

**GENERAL AGREEMENT  
ON TARIFFS AND TRADE**

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CONTRACTING PARTIES  
Forty-Ninth Session

**SUMMARY RECORD OF THE FIRST MEETING**

**Held at the International Conference Centre, Geneva,  
on Tuesday, 25 January 1994, at 3.30 p.m.**

Chairman: Mr. B.K. Zutshi (India)

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**Chairman's opening address**

The CHAIRMAN made an opening address (GATT/1612).

The CHAIRMAN then welcomed Mali, the Kingdom of Swaziland, St. Lucia, the Czech and Slovak Republics, Dominica, St. Vincent and the Grenadines, Fiji, Brunei Darussalam, Bahrain and Paraguay as new contracting parties, which had brought the total to 115.

**Adoption of Agenda**

The CHAIRMAN noted that the Provisional Agenda was contained in L/7368, and proposed adding the following items to the Agenda: "Accession of Jordan" and "Understanding on the Interpretation of Article XXIV".

Mr. Shannon (Canada) proposed an additional item: "Australia - Import restrictions on salmon". The CHAIRMAN suggested that this matter be taken up under Item 2 of the Provisional Agenda, during consideration of Point 23 of the report of the Council.

The Agenda was adopted, as amended (L/7399).

### Order of Business

The CHAIRMAN drew attention to the Proposed Order of Business circulated in W.49/1 which gave an outline of the organization of work during the Session. He proposed beginning with the presentation of reports, followed by consideration of the request for accession by Jordan, general statements by contracting parties and consideration of the report of the Council, followed later by consideration of the proposal on the Understanding on Article XXIV, and finally the dates for the next regular Session and the Election of Officers.

The CONTRACTING PARTIES approved the Order of Business as proposed in W.49/1, as amended.

### Presentation of reports

Presenting the report of the Council (L/7376<sup>1</sup> and Add.1), its Chairman, Mr. Szepesi (Hungary), said that although the Council's work in the latter part of 1993 had been affected by the heavy workload associated with the crucial final phase of the Uruguay Round negotiations, it had nevertheless been possible to hold eight regular and twelve special meetings since the Forty-Eighth Session and to cover all basic matters that had been brought before the Council for examination and action. The priority of the Uruguay Round work in the late fall of 1993 had meant that a number of special trade policy review meetings and the 1993 overview of developments in international trade and the trading system, as well as the meeting to review the follow-up in GATT to the United Nations Conference on Environment and Development (UNCED) had had to be deferred to the early part of 1994. The past year had also been a year of change at the helm of the Secretariat. In June, the Council had paid tribute and bid farewell to Mr. A. Dunkel — who had headed the Secretariat for more than twelve years and had made an invaluable contribution to shaping the Final Act of the Uruguay Round — and had welcomed the appointment of Mr. P. Sutherland, the new Director-General, whose dynamism, tenacity and vision had contributed crucially to the successful conclusion of the Round. At the same time, three new Deputy Directors-General had been appointed, thus accomplishing a complete renewal of the senior leadership of the Secretariat. The Council had closely followed these developments in the course of the year.

While the Council's report was merely an outline of the issues covered since the Forty-Eighth Session, it gave a clear indication of the range and importance of the Council's activities during the year. The Council, as the governing body of the GATT and acting on behalf of the CONTRACTING PARTIES, had remained the forum to which governments brought their problems and took up issues arising from the day-to-day handling of their trade policies. Maintaining the trend of recent years, and which would appear to be soon reinforced, mutatis mutandis, with the implementation of the Uruguay Round results, the Council had also continued to play an important "management" rôle in overseeing activities in areas of responsibility such as the monitoring of the implementation of dispute settlement panel recommendations and the trade policy reviews of individual contracting parties.

A striking feature of the Council's activity in 1993 had been the very large number of requests for accession to the GATT, as well as for observer status, that had been addressed to it for action. In light of the growing number of both such requests the Council had, following extensive consultations over the past year, laid down complementary procedures to be followed in accession negotiations, as

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<sup>1</sup>A corrigendum was issued subsequently as L/7376/Corr.1.

well as stricter conditions for observer status, formally spelling out the intended link between granting of such status and the future accession of the government concerned. The establishment of such a large number of accession working parties was not only a recognition of the particular and increasing importance attached to the multilateral trading system, but also constituted a challenge to the CONTRACTING PARTIES. This was further underlined by the substantial changes the multilateral trading system would have to undergo with the implementation of the Uruguay Round results. It might be worthwhile for the CONTRACTING PARTIES to reflect in the period ahead on how best to reconcile the will of a number of countries to accede to the GATT and become thereafter members of the World Trade Organization (WTO) on the one hand, and the difficulties that might arise in some of these countries in adjusting immediately and fully their respective economic and trade policies to GATT standards on the other hand. If extremely lengthy, multi-year accession negotiations were to be avoided, traditional methods should perhaps be by-passed in certain cases and innovative approaches worked out.

