991, would build upon the undertakings reached, and anticipate further bilateral understandings on beef. In accordance with the conclusion of the BOP Committee, Korea had undertaken to notify the Council of its three-year programs by March of the year before their introduction. The first such notification was required in 1991. Korea had also undertaken to give all due consideration, in drawing up its programs, to the interests of other contracting parties in a balanced manner. In Australia's view, the exercise of restraint could not be interpreted as imposing an obligation to desist from pursuing its GATT rights in the event of the status-quo being maintained in 1993.

The representative of Japan welcomed Korea's statement. Korea's decision to follow up on the beef panels' reports, in spite of the very substantial domestic difficulties it had certainly faced, represented a positive step forward for furthering the credibility of the GATT dispute settlement system.

The Council took note of the statements.

5. United States - Restrictions on the importation of sugar and sugar-containing products applied under the 1955 Waiver and under the Headnote to the Schedule of tariff concessions
- Panel report (L/6631)

The Chairman recalled that in June 1989, the Council had established a panel to examine the complaint by the European Economic Community. At its meetings in February, April, May and June, the Council had considered the Panel's report (L/6631), and in June had agreed to revert to it at the present meeting.

The representative of the European Communities recalled that at the June Council meeting, there had been a dialogue on this subject between the United States and the Community, while other members had maintained a somewhat awkward silence. The Community had carefully examined that debate and had also attempted to interpret the embarrassed silence, which seemed to favor the US position more than that of the Community. There remained some tidying-up to be done, and to be done calmly, in contrast to some of

[1] BOP/R/183 and Add.1.

the tumult in other fora with regard to negotiations on agriculture. At the same time, the Community had also to consult with the United States so as to create the optimal conditions necessary for a positive outcome of this matter from the point of view of the present dispute settlement mechanism.

The representative of the United States noted that the Community had not clearly indicated whether it was prepared to adopt the report. He noted that the Council was considering the Panel's report for the fifth time. The United States requested its adoption at the present meeting and asked for a response from the Community.

The representative of the European Communities said that the Community had interpreted the state of affairs resulting from the June Council meeting and was pursuing its reflection on this matter. As an encouraging qualification to his remarks, he could say that the Community's reflection was headed in the right direction, but calmly, and one had to be open to various shades of meaning in order to interpret these words. He underlined that the negotiations on agriculture could not but have an influence on this matter. The links between the two were important.

The representative of the United States expressed disappointment that the Community appeared unable to adopt the report at the present meeting. The Community's apparent refusal to do so indicated a certain reluctance to accept the reality that it had lost the case. The Community had in the past provided a number of worthwhile and instructive comments about the importance of the dispute settlement process. Was it now prepared to practice what it had preached to others? If not, then one would be back in the bad old days that had existed earlier in the Council, before steps had been taken by all to persuade their governments that they should have the political will to abide by GATT rulings. The rules that the Community had frequently insisted be followed by others should also apply to it. In the interest of supporting the integrity of the dispute settlement process, the Community should reconsider its position and permit adoption of the report at the present meeting. If it would not do so, the United States urged it to reflect over the course of the summer on the consequences of its continued blockage so that in the autumn, when this issue was next before the Council, it would at long last permit adoption.

The representative of the European Communities said that the Community did not do anything in a blind and mechanical way, and would reflect on this matter in its usual manner. There was no immediate danger about it except when it came to the question of principle.

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

6. Canada - Import restrictions on ice cream and yoghurt - Follow-up on the Panel report (L/6568, L/6694, L/6698)

The Chairman recalled that in December 1988, the Council had established a panel to examine the complaint by the United States. At their Forty-Fifth Session in December 1989, the CONTRACTING PARTIES had adopted the Panel's report (L/6568), the follow-up to which had been raised by the United States at the June Council meeting. He drew attention to the communication from the United States (L/6694), and to a more recent communication from Canada (L/6698).

The representative of the United States recalled that the Panel had found that certain import restrictions maintained by Canada on ice cream and yoghurt could not be justified under its GATT obligations. At the June Council meeting, Canada had stated that it considered it reasonable to wait for the end of the Uruguay Round before deciding on implementation of the Panel's recommendations, instead of declaring that it would bring its import restrictions into conformity with the General Agreement. This had created uncertainty as to Canada's intentions, and the United States requested Canada's representative to inform the Council as to the steps being taken to consider appropriate measures to bring itself into conformity with the Panel's recommendations, and as to the time frame it considered appropriate.

