GENERAL AGREEMENT ON

TARIFFS AND TRADE

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CONTRACTING PARTIES
Forty-Seventh Session

SUMMARY RECORD OF THE SECOND MEETING

Held at the International Conference Centre, Geneva
on Wednesday, 4 December 1991 at 11.15 a.m.

Chairman: Mr. Rubens Ricupero (Brazil)

Activities of GATT (continued)

The following statements were made:

Dr. M. Ishaq Talukdar SR.47/ST/4
Minister (Economic Affairs), Permanent Mission
of Bangladesh

Mr. E.A. Azikiwe SR.47/ST/5
Ambassador, Permanent Representative of Nigeria

Mr. Fan Guoxiang SR.47/ST/6
Ambassador, Permanent Representative of China
(speaking as an observer)

Report of the Council (L/6942 and Add.1) (continued)

Point 1. Work Program resulting from the 1982 Ministerial meeting (continued)

Sub-point 1(b). Export of domestically prohibited goods and other hazardous substances

Mr. Stoler (United States) recalled that in its statement under Agenda Item 1 (SR.47/ST/5), Nigeria had raised the issue of the status of discussions on a possible agreement on domestically prohibited goods. The United States supported reasonable efforts to protect the health and welfare of consumers and regretted that agreement had not been reached on a workable GATT instrument that could have contributed to this purpose. The United States noted that substantive responsibility for such protection lay principally in specialized international organizations such as the World

Health Organization and the Food and Agriculture Organization which had substantive competence and provisions for notification. However, it continued to welcome any constructive proposal for the resolution of the current impasse, and also urged contracting parties to take action to implement the provisions of the international instruments cited in Annex I of the Draft Decision on Domestically Prohibited Goods (L/6872).

Point 2. Trade Policy Review Mechanism (continued)

Sub-point (a). Overview of developments in international trade and the trading system

The CHAIRMAN recalled that at its special meeting on 11 December 1989, the Council had conducted its first annual overview of developments in international trade and the trading system, as required by Part I.F of the CONTRACTING PARTIES' Decision of 12 April 1989 on the Functioning of the GATT System (BISD 36S/403). The second annual overview had been due in 1990, but in light of the pressure of work related to the Uruguay Round Ministerial meeting in Brussels in December of that year, it had been postponed until April 1991. Now, in the closing weeks of 1991, delegations and the Secretariat once again found themselves very heavily involved in work on the Uruguay Round. It appeared, therefore, that it would not be practically possible to hold the third annual overview before the end of the year. Consequently, he proposed that the Council conduct the 1991 overview at a later date to be decided upon by the new Council Chairman in consultation with delegations and the Secretariat. It would be understood that the 1992 overview, which should take place in the latter part of that year, would remain unaffected by the change in the 1991 schedule.

The CONTRACTING PARTIES so agreed.

Point 5. Committee on Balance-of-Payments Restrictions

Mr. Gutiérrez (Peru) recalled that since February 1991, Peru had revoked all the trade-restrictive measures maintained under Article XVIII(b), and noted with interest that a number of other contracting parties that were tackling their balance-of-payments problems in a non-traditional manner had also taken similar measures. In Peru's view, it was precisely this recent reduction in the number of contracting parties maintaining measures under Article XVIII(b) that justified the effectiveness and relevance of this provision in the GATT. Without any doubt, this Article could not be limited. It had to be fully maintained in order to safeguard the interests of those contracting parties that might find themselves faced with some kind of balance-of-payments crisis. Peru hoped that this view would be reflected in the results of the Uruguay Round negotiations on GATT Articles.

Point 6. Korea - 1992-1994 Programme of liberalization

Mr. Hawes (Australia) recalled that on a number of occasions over the past year, Australia had raised its concerns about Korea's 1992-1994 programme of liberalization, particularly with regard to matters such as the need for more satisfactory progress in respect of product coverage, uncertainties over the nature of liberalization, and unacceptable linkages with the Uruguay Round. Australia had most recently set out its concerns again on this issue at the October Council meeting and had requested Korea to come forward with a positive and flexible response at an early date. Australia was disappointed that consultations had still not taken place on these issues, and hoped that the coming year would not see a repetition of the unhappy experience in this area in 1991.

Mr. Bisley (New Zealand) associated his delegation with Australia's statement.