An important aspect of the Council's work in the past year had continued to be its involvement in the dispute settlement process, in particular through its "monitoring" exercise referred to earlier. Apart from the lack of consensus regarding possible action on certain panel reports, the main problem in the dispute settlement area continued to be the failure on the part of some contracting parties to implement specific panel recommendations, or to do so only partially. The Director-General's most recent report to the Council on dispute settlement (C/186) had referred to several cases in which the implementation of panel decisions were still pending. In fact, many of those cases had been linked in one way or another to the results of the Uruguay Round. The successful completion of the Round, with important results in the different areas, should now allow contracting parties in breach of implementation to address the relevant panel recommendations in a new light. It could equally be hoped that the integrated dispute settlement mechanism agreed to as part of the final package of the Round would go a long way towards solving the problems and shortcomings in the functioning of the present system.

The Trade Policy Review Mechanism (TPRM) continued to be a major part of the Council's substantive work. Eleven reviews had been conducted since the Forty-Eighth Session. Six further reviews would be held in February and March 1994 to complete the 1993 programme of reviews. The TPRM was now, he believed, a well-established feature of the GATT. The Secretariat's reports, as well as governments' contributions, in most cases, continued to improve in quality and depth of analysis. Like his predecessors, he had continued to experiment with the structure of the review meetings in order to promote a more lively and focused debate on key issues of trade policy. There had been some success in this regard, in particular by finding a more important rôle for the discussants and by creating a more appropriate framework for a frank dialogue between Council members and the government under review. The implementation of the 1994 TPRM programme, together with the reviews overdue from the 1993 programme, would be an important task for the Council. In order to succeed, larger and more regular attendance, as well as more active participation by delegations in the review meetings would seem to be necessary. It was not the fine-tuning of the review procedures, but active participation and using the opportunities provided fully that would strengthen the credibility of the TPRM. Looking ahead beyond the very short term, the challenge for the future would be to develop the TPRM to take into account all the new policy issues included in the scope of the WTO without unduly taxing the process. This might require important adjustments in the structure of the reports and further improvement in the review procedures.

Also in 1993, the Council had witnessed the continuation of the trend towards the establishment of free-trade areas and regional trading arrangements. This was a significant phenomenon in international

trade, as illustrated both by the number and scope of the agreements as well as by the diversity of countries and regions involved. It would undoubtedly have a strong bearing on the course of future activities and operation of the multilateral trading system. The Council would continue to have to play a central rôle in the examination and review of such arrangements. In this connection, he recalled that his predecessor had flagged the need to review current procedures for the examination of these types of arrangements in the Council. The Uruguay Round Understanding on Article XXIV should provide an additional impetus for improvements and filling lacunae in this area. He mentioned, in this regard, as two of his predecessors had done, that the requirements for biennial reporting on developments in regional agreements had not been followed for quite some time, and that calendars for such reports had not been established by the Council since 1987. Regrettably, time constraints again had not allowed the Council to address this matter during the past year. He stressed the need for the Council to focus on this issue in the near future, which had acquired particular relevance in light of the increasing trend towards negotiations on customs unions, free-trade areas and regional arrangements, and the need to maintain consistency and unity between these arrangements and the multilateral trading system as a whole.

Another issue that had been raised by his predecessor as requiring the Council's attention concerned procedures for the derestriction of GATT documents. A review of the current procedures was necessary not only with a view to improving GATT's own working methods, but also because this had become an issue of image and public perception of the GATT. In this respect, substantial and useful progress had been made in consultations he had held during 1993, and the Council was nearing consensus on improved, streamlined and simplified derestriction procedures.

Previous Council Chairmen had also expressed their concern at the proliferation and semi-permanence of waivers requested for the implementation of the harmonized system tariff nomenclature, which had led to a kind of automaticity in waiver procedures that had been deplored on several occasions in the Council by a number of contracting parties. Progress had been made in 1993 on this matter, following a proposal by the Nordic countries which had been subsequently referred to the Committee on Tariff Concessions, and which had apparently led to a satisfactory understanding on this matter.

An important issue that would have to receive particular attention by the Council in the forthcoming period related to the interface between trade and environment. In view of the priority of the Uruguay Round negotiations at the time, the Council had decided to postpone its meeting designed to review the follow-up to the UNCED in GATT that had been scheduled for the fall of 1993. In the consultations that had led to this decision, delegations had emphasized that their preference to postpone this meeting did not imply that they were treating this matter in GATT as one of secondary importance. On the contrary, contracting parties continued to be, as stated by the Chairman of the Council at the Forty-Eighth Session, "determined that GATT should play its full part in ensuring that policies in the field of trade, the environment and sustainable development are compatible and mutually reinforcing".