The representative of Canada said that Canada had indicated its intention to implement the Panel report in the light of the outcome of the multilateral trade negotiations. As the Council was aware, contracting parties were given a reasonable period of time in which to comply with panel reports. The Panel had recommended that Canada either terminate the relevant restrictions or bring them into GATT conformity; Canada was considering this in the context of the time frame of the Uruguay Round. It was fair to say that the contracting parties were engaged in a major round of negotiations in which agriculture was a central element, and that part of that negotiation was about agricultural trade rules. Canada therefore considered it appropriate to wait and see what kind of rules and environment would exist in the period after the Uruguay Round, before deciding on the implementation of this report. He reiterated that Canada intended to implement the Panel report in light of the outcome of the Uruguay Round.

The representative of the United States said that the careful wording of Canada's comments, which followed the statements made by his Government on this matter in the recent past, gave significant cause for concern. It was not quite the full commitment to implement the Panel report that was appropriate in the circumstances. While the United States recognized that many contracting parties were seeking to determine what changes in rules might take place in the Uruguay Round in order to determine in what context implementation of a panel report should take, it nevertheless felt that the commitment to implement fully a report, and to bring oneself into full conformity with one's GATT obligations, had to be unconditional and not conditioned on the outcome of any ongoing or future negotiations. The

United States was also somewhat concerned by Canada's position on certain Uruguay Round issues because, in the US view, Canada was seeking to change the General Agreement to bring it into conformity with its import restrictions, rather than changing its import restrictions to bring them into conformity with the General Agreement. Perhaps this was fair game in any negotiation, but he believed that Canada's efforts would not succeed and that it would still be faced with a requirement to implement changes in its import régime in order to comply fully with its GATT obligations.

The United States continued to seek agreement with Canada on actions Canada would take to comply with its GATT obligations. However, if no mutually satisfactory solution were reached, the United States would be prepared to request that the CONTRACTING PARTIES consider Canada's refusal to commit to implementation serious enough to justify the United States to suspend its application of appropriate concessions or other GATT obligations. The United States was prepared to submit for decision at the next Council meeting a detailed request for authorization to suspend concessions.

The representative of Canada said that the US statement about the importance of a firm commitment to implement a panel report, regardless of the outcome of the Uruguay Round, was an interesting standard in the light of some earlier Council discussions. He wondered if the United States was prepared to apply that same standard to the implementation of the Panel report on Section 337.[2] Given the imminent conclusion of the Uruguay Round, it was perfectly justifiable for Canada to await the outcome of the Round before modifying its import restrictions. It was also perfectly reasonable for Canada, in the course of the negotiations, to be suggesting improvements and clarifications on agricultural trading rules. The United States was implying that there was something improper about this. However, one was in the middle of a major negotiation about the rules governing agricultural trade and it was not surprising that delegations were coming forward in the course of these negotiations with proposals and suggestions about how these rules might be clarified and improved. It was in this context that Canada had indicated its intention to implement the Panel's recommendations in the light of the outcome of the Uruguay Round.

The representative of the United States said that he believed that Canada's representative was trying to suggest that Canada recognized a full commitment to implement this report, and the statements regarding conditioning that implementation on the outcome of the Round were something that the United States perhaps could understand. However, he would draw an important distinction between conditioning the mode of implementation on the outcome of the Round, and conditioning the decision as to whether or not to implement. Noting that Canada had raised the Section 337 Panel report, which was not under consideration at the present Council meeting, he said that the United States was fully committed to implementing the

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[2]United States - Section 337 of the Tariff Act of 1930 (L/6439).

recommendations contained therein and that it had already undertaken steps to consider various modes of implementation. It had published a request in the US Federal Register for proposed changes to Section 337 and had sought advice from various interested parties on possible means to address the issues raised in the report. Canada was among those presenting comments on the options paper circulated to the public. The United States had, however, stated that due regard should be given to the ongoing negotiations on intellectual property, which was understandable, as others would also want to give due consideration thereto. These actions were in clear contrast to Canada's response on the Panel report presently under consideration. A categorical statement from Canada recognizing the need to bring its regulations into full compliance with the Panel's recommendations would be of enormous importance not just to the United States but to all.

The representative of Canada said that he understood from the US statements and from its communication in L/6694 that there was some notion that Canada would take a decision on implementation in light of the outcome of the trade negotiations. He reiterated that Canada intended to implement the Panel report in light of the outcome of the Uruguay Round.

The Council took note of the statements.