Mr. Park (Korea) said that in July 1991, in accordance with requests made by interested contracting parties on this matter, Korea had provided them with the necessary information concerning the trade régime of the products covered in the first liberalization tranche. In addition, consultations had been held with some contracting parties to determine the extent to which their interests could be taken into consideration in the implementation process. As Korea had emphasized during those consultations, and also at the October Council meeting, the product coverage reflected in the 1992-1994 programme was the result of Korea's best efforts to address the interests of contracting parties. Regrettably, it remained difficult to accommodate their requests at the present time. Indeed, Korea had suffered a deterioration in its balance-of-payments situation which had led to a trade deficit in 1991 of about US$10 billion. However, he wished to assure contracting parties that the concerns expressed at the present Session would be duly conveyed to his authorities.

Point 8. Trade and environment

Mr. Graça Lima (Brazil) said that Brazil attached great importance to the environment and related issues. Indeed, as all were aware, Brazil would be hosting the United Nations Conference on Environment and Development (UNCED), which was certainly one of the most important events in the international agenda for 1992. Any contribution that the GATT could make to the UNCED, where important decisions on substantive matters concerning environment and development would be taken, would be welcome. Also, as environmental issues became even more prominent in national and international debates, the possible trade implications of agreements arrived at in other fora should be the subject of attentive analysis in the GATT. An issue of such global importance should not become the source of trade frictions and disputes stemming from unilateral measures. In the same context, he wished to remind contracting parties that while environmental measures had an impact on trade, it was also true -- and this had received a lesser degree of attention -- that trade-distorting measures, such as subsidization and protectionism, could also have, and often had, a negative impact on the environment as they implied a less than

optimal use of natural resources. Brazil believed, in this connection, that the agenda adopted by the Group on Environmental Measures and International Trade was a good basis for its immediate work.

Mr. Gutiérrez (Peru) recalled that throughout 1991 there had been detailed discussions in GATT on the interlinkages between trade and the environment, which had led to the convening of the 1971 Group on Environmental Measures and International Trade. While it had been recognized that the interlinkage between trade and the environment was clear and unequivocal, it had also been recognized that trade was only one of the economic aspects that had a relationship with the environment, and that in reality the discussion was much more concerned with the need to promote a sustainable development process in the developing countries. In this context, it had become very clear that the GATT could not be used for introducing trade restrictions under the cover of measures supposedly designed to protect the environment. For Peru, the objective of achieving sustainable development had considerably higher priority than trade liberalization as such. Peru believed that if a consensus was reached at the UNCED on environmental measures and policies which implied an adaptation of the rules governing international trade, GATT would have no option but to act in accordance with those decisions. Meanwhile, Peru hoped that the terms of reference of the 1971 Group would prove sufficient and that the latter would carry them out without trying to become a negotiating forum that would duplicate efforts proceeding in other bodies.

Mr. Stancanelli (Argentina) said that his delegation shared Brazil's views in respect of the importance of the UNCED in relation to the activities of the GATT in the area of environment and trade. Argentina believed it to be of the utmost importance that all measures related to the environment took into account the agreements and international standards established under the United Nations system. In this regard, and in relation to the GATT, it was important that the Panel report on the United States' restrictions on imports of tuna (DS21/R) be considered by the CONTRACTING PARTIES as soon as possible. Argentina believed this report was of significant importance to establish a precedent that discretionary measures could not be adopted in this field but that rather they should adequately reflect international agreements and norms.

Point 9. <u>United States - Action under the Marine Mammal Protection Act with respect to "intermediary nations"</u>

Mr. Beck (European Communities) recalled that the issue of the United States' Marine Mammal Protection Act had emerged in connection with Mexico's request for a panel concerning the United States' restrictions on imports of tuna, and that the matter of its application with respect to "intermediary nations" had been raised specifically by Japan at the May Council meeting. The Community was concerned by domestic legislation on the application of environmental standards which had a direct or indirect impact on international trade. It therefore hoped and intended to seize the occasion to bring this issue into the public debate. The best way to do this would be in relation to the discussion -- which so far had not been held -- on the Panel report on the United States' restrictions on imports

of tuna (DS21/R). Noting that the Panel's work had been completed, he said that the occasion should be seized at the next meeting of the Council for a debate on this issue.

Point 10. EEC - Measures on imports of baler twine and other sisal processed products

Mr. Graça Lima (Brazil) recalled that at the March Council meeting, Brazil had raised the question of the Community's modification of its Schedule of concessions in relation to baler twine and other sisal processed products. The resulting increase of 13 per cent over the bound rate of duty for those products had been implemented without the fulfilment of the procedures established in Articles II and XXVIII. Since no satisfactory solution to this question had been obtained, Brazil wished to reiterate that its GATT rights had been affected and to state that it might revert to this matter in the future.