Turning to an area that he said had no doubt become a source of concern to many Council members over the past years — the working practices of the Council — he reported that the Council had in the past year introduced more rigour and discipline in its proceedings, which augured well for the conduct of the work of the numerous bodies that would emerge under the new WTO. The progress thus achieved represented a modest beginning and would have to be adapted in the light of experience.

On another matter, he recalled that the Director-General had recently reiterated the urgent need to remedy the serious degradation of pension and salary conditions of the professional staff of the Secretariat and had begun a consultation process in this respect. It had been said then, and on other

occasions, that the question of the staff's conditions of service were very much linked to the outcome of the Uruguay Round. Conditions therefore now existed for the Director-General to work closely with the CONTRACTING PARTIES on this issue as part of a broader understanding on administrative, personnel, budgetary and financial matters that was expected to be put forward for consideration and approval by Ministers at the forthcoming Marrakesh Conference.

Another important outstanding question with administrative and budgetary ramifications was that of the need for adequate conference facilities for Council meetings. The large number of new contracting parties, new applicants and new Council observers in recent years, together with the more active participation of existing contracting parties in the Council's work, not to mention the creation of the new WTO, had further highlighted the urgency of providing such facilities in the very near future.

The CHAIRMAN informed the CONTRACTING PARTIES that the report of the Committee on Trade and Development (L/7328) would be presented at their next meeting.

The CHAIRMAN then drew attention to the following reports of the Committees and Councils charged with the implementation of the MTN Agreements and Arrangements: Committee on Trade in Civil Aircraft (L/7322), Committee on Technical Barriers to Trade (L/7294), Committee on Import Licensing (L/7313), International Dairy Products Council (L/7323), International Meat Council (L/7330), Committee on Government Procurement (L/7369), Committee on Anti-Dumping Practices (L/7315 and Corr. 1), Committee on Subsidies and Countervailing Measures (L/7318), and Committee on Customs Valuation (L/7324).

#### Accession of Jordan

##### — Communication from Jordan

The CHAIRMAN drew attention to the communication from Jordan (L/7378) concerning its interest in acceding to the General Agreement under the provisions of Article XXXIII.

Mr. Sharaf (Jordan), speaking as an observer, said that his Government's request for accession was an affirmation of its adherence to the principles of free trade and market economy, and an expression of its desire to participate fully in the GATT, the rôle of which in liberalizing and strengthening the multilateral trading system was both important and crucial. During its years as an observer to the GATT, Jordan had carefully examined its rules and principles. It had also been implementing measures aimed at the liberalization of its trade régime within the context of a structural adjustment programme initiated in 1988 and supported by the International Monetary Fund, the World Bank and Jordan's development partners. The structural adjustment programme aimed at correcting macroeconomic imbalances while maintaining a reasonable growth rate in a non-inflationary setting. To this end, policy measures included the tightening of monetary and fiscal policies, the pursuit of flexible interest and exchange rate policies, and liberalization of the trade régime. Trade-related measures included removing quantitative restrictions and bans, restructuring the tariff system, and abolishing import and export licensing. Jordan's application for accession testified to its commitment to further trade liberalization. Its accession would serve both its own interests and those of its trading partners. Jordan was prepared for a constructive dialogue during its accession process with interested contracting parties.

Mr. Bunnag (Thailand), speaking on behalf of the ASEAN countries, expressed support for Jordan's request and said that Jordan's accession would serve to enhance the universality of the GATT

system as well as to increase the opportunity for cooperation among governments in the context of the GATT.

Mrs. Ifestou de Paredes (Cyprus), welcoming Jordan's application, said that it coincided with the conclusion of the Uruguay Round negotiations which would provide greater liberalization and security to international trade relations. Cyprus and Jordan were neighbouring countries linked by traditional ties of friendship and cooperation, and her delegation fully supported the latter's accession.

Mr. El Gwinee (Egypt) welcomed Jordan's request. Egypt looked forward to the establishment of a working party and would participate effectively in it. Jordan, which was an important trading partner for Egypt, had been undertaking important structural reforms over the past few years which would further reinforce its economy. Egypt looked forward to furthering its commercial exchange with Jordan within the multilateral trading system as well as to furthering cooperation in the regional framework.

Mr. Gutiérrez (Peru) joined previous speakers in welcoming Jordan's request. The participation of Jordan in the GATT would contribute significantly to the universalization of the institution.

Mr. Ahmad (Pakistan) echoed previous speakers in welcoming Jordan's decision to seek accession, which represented an important step towards the creation of a truly universal trading system. Pakistan welcomed the prospect and looked forward to participating actively in the deliberations of the working party which it hoped and recommended could be established at the present Session.