7. Canada - United States Free-Trade Agreement

The Chairman recalled that at its meeting in February 1989, the Council had established a working party to examine this matter. The European Communities had asked for its inclusion on the agenda.

The representative of the European Communities said that the Canada - United States Free-Trade Agreement, involving the largest volume of trade between any two countries, was without doubt one of the most important agreements under Article XXIV; its effects on multilateral trade in general could not be gainsaid. Yet, in the more than two years since the Agreement had entered into force, there had been no opportunity to discuss it in the GATT. A working party had been established, clear deadlines had been set for the submission of questions, but answers thereto had not been forthcoming to date. He asked the parties when their responses might be expected so that the Working Party could begin its work. At issue was whether the GATT was to be taken seriously in this matter.

The representative of Canada said that his country attached importance to the Working Party and looked forward to the opportunity it would afford contracting parties to review the Agreement. Canada had prepared responses to questions put by contracting parties and was working with the United States to provide one set of joint responses to all the questions posed on the Agreement, and it hoped to make this available to contracting parties at the earliest possible date.

The representative of the United States said that the United States was mindful of the serious concerns raised by the Community. It was working hard with Canada to provide common answers to the questions submitted, and would endeavour to produce the requested documentation by the time of the next Council meeting.

The representative of Australia said that his country shared the concern over the delay in responses to the initial questions. This Agreement, which involved a sizeable portion of world trade and introduced some novel elements in economic relationships between countries, was of great importance to the multilateral system. Australia was concerned over the delay in commencing the normal review process when under the international obligations of the parties concerned, the Agreement had to be shown to be GATT-consistent, and when so many governments -- including Canada and the United States -- were calling for the transparency of trade policies in the context of the Uruguay Round. Australia, too, asked for the speedy provision of the remaining information, and was heartened to hear that this was likely.

The representative of Japan said that Japan shared others' concern and was heartened to hear of some progress. While it was true that the GATT allowed the existence of regional arrangements under strict conditions, it was also true that such arrangements constituted a major derogation from the basic principle of most-favoured-nation treatment. Such arrangements, therefore, should be thoroughly examined to decide whether they were in full conformity with GATT provisions and in particular with the conditions stipulated in Article XXIV. Japan urged the parties to the Agreement to provide the necessary information as soon as possible, so that the Working Party could begin its task.

The Council took note of the statements.

8. Uruguay - Import surcharges
- Request for extension of waiver (C/W/639, L/6689 and Add.1, 2)

The Chairman recalled that at its meeting in June the Council had deferred consideration of this matter in order to allow delegations more time to study Uruguay's request for a further extension of its waiver from the application of the provisions of Article II, which permitted it to maintain certain import surcharges in excess of bound duties. He added that he had been informed by the Secretariat that Addendum 2 to document L/6689 had been circulated only recently. He understood that a study of this Addendum was necessary in order to examine Uruguay's request for an extension of the time-limit of its waiver. He therefore suggested that the Council defer consideration of this item to its next meeting.

The representative of the European Communities doubted whether many Council members would be happy with the further deferral of this matter, which would place Uruguay's continued application of its import surcharges

into questionable GATT-legitimacy. The Community did not appreciate being confronted with this de facto situation in view of the late arrival of the technical documentation from Uruguay. It requested that all efforts be made to resolve this issue as early as possible.

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

9. Thailand - Rates of certain business and excise taxes
- Request for extension of time-limit (C/W/540, L/6690 and Add.1)

The Chairman recalled that at its meeting in June the Council had agreed to revert to this matter at the present meeting. He informed the Council that following informal consultations, it appeared that some more time was needed before a decision could be taken, and suggested that the Council revert to it at its next meeting.

The Council so agreed.

10. Administrative and financial matters

(a) Procedures for future appointments of the Director-General and Deputy Directors-General

The Chairman recalled that at its meeting of 14 and 29 June, at the level of heads of contracting-party delegations, the Council had considered this matter and had agreed to revert at the present meeting to a proposal made by Brazil on behalf of developing contracting parties.

Mr. Weekes, Chairman of the CONTRACTING PARTIES, said that he was prepared to undertake the proposed consultations on the understanding that this was the wish of all contracting parties.

The representative of the United States said that his Government had no objection to the Chairman of the CONTRACTING PARTIES conducting appropriate consultations.

The Council took note of the statements.

(b) Report of the Committee on Budget, Finance and Administration (L/6695)

Mr. Broadbridge, Chairman of the Committee, introduced the Committee's report in L/6695. The Committee had met on 11 May and 8 June. The report called for the Council's decisions on the final position of the 1989 budget and on the preparation of the 1991 budget estimates.