Mr. Beck (European Communities) said that the Community had noted the points made by Brazil.

Point 11. EEC - Import régime for bananas

Mr. Barzuna (Costa Rica) said that in his delegation's view the text in the Council's report did not clearly reflect what his delegation had stated at the July Council meeting on this matter. He underlined that it was the establishment of a new import régime for bananas in the Community that was causing Costa Rica concern. On various occasions Costa Rica had expressed its appreciation to the Community for its efforts toward the establishment of a single market, and it would do so again at the present meeting. What caused Costa Rica concern, however, was the treatment to be expected for bananas under the new import régime as from 1992. The type of restrictions currently applied by some European countries to imports of this product from Latin America was well known. This régime had been maintained despite representations made by the exporting countries. For this reason, Costa Rica urged the Community to ensure that under the single market the import régime for bananas would be GATT consistent. Furthermore, it hoped that the fair market access conditions that should be applied to its banana exports would not have to await a unilateral decision by the Community to align itself with the GATT when the single market was established. In this connection, he said that no unjustified links should be established between the various GATT Articles. The Community action under Article XXIV towards the establishment of a single market should not be linked, nor used as reason for failing to comply, with its other GATT obligations such as those under Article XI. Costa Rica trusted that access without unlawful restrictions on its banana exports to European markets would result from the liberalizing process of the Uruguay Round. Costa Rica had shown that it placed confidence in the multilateral trading system based on the General Agreement. The trade liberalization efforts made in the context of its accession to the General Agreement and through its active participation in the Uruguay Round were clear evidence of that.

Nevertheless, such sacrifices would not yield the expected results unless Costa Rica's trade partners took appropriate action to fulfil their GATT obligations.

Mr. Trân (European Communities) said that bananas were a very delicate matter and came under the Treaty of Rome establishing the European Community. The Community would note all that had been said because it had not yet defined any clear-cut policy on this matter. The Community was quite willing, if possible at the present meeting but in any case in the Trade Policy Review Mechanism (BISD 36S/403) -- which, as all were aware, was the ideal forum for discussing such matters -- to take account of these concerns, which were, however, without foundation at this stage.

Mr. Jaramillo (Colombia) said that in his delegation's view the Council's report did not adequately reflect the intention of the delegations that had supported Costa Rica on this subject at the July Council meeting. Their concern had been over the fact that the Community had no common régime for bananas. Bananas were indeed covered by the Rome Treaty and, accordingly, one would have expected a common régime thereunder. Another concern -- not in any way based on suppositions -- was that this common régime should not be more restrictive than the existing régime which, as all were aware, was not common throughout the Community. His delegation hoped that members of the Community's GATT delegation would ensure that, when their colleagues in Brussels established this common régime, it would be fully consistent not only with GATT but also with the results of the Uruguay Round, particularly in respect of tropical products and agriculture. A further concern was that no time-limit had been mentioned for establishing the common régime. Colombia hoped that this time-limit would be a short one -- preferably a few weeks -- so that the Round could be completed soon; it did not wish to have the question of the common régime for bananas preventing the Community from being able to include bananas in the negotiations.

Mr. Barnett (Jamaica) said that, as all were aware, bananas were a matter of serious concern to Jamaica and to a number of other countries of the Africa, Caribbean and Pacific (ACP) Group. While he was reluctant to enter into this discussion, he was fearful that a silence on the part of these countries would imply a sort of acquiescence with Costa Rica's statement. It might have given weight to a notion that the ACP banana-producing countries were willing to see the treaty obligations entertained by the Community undermined in some way. In their negotiations with the Community, the ACP countries had sought to devise a system that would assure the future of their banana industry. They wished this assurance to be confirmed and for the treaty obligations entered into by both parties to be maintained in the same way.

Mr. Seade (Mexico) expressed the hope that the Community's policy on this matter would be a positive one. Bananas were products of great interest to the majority of Central American and Caribbean countries, to Colombia and to others -- countries with much less diversified trade interests than the larger trading countries in the GATT, even if their trade policies were no less exemplary. Many of them were recent members of

the GATT and participated positively in the multilateral trading system; it was therefore important that they be supported in their efforts through access to other countries' markets for these products.

Mr. Trân (European Communities) said that in elaborating a new régime in this area, the Community would endeavour to be equitable and take account of three types of respectable interests: the Community's internal interests based on the production, marketing and consumption of bananas in the entire territory of the Community; the interests of states with which the Community was linked by reciprocal obligations and rights, such as the ACP group of states; and the interests that the Community considered as coinciding with its own, related to its third-country banana producing partners. There was also the question of how to boost banana consumption, since even among the Community's member States consumer tastes and preferences for the different varieties of bananas varied.