Mr. Kumar (India) said that for reasons already mentioned by previous speakers, his delegation strongly supported Jordan's request.

Mr. Onaner (Turkey) expressed his delegation's strong support for Jordan's request. Turkey considered it important that Jordan had entered into this process not only in view of its significance as regards Turkey's foreign trade, but also because Turkey wished to see countries in its geographical proximity join in the multilateral trading system in the near future.

Mr. Ennaceur (Tunisia) said that Tunisia strongly supported Jordan's request, and asked that a working party to examine the request be established at the present Session.

Mr. Benhima (Morocco) said that Jordan's request was fully justified in view of the fact that its trade régime was broadly in conformity with GATT rules and principles. Morocco fully supported the request and welcomed the open spirit with which Jordan had approached its accession to the GATT.

The CONTRACTING PARTIES took note of the statements and agreed<sup>2</sup> to establish a working party with the following terms of reference and composition:

Terms of reference

"To examine the application of the Government of Jordan to accede to the General Agreement under Article XXXIII, and to submit to the Council recommendations which may include a draft Protocol of Accession."

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<sup>2</sup>L/7407.

### Membership

Membership would be open to all contracting parties indicating their wish to serve on the Working Party.

The CONTRACTING PARTIES authorized the Council Chairman to designate the Chairman of the Working Party in consultation with representatives of contracting parties and with the representative of Jordan.

The CHAIRMAN invited the representative of Jordan to consult with the Secretariat as to further procedures, in particular regarding the basic documentation to be considered by the Working Party. On behalf of the CONTRACTING PARTIES he also invited Jordan to attend meetings of the Council and its subsidiary bodies as an observer during the period when the Working Party was carrying out its work.

### Activities of GATT

The following general statements were made:

Mr. Alejandro de la Peña Ambassador, Permanent Representative of Mexico	SR.49/ST/1
Mr. Juan Carlos Sanchez Arnau Ambassador, Permanent Representative of Argentina	SR.49/ST/2
Mr. Seung Ho Ambassador, Permanent Representative of Korea	SR.49/ST/3
Mr. Mohamed Ennaceur Ambassador, Permanent Representative of Tunisia	SR.49/ST/4
Mr. William Rossier Ambassador, Permanent Representative of Switzerland	SR.49/ST/5
Mr. Miroslaw Somol Deputy Minister, Ministry of Industry and Trade of the Czech Republic	SR.49/ST/6
Mr. Ernesto Tironi Ambassador, Permanent Representative of Chile	SR.49/ST/7

### Report of the Council (L/7376 and Add.1)

The CHAIRMAN referred to the report of the Council of Representatives on its work since the Forty-Eighth Session (L/7376). A list of matters on which the CONTRACTING PARTIES were expected to take action had been circulated in L/7376/Add.1. He stressed that the report was not intended

to reflect detailed positions of delegations, since the Council Minutes contained such information and remained the record of the Council's work.

Point 2. Trade Policy Review Mechanism

Sub-point 2(b). Country Reviews

The CHAIRMAN recalled that the Decision of 12 April 1989 on the Functioning of the GATT System (BISD 36S/403, paragraph I.D.(vi)) provided for the reports by the contracting parties under review and by the Secretariat, together with the minutes of the respective Council meetings, to be forwarded to the next regular Session of the CONTRACTING PARTIES, which would take note of them. Accordingly, the relevant documents pertaining to the reviews of Romania, Poland, the Philippines, Bolivia, Mexico, the European Communities, South Africa, Malaysia, Kenya, India and Turkey were before the CONTRACTING PARTIES.

Mr. Abbott (European Communities) recalled that the Community had previously raised its concerns<sup>3</sup> on the issue of the frequency of reviews under the Trade Policy Review Mechanism (TPRM). The burden on the countries subject to review every two years was quite heavy. In view of the very large number of governments seeking accession, which would be an additional workload, and keeping in mind that there would inevitably be an increase in work across-the-board under the World Trade Organization, the Community believed it appropriate to bring this matter to the attention of the CONTRACTING PARTIES at this time, and to recall its proposal that a rhythm of three years for the first four trading entities, five years for the next sixteen, and seven years for the others would adequately meet the objectives of the CONTRACTING PARTIES and alleviate the problems for delegations. The Community proposed that informal consultations be undertaken by the Council Chairman to look into this matter.

Mr. Stoier (United States) noted that the Decision establishing the TPRM provided that the CONTRACTING PARTIES would review, and if necessary modify, the arrangements at the end of the Uruguay Round. The United States believed that such a review would be productive at this stage, and that it should draw on the experience of the past four years of TPRM reviews. Consultations to consider how the current programme of reviews might be improved should also be undertaken. In addition, the current mechanism and format of reviews might need updating in light of the broader responsibilities that the WTO would have. The review was not urgent