On the final position of the 1989 budget, it had been noted that the originally approved budget had been overspent by Sw F 325,802, owing to factors which had been unknown and could not have been anticipated at the

time the 1989 budget estimates had been presented, in particular decisions taken by the United Nations General Assembly affecting staff costs and the cost of the April 1989 Trade Negotiations Committee meeting.

As for the 1991 budget estimates, these would normally have been prepared by the Secretariat in the first months of 1990 for examination by the Committee in September and October 1990. This year, however, the Secretariat could not responsibly prepare the estimates as it was not possible at this stage to assess the impact of the Uruguay Round on the duties and responsibilities of the GATT. Accordingly, the Committee had agreed to defer presentation of a final 1991 budget estimates to early that year, by which time the outcome of the Uruguay Round would be known and its financial implications assessed. Pending the presentation and approval of the definitive 1991 budget, the 1990 budget would be carried forward.

Among other items considered, the Committee had noted, as part of the monitoring of the 1990 budget, that the budgetary implications of the United Nations General Assembly decisions affecting the conditions of service of GATT staff were estimated at Sw F 940,000, whereas only Sw F 600,000 had been included in the 1990 budget. The estimated shortfall of Sw F 340,000 would be covered from savings in other areas of the budget or, should this not be possible, by a withdrawal from the Working Capital Fund at the end of 1990.

In application of the procedures to improve the cash situation approved by the Council in 1988, those contracting parties liable to administrative measures in respect of outstanding arrears had been notified and, where appropriate, the measures had been implemented (L/6695, Annex I). The proportion of contributions received toward the current year's assessment was running slightly ahead of the 1989 figure. The Committee was still considering a request by Bangladesh to review the basis for calculating its contribution to the budget.

The Council took note of the statement, approved the Committee's specific recommendations in paragraphs 6, 7, 8, 25, 26, 27 and 28 of its report, and adopted its report in L/6695.

11. Economic, Monetary and Social Union between the Federal Republic of Germany and the German Democratic Republic

The representative of the European Communities, speaking under "Other Business", said that the Council was privileged to share with the Community history in the making as illustrated by the economic, monetary and social union between the Federal Republic of Germany and the German Democratic Republic. The representative of the former would inform contracting parties of this fascinating history.

The representative of the Federal Republic of Germany said that his delegation wished to inform contracting parties of the trade policy aspects of the process of German unification arising from the conclusion, on 18 May

1990, of the State Treaty between the Federal Republic of Germany and the German Democratic Republic regulating the creation of an economic, monetary and social union.

In their Decision of 21 June 1951 authorizing the Federal Republic of Germany to accede to the General Agreement (BISD Vol. II, p. 34), the CONTRACTING PARTIES had agreed that the retention of the arrangements for intra-German trade was in conformity with Article I of the General Agreement, and also that goods originating in the western sectors of Berlin would be treated as originating in the Federal Republic of Germany. The Federal Republic of Germany had made use of these possibilities. The legal foundation for intra-German trade was the Berlin Agreement of 20 September 1951, concluded between the two German States, whereby they had committed themselves not to impose customs duties, or charges having equivalent effect, on mutually-traded goods originating in one of the two respective countries. Customs duties or charges having equivalent effect had thus never been levied on intra-German trade (trade in goods originating in West Berlin being regarded as trade in goods originating in the Federal Republic of Germany).

Upon the establishment of the European Economic Community, the parties to the Treaty had stated in the Protocol of 25 March 1957 on German Internal Trade and Connected Problems that the EEC Treaty required no change in the system of intra-German trade. The treaty provisions regulating free trade in goods between the EEC member States (Article 9(2) of the Rome Treaty) thus fundamentally also applied to goods traded within intra-German trade and freely circulating in the Federal Republic of Germany.

In the State Treaty of 18 May 1990 between the Federal Republic of Germany and the German Democratic Republic, Article 12(1) provided that intra-German trade in goods originating in either of the two German States would continue to be free of customs duties or charges. Article 13 committed the German Democratic Republic to take account of the principles of free world trade, particularly as expressed in the General Agreement. The state monopoly on foreign trade was to be eliminated, and this had now been accomplished. The German Democratic Republic had also committed itself to adopt the customs laws applying in the Federal Republic of Germany and to introduce the Community's Common Customs Tariff. In implementing these commitments, the customs authorities of both German States had, in close cooperation, prepared, and on 1 July 1990 had already enacted, adoption of the Common Customs Tariff, the customs provisions, and the Community's trade policy measures. This had fulfilled one of the conditions for the creation of a de facto customs union between the German Democratic Republic and the Community.