Point 16. Recourse to Articles XXII and XXIII (continued)

Sub-point 16(e)(vi). United States - Restrictions on imports of tuna[1]

Mr. Misle (Venezuela) drew attention to the importance of finding a solution to the problem caused to Venezuela by the United States' restrictions on imports of tuna. The rapid adoption by the United States of measures in line with the recommendations of the Panel report (DS21/R) on this matter was necessary in order not to continue to seriously affect this important sector of Venezuela's economy with measures that were contrary to the General Agreement.

Mr. Stoler (United States) noted that the GATT encouraged contracting parties to resolve disputes through conciliation and mutual agreement. The United States was continuing to work with Mexico toward a satisfactory resolution of this dispute. The issues raised by the Panel report were complicated and deserved careful consideration by the United States' and Mexico's authorities. He noted that the report had raised a number of questions that were particularly broad in scope and of potentially great significance in the context of the global environment. The United States hoped to be able to work out a solution that would accommodate the many interests involved.

Sub-point 16(e)(vii). United States - Section 337 of the Tariff Act of 1930

Mr. Beck (European Communities) recalled that this Panel report had been adopted more than two years earlier and that many months -- and indeed Council meetings -- had passed before the United States had agreed to its adoption. The Community was aware that, as in a number of other cases,

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[1]See also the statements by Mr. Stancanelli (Argentina) under Point 8, and Mr. Beck (European Communities) under Point 9.

implementation of this report was intimately linked to the conclusions of the Uruguay Round negotiations. However, the Community had pressed, and continued to press, for information on the steps being taken in Washington to prepare the ground for implementation when the time was right. At this advanced state in the Round, the Community believed it deserved to know what such steps were.

Mr. Stoler (United States) said that the United States had given the highest priority to the development of an effective and GATT-consistent Section 337 mechanism which would resolve the procedural difficulties found therewith. From the moment of adoption of the report, the United States had explicitly committed to do so. The United States had worked diligently to address how, within the constraints of its Constitution, to amend Section 337 to address the Panel's recommendations. At the same time, the United States could not condone or excuse infringement of US patents by refuting existing US legislation. Providing adequate and effective protection of intellectual property, including enforcement of patent rights against imports of infringing products, was an important domestic and international priority for the United States. In its view, high standards of protection and effective enforcement thereof encouraged legitimate trade and provided inventors and other creative people the recognition and incentive necessary to pursue difficult but essential efforts. In his policy statement made at the time the report on Section 337 had been adopted, the United States' President had noted that enactment of legislation amending Section 337 could most effectively occur through Uruguay Round implementing legislation. Those familiar with the technicalities of the "Fast Track" procedures would be aware of the procedural benefits of using the implementing legislation as a vehicle for amending Section 337.

Point 17. Non-implementation of panel reports

Mr. Hawes (Australia) referred to the concerns expressed both by the Chairman in his opening statement and by the Council Chairman in his introduction to the Council report, concerning the unfortunate state of affairs in respect of the non-implementation of panel reports. He recalled that Australia had consistently raised its own concerns on this issue and had urged contracting parties to meet fully their existing GATT obligations and not to seek excuses to further delay implementation of panel reports by creating invalid and unacceptable linkages to the outcome of the Uruguay Round. In this regard, he hoped that the time for such excuses was running out. Australia had also underlined its concerns on several occasions in respect of a number of specific panel reports, and it continued to be disappointed at the lack of progress in respect of the report dealing with Japan's restrictions on certain agricultural products (BISD 35S/163). Australia had made clear at the November Council meeting that it believed the responsibility now lay with Japan to come forward with proposals on a timetable and modalities for the full implementation of that Panel's recommendations. For its part, Australia stood ready to consult further with Japan on these matters.

Mr. Bisley (New Zealand) said that smaller trading nations such as New Zealand had to rely on the rules-based multilateral trading system and on the GATT's dispute settlement system to safeguard their trade rights. As New Zealand had stated during recent Council discussions on the status of work in panels and the implementation of panel reports, it continued to support and urge the prompt and full implementation of outstanding panel recommendations, in conformity with the General Agreement. New Zealand was particularly concerned with the outstanding issues relating to the Panel report on Japan's restrictions on certain agricultural products and associated itself with Austrlaia's concerns in this regard. New Zealand expected Japan to acknowledge its obligation to implement in full the Panel's recommendations in a GATT-consistent way, and to present shortly proposals for a timetable to achieve this. New Zealand looked forward to further consultations with Japan on these points.