By Council Regulation No. 1794/90 of 28 June 1990, Commission Regulation No. 1795/90 of 29 June 1990, and Commission Decision No. 1796/90/ECSC of 29 June 1990, the Community had acted to remove customs duties and quantitative restrictions for industrial goods vis-à-vis the German Democratic Republic, effective 1 July 1990. In the legal documents just cited, the Community had permitted the German Democratic Republic to

honour contracts concluded with countries of the Council for Mutual Economic Assistance (CMEA) under the state-trading system, specifying that customs duties did not need to be applied in these cases. This had been done with the understanding that these imports were intended for use in the German Democratic Republic and that they would remain or be consumed there. Through the enactment of these regulations, the German Democratic Republic had de facto become part of the Community's customs union.

The Chairman welcomed the statement. He said that the process described reminded him of the very first customs union --"Zollverein" -- established in Germany some 130 years earlier.

The representative of the European Communities said that the Community welcomed the establishment of the economic, monetary and social union between the two parts of Germany. This represented both the first stage of their unification process, i.e., the realization of the unity of Germany and the German people, and the first stage in the integration of the German Democratic Republic into the European Economic Community and consequently into the multilateral trading system. The establishment of a de facto customs union between the Community and the German Democratic Republic constituted the symbol and the confirmation of that process, and also showed clearly the attraction force exerted by the market economy and consequently by the ever-growing universality of the multilateral trading system.

The Council took note of the statements.

12. Korea - Imports of luxury consumer goods.

The representative of the United States, speaking under "Other Business", expressed his Government's concern over recent press reports and complaints from US business interests about import actions taking place in Korea with regard to luxury goods. The United States was encouraged that Korea's President had recently directed his Cabinet ministers to ensure that the Government had no part in these actions, and that Korea's import liberalization should proceed as agreed. However, the nature of the actions, the method in which they had been implemented and their discrimination against imports were of great concern and could contradict Korea's previous commitments to liberalization. The United States urged Korea's Government to underscore its liberalization commitments by aggressively taking steps to counteract import restrictive or discriminatory practices, and hoped that this would include public statements disapproving this anti-import campaign and, where appropriate, enforcement of the rights of importers.

The representative of the European Communities recalled that at the June Council meeting he had notified the Community's intention to raise this matter under "Other Business" at the present meeting. The Community had not followed up on its original intention in the light of ongoing bilateral discussions with Korea. However, these discussions had been disappointing. He was therefore pleased that the United States had raised

the issue. He noted that points were raised under "Other Business" to send signals concerning problems, without at the same time seeking decisions thereon. In this sense, this procedure paralleled the Trade Policy Review Mechanism, pending the expression of concerns in the GATT legal framework.

He then read out excerpts from a March 1990 letter from the Commission's Vice-President to Korea's Foreign Minister, expressing concern over this campaign and asking him, inter alia, to confirm that this campaign was not intended by Korea's authorities. So far the replies had been mixed, not to say dilatory. It was now time for Korea to give the right signal. There was a perception in Europe -- and perceptions were as important as facts -- that an insidious harassment campaign was developing. The perceptions he had alluded to could lead to counter-actions. In this connection he read out from a report from the Community's ambassador to Seoul on a meeting held with member States' ambassadors and Korea's authorities which warned against a possible backlash against Korea's products in Europe. He said that the best signal would be, for example, the reopening of stores and boutiques in department-stores which sold the products under attack. He volunteered to provide a host of Korean press clippings testifying to the existence of the campaign. In conclusion he said that his statement should be interpreted as a serious warning.

The representative of Korea said that the matter referred to was basically a private sector issue and had been sufficiently discussed bilaterally between the governments concerned. He would, however, provide a brief explanation. As a result of the rapid and wide-ranging import liberalization process in Korea over the last several years, consumer-goods imports had increased by nearly 50 per cent in 1989, while there had been a sharp slowdown in export growth. Against this background, the media and certain segments of the private sector, such as consumers' associations, had taken issue with the sharp increase in luxury goods imports. A campaign for more prudent spending patterns in Korea had spread widely, leading to a situation where some department-store counters selling imported luxury goods had been scaled down, and imports of luxury goods had decreased. However, the actual impact on imports had turned out to be so negligible that there was no economic effect. The question of refraining from excessive consumption of luxury goods was something which should be left to the discretion of the private sector. The Government would not intervene in this matter by any means. He assured the Council that Korea's Government would abide by its commitments to market liberalization and that the implementation of market liberalization measures would not be interrupted by the recent deterioration of the balance-of-payments situation.

The Council took note of the statements.

13. Canada - Import, distribution and sale of alcoholic drinks by provincial marketing agencies
- Follow-up on the Panel report (L/6304)

The representative of the United States, speaking under "Other Business", said that it was the United States' understanding that there

remained in place most of the discriminatory practices of Canada's provincial liquor boards affecting beer imports in Canada that had been found GATT-inconsistent by the Panel in 1988. These practices, including discriminatory price mark-ups and restrictions on the points of sale and on listing, nullified and impaired GATT benefits accruing to the United States. Canada's Government had not taken such reasonable measures as might be available to it to ensure observance of GATT provisions by the provincial liquor boards. Therefore, on 29 June, the United States had requested consultations on this matter with Canada and expected to hold them before the end of July. The United States believed that Canada should provide the Council with a detailed commitment and timetable for compliance with the 1988 Panel findings. If Canada could not provide a satisfactory commitment with respect to compliance with its GATT obligations, the United States would seek a Council decision on its Article XXIII:2 rights on the basis of the Panel report.

The representative of Canada said that Canada had agreed to hold on 20 July the Article XXIII:1 consultations requested by the United States. Canada had already acted to implement the Panel recommendations with respect to beer. As contracting parties would already be aware, Canada's 1988 settlement with the Community -- which had brought the complaint in this matter -- provided for national treatment in the listing of beer for sale. This had been implemented on a most-favoured-nation basis. Canada had also committed itself to bring measures on beer pricing into conformity with its GATT obligations after it had addressed the need to remove the barriers to inter-provincial trade in beer that existed within Canada.

It had been asserted that Canada had not taken "all reasonable measures as may be available to it", as required in Article XXIV:12, to ensure observance of the General Agreement by the provincial liquor boards. That was not the case. In November 1987, after the Panel report had been released, Canada's Prime Minister had launched a negotiation process with his provincial counterparts aimed at eliminating inter-provincial barriers linked to trade in, inter alia, beer. Since then, federal and provincial ministers had met on several occasions to review and direct the work of a negotiating panel set up to reach an inter-provincial agreement. A target date had been set in 1989 for the conclusion of the negotiations by mid-1990. The negotiations had been lengthy and intensive, but the progress made in recent months put Canada in a position where it expected soon to address its outstanding obligations with regard to provincial liquor board practices. Canada had now agreed with the complaining party, the Community, to meet in September with a view to concluding the negotiations on this issue. It was Canada's intention, after conclusion of these negotiations, to consult with the United States, to advise it of the measures agreed upon and to confirm that the measures would be applied on an m.f.n. basis.

He was not in a position to offer definitive advice on the matter raised in the last part of the US statement. He was surprised, however, that the US representative seemed to be talking of following up on its Article XXIII:2 rights concerning a panel case in which it had not been a

complaining party. This was an interesting development in the evolution of the GATT dispute settlement system and one on which contracting parties would want to reflect carefully.

The representative of the European Communities confirmed the forthcoming September consultation referred to by Canada concerning the discriminatory price mark-ups for beer. The Community hoped for a positive outcome thereof, which would represent a further step in the implementation of the Panel's recommendations. Any results would have to be mfn-based, and, given the competitiveness of the Community beer sector, he was confident that the latter would benefit greatly from it.

The Council took note of the statements.

14. European Economic Community - Regulation on imports of parts and components
- Follow-up on the Panel report (L/6657)

The representative of Japan, speaking under "Other Business", recalled that the Panel report on this matter had been adopted by the Council at its May meeting. As Japan had stated on that and other occasions, the Panel recommendations had to be implemented promptly. His delegation would request that this matter be put on the agenda of the next Council meeting with a view to having a fruitful discussion on the steps which the Community intended to take to implement the recommendations.

The representative of the European Communities said that he did not intend to rehearse the earlier debate on item 6 of the agenda of the present meeting, nor the Community's statement at the May Council meeting, in particular on page 26 of C/M/240. One feature of this issue was that there were as yet no GATT rules in this area. There was therefore no possibility to bring the relevant legislation into conformity until such time as one would know what the GATT bases and rules were. In the meantime, the Community legislation would remain in force.

The Council took note of the statements.