Mr. Ukawa (Japan) said that Japan had implemented promptly and in good faith the majority of the Panel's recommendations regarding its restrictions on certain agricultural products. With regard to dairy products and starch, however, Japan had made reservations about the implementation of the recommendations since it had had different views on the Panel's interpretation of Article XI:2 and its findings on the requirement for imposing restrictive measures thereunder. Nonetheless, Japan had already taken steps to improve market access for these products and would decide on appropriate action in light of the outcome of the Uruguay Round. Japan had consulted with interested contracting parties in this regard, and stood ready to continue consultations in the meantime in the hope that these would result in a solution satisfactory to all.

Mr. Beck (European Communities) said he had noted with interest the statements by Australia and New Zealand. With regard to the reports, findings and recommendations of a certain number of panels the implementation of which had been directly linked to the Uruguay Round, he said that this was perhaps not the moment to rehearse again all the arguments why implementation of these reports during the negotiating process would be doing a disservice to the process itself. It was clear that once the Round had been completed the situation would change and many things would become possible that today seemed difficult. That was perhaps the only answer one could reasonably give at this stage to a matter which had preoccupied many over a number of Council meetings and which had emerged again at the present Session.

Mr. Anell (Sweden) reiterated Sweden's concern at the United States' continued reluctance to adopt and implement the Panel report regarding its anti-dumping duties on imports of stainless steel pipes and tubes from Sweden (ADP/47). As contracting parties were aware, the Panel had found the United States' imposition of anti-dumping duties on seamless hollow steel products to be inconsistent with the Anti-Dumping Code[2]. The Panel had recommended that the United States revoke the duties imposed and

[2]Agreement on Implementation of Article VI (BISD 26S/171).

reimburse the US$8 million paid in anti-dumping duties. More than a year after its submission, and after its consideration in five Anti-Dumping Committee meetings, the report had still not been adopted let alone implemented. This was serious not only for the Swedish company whose exports to the United States had been seriously affected, but also for Sweden since 150 people were facing layoffs due to the duty. This case had been brought to the GATT because Sweden had faith in its dispute settlement mechanism. But no dispute settlement arrangement could work if it was not observed by all parties. And, unfortunately, in this case the United States had shown a disturbing lack of willingness to abide by accepted obligations. The rapid adoption and implementation of panel reports was the least to be expected from a country that favoured a strong and swift dispute settlement mechanism. Sweden once again urged contracting parties to consider the matter carefully and the United States to agree to adoption and subsequent implementation of the Panel's report at the earliest possible occasion.

Mr. Stoler (United States) noted that this matter was being addressed in the Anti-Dumping Committee, where the United States had explicitly stated on several occasions that it stood ready to adopt the report and to bring its law into conformity with the Anti-Dumping Code at once, as long as the unusual aspect of that report -- a specific recommendation -- was not included therein. The United States remained willing to do so.

Mr. Park (Korea) recalled that Korea had been among those that had expressed disappointment at the state of affairs concerning the non-implementation of panel recommendations. However, as the Director-General had pointed out in his introduction to his most recent periodic report on the status of work in panels at the November Council meeting, there were some positive elements which should not go unnoticed. First, an increasing recourse was being had to the dispute settlement mechanisms of the GATT and the Tokyo Round Codes as a result of which eleven panels were currently active. Second, the dispute settlement mechanism, from the establishment of a panel until the submission of its report, appeared to be working well. Korea believed that contracting parties' political willingness to live up to GATT rules was more important than institutional changes in the dispute settlement process. A strengthening of political will on the part of contracting parties would pave the way for building into the GATT system an element of stability and predictability which was in the interest of all.

Mr. Stancanelli (Argentina) said that Argentina shared Australia's and New Zealand's views regarding the non-implementation of panel recommendations. He reiterated Argentina's concern over this matter and at the arguments being put forward by some to justify their delay in taking appropriate measures at the national level. Non-implementation of panel recommendations affected the credibility and the reinforcement of the multilateral trading system, and Argentina, as others, believed that the necessary political decisions should be taken by all in order to fulfil their GATT obligations.

Point 20. Restrictions on exports from Peru following the cholera epidemic

Mr. Gutiérrez (Peru) recalled that at the March Council meeting, his delegation had drawn attention to the large number of restrictions that had been applied to his country's exports following the cholera epidemic. Twenty-three countries had, for emergency reasons and without taking account of provisions and recommendations by international health organizations, imposed restrictions of various kinds, many of which had been drastic. Through a process of consultations, and by recourse for the first time to the streamlined mechanism for reconciling the interests of contracting parties in the event of trade-damaging acts, adopted in October 1989 (BISD 36S/67), Peru had arrived at a satisfactory solution with its trade partners. Of the twenty-three initial cases over which there had been some differences only one remained unresolved, and Peru would notify the contracting parties if no solution were found to this last case. He reiterated that the streamlined mechanism had proved extremely useful in this particular case by not only ensuring the necessary transparency but also allowing adequate solutions to be sought without any need for recourse to other existing dispute settlement mechanisms.

Point 22. Article XXIV:6 - Consultations between Argentina and the European Economic Community

Mr. Stancanelli (Argentina) informed the CONTRACTING PARTIES that Argentina and the Community had held consultations concerning their 20 October 1987 Agreement relating to the conclusion of Article XXIV:6 negotiations between the two parties. The consultations, which would be continued in the near future, were without prejudice to either party's interpretation of Article XXIV. Both parties reserved their GATT rights, including those which would otherwise be time-limited. Furthermore, both parties would inform contracting parties of the results of the negotiations as soon as they had been concluded.

Mr. Trân (European Communities) confirmed Argentina's statement.

Point 24. Agreements among Argentina, Brazil, Paraguay and Uruguay

Mr. Graça Lima (Brazil), speaking also on behalf of Argentina, Uruguay and Paraguay, said that, further to the information provided at the June 1991 meeting of the Committee on Trade and Development, the Treaty establishing a common market between Argentina, Brazil, Paraguay and Uruguay (MERCOSUR) had been implemented as from 29 November following completion of ratification formalities. This Agreement, which had been signed under the framework of the Treaty of Montevideo establishing the Latin American Integration Association, would be notified to the GATT in the near future.

Mr. Beck (European Communities) welcomed the announcement of a forthcoming notification regarding this Agreement.

Mr. Stoler (United States) encouraged the contracting parties involved in this laudable agreement to follow Article XXIV requirements. The creation of a common market of 200 million people and nearly a half trillion US dollars in GDP would not only have a significant impact on the countries participating in the Agreement, but would also have substantial implications for all their trading partners. Following Article XXIV procedures would indicate to contracting parties that such an agreement would provide new opportunities for trade and investment and not result in new barriers. While the Enabling Clause[3] provided for notification to the GATT and review of less comprehensive trade preferences among developing countries, there was no substitute for following Article XXIV procedures which had been developed precisely to cope with the creation of customs unions and free-trade areas.

Mr. Stancanelli (Argentina) said that Argentina could not accept the distinction that the United States had drawn in respect of the various sets of rules under the General Agreement. Argentina believed that all of these rules had the same legal validity. They had all been approved and adopted by the CONTRACTING PARTIES. Under the Enabling Clause, the Committee on Trade and Development could examine all the integration agreements that were being drawn up by developing countries. He noted, in this connection, that the Chairman of a working group which had recently examined a free-trade agreement had drawn attention to a major concern in such examinations with regard to their inability to arrive at conclusions as was required under the rules of the General Agreement for such examinations. He reiterated that Argentina could not accept the distinctions being drawn between the various rules of the General Agreement, and invited contracting parties to reflect on this matter and to comply fully with the procedures of these working groups so that they could arrive at conclusions and recommendations.

Point 25. Waivers under Article XXV:5 (continued)

Sub-point 25(b). Zaire - Establishment of a new Schedule LXVIII

The CHAIRMAN drew attention to the communication from Zaire in document W.47/18, and to the draft decision annexed thereto which had been circulated to facilitate consideration of this matter by the CONTRACTING PARTIES.

Mr. Elebe (Zaire) said that his Government was requesting an extension of its waiver from obligations under Article II in order to complete the establishment of its new Schedule. Recent disturbances in his country had provoked a social crisis and had shaken certain organs of the Government. As a result of these domestic events, and especially the changes in the Government during the past month, Zaire had not completed the necessary work and therefore requested a new extension of its waiver until 31 December 1992.

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

The CONTRACTING PARTIES agreed that the draft decision in W.47/18 be submitted for adoption by a vote.

The Decision (L/6966) was adopted by 67 votes in favour and none against.

Senegal - Establishment of a new Schedule XLIX

The CHAIRMAN drew attention to the communication from Senegal in document W.47/15, and to the draft decision annexed thereto which had been circulated to facilitate consideration of this matter by the CONTRACTING PARTIES.

Mr. Diop (Senegal) said that following the CONTRACTING PARTIES' Decision of 7 December 1990 (BISD 37S/295) which had waived Senegal's obligations under Article II to allow it to establish a new Schedule, his authorities had established a working group with a view to elaborating the new Schedule and related documentation. However, following a change in Government in April 1991, it had been decided to establish a new and more flexible fiscal policy which would need to be taken into account in the new Schedule. Senegal had also been unable to apply the new Schedule from the first semester of 1991, as foreseen initially, for reasons that were not of its own volition and related to its membership in the Economic Community of West African States (ECOWAS). Senegal therefore requested an extension of its waiver until 30 June 1992.

The CONTRACTING PARTIES agreed that the draft decision in W.47/15 be submitted for adoption by a vote.

The Decision (L/6963) was adopted by 67 votes in favour and none against.

Turkey - Stamp duty

The CHAIRMAN drew attention to the communication from Turkey in document W.47/16 and to the draft decision in W.47/16/Add.1 which had been circulated to facilitate consideration of this matter by the CONTRACTING PARTIES.

Mr. Aktan (Turkey) recalled that in their Decision of 5 December 1989 (BISD 36S/433) the CONTRACTING PARTIES had allowed Turkey to maintain, under specified terms and conditions, a stamp duty on imports of products included in its Schedule. In line with the terms and conditions of that Decision, his Government had informed the CONTRACTING PARTIES on 30 November 1990 of its intention to remove the stamp duty as of 1 January 1992. To this effect a draft bill for the elimination of the stamp duty had been prepared in August 1991 for submission to Parliament, in spite of the adverse impact of the Gulf war on Turkey's economy and budget revenues. However, due to the early elections held in October 1991, it had not been possible to conclude the relevant legislative process. It was now legally necessary for the new Government to reinitiate the whole procedure which would obviously require time. Considering that the validity of the existing Decision would expire on 31 December 1991, his Government

requested that it be extended for a further period. Following the initial submission of its request (W.47/16), Turkey had held a series of informal consultations in this regard with its trading partners and an agreement had been reached that the extension should be granted for a period of one year, i.e., until 31 December 1992, under the same terms and conditions as in the existing waiver. He added that the application of the stamp duty had almost no incidence on imports into Turkey because the main products in most of the investment goods imported were exempt from this duty. Also, due to the liberalization policy that had been pursued since 1980, reductions were applied on the bound tariff rates for many products. He hoped that full support would be given to his Government's request.

The CONTRACTING PARTIES agreed that the draft decision in '7/16/Add.1 be submitted for adoption by a vote.

The Decision (L/6964) was adopted by 65 votes in favour and none against.

Sub-point 25(d). Harmonized system

The CHAIRMAN drew attention to the communications from Bangladesh (W.47/3), Brazil (W.47/4), Chile (W.47/5), Colombia (W.47/6), Hungary (W.47/7), Israel (W.57/8), Malaysia (W.47/9), Mexico (W.47/10), Pakistan (W.47/11), Philippines (W.47/12), Sri Lanka (W.47/13) and Turkey (W.47/14) in which each government had requested an extension of a waiver already granted in connection with its implementation of the Harmonized Commodity Description and Coding System. He also drew attention to the draft decisions annexed to those communications.

He then stated that the documentation still to be submitted and any negotiations or consultations that might be required should follow the special procedures relating to the transposition of the current GATT concessions into the Harmonized System, adopted by the Council on 12 July 1983 and contained in BISD 30S/17.

No negative votes were expressed and the Decisions were adopted with the following votes in favour: Bangladesh (L/6951) - 67; Brazil (L/6952) - 67; Chile (L/6953) - 67; Colombia (L/6954) - 67; Hungary (L/6955) - 67; Israel (L/6956) - 59; Malaysia (L/6957) - 67; Mexico (L/6958) - 67; Pakistan (L/6959) - 67; Philippines (L/6960) - 67; Sri Lanka (L/6961) - 67; and Turkey (L/6962) - 66.

Point 28. Macau - Succession to the General Agreement

Sub-point 28(a). Tariff régime

Ms. Rosa (Macau) recalled her delegation's statement at the February Council meeting that Macau would submit, within one year of its date of succession, a Schedule to which its customs duties would be bound up to an acceptable percentage of its imports. Since that meeting, Macau's authorities had been actively engaged in preparing for the establishment of this Schedule in close cooperation with the Secretariat.

For technical and logistic reasons, however, it would not be possible to complete this process before 11 January 1992. Her authorities intended to pursue their efforts with a view to completing all the necessary work before July 1992 and a communication to this effect would shortly be sent to the Secretariat for circulation to contracting parties.

Point 29. Switzerland - Review under paragraph 4 of the Protocol of Accession

Mr. Bisley (New Zealand) noted that the review under paragraph 4 of Switzerland's Protocol of Accession was a triennial exercise, to which New Zealand attached considerable importance because it allowed Switzerland's policies to be examined in light of the balance of rights and obligations that the Protocol established. New Zealand was concerned that the current review exercise in a Working Party established for the purpose had not been able to make proper progress. His delegation, along with others, had raised a number of important questions on the nature and operation of Switzerland's agricultural policies but, in a number of instances, the replies given to date had been inadequate. Switzerland had indicated that many of the outstanding questions would be responded to more fully in the context of its review under the Trade Policy Review Mechanism (TPRM). The answers given in that forum, however, had not been more illuminating, effectively referring questions back to the Working Party process. This process could be described as "ping-pong" diplomacy, which was very wearying. New Zealand had also provided Switzerland in August 1991 with a list of supplementary questions in the context of the Working Party which had not thus far received any written answers. In particular, New Zealand had pursued aspects of the "prise-en-charge" system and its consistency with Article III. While New Zealand wished to conclude the Working Party's deliberations expeditiously, it could not do so before reviewing Switzerland's responses to the questions submitted. New Zealand's clear expectation and hope was that the results of the Uruguay Round negotiations on agriculture would see the termination of Switzerland's partial exemption from GATT disciplines under Article XI.

Mr. Ramsauer (Switzerland) said that Switzerland was aware of the state of progress in the Working Party. He reassured New Zealand that answers to its written questions would be put forward soon and said that workload of activities in the Uruguay Round, in particular in agriculture, had delayed the answers. It was Switzerland's intention to conclude this triennial examination as expeditiously as possible. As for the alleged "ping-pong" play between the TPRM and the Working Party, he believed there had been a misunderstanding. The TPRM and the Working Party were two very different exercises which were both regarded very seriously by Switzerland. In this context, he recalled his delegation's statement on the TPRM at the first meeting of the present Session (SR.47/1, page ..).

Point 30. Romania - Reform for transition to a market economy

Mr. Paunescu (Romania) recalled that Romania had notified the GATT of all the legislative measures that had been adopted within the framework of

its reform toward a market economy. These measures had resulted in fundamental transformations in Romania's economic and trade system. It had become evident that Romania's participation in the GATT had to conform with these fundamental changes. Accordingly, Romania had decided to set in motion the process for the renegotiation of its terms of accession to the General Agreement. A formal request to this effect would be submitted shortly for examination by the Council early in 1992. Romania was convinced that such a process would assist its efforts to establish a liberal, efficient and open economy fully integrated within the multilateral trading system.

Point 36. Administrative and financial matters

Sub-point 36(a)(ii). Committee on Budget, Finance and Administration - Reports

The CONTRACTING PARTIES adopted the report of the Committee in L/6928, including the specific recommendations contained therein and the Resolution on the expenditure of the CONTRACTING PARTIES in 1992 and the ways and means to meet that expenditure.

Accession of Portugal and Spain to the European Communities

Mr. Morales (Chile) said that Chile wished to reiterate the reservation it had made on an earlier occasion in the Council[4] regarding all its rights under Article XXIV:6 and other relevant Articles of the General Agreement in relation to Spain's and Portugal's accession to the European Communities, particularly in respect of certain fish products.

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

Mr. Stoler (United States) recalled that at the CONTRACTING PARTIES' Forty-Sixth Session in December 1990, the United States had raised its concern at the lack of Council action on its longstanding proposal to establish a working party to examine the relationship of internationally-recognized labour standards to international trade. Regrettably, one year later this situation remained unchanged. He noted that this request had been on the table since November 1987, and had been renewed many times. The United States' aim was to have a working party carry out an objective analysis of the relationship between labour standards and trade without prejudice to the views of any contracting party on this issue. The simple assertion that this issue was not within GATT competence begged the question that the working party was proposed to examine. He underlined that the United States' request for the establishment of a working party to examine this issue remained on the

[4] See C/M/226, item 2.

table, and said it was high time that the Council took action thereon. The United States remained ready to consult with interested contracting parties on appropriate terms of reference for this working party and on how the examination might be conducted. Refusal to address the issue would not make it go away nor weaken the United States' commitments to incorporate such standards in every appropriate manner in its own trade policies.

The CONTRACTING PARTIES then took note of all the statements made under this Agenda item and adopted the Council's report (L/6942 and Add.1) as a whole.

The meeting adjourned at 6.15 p.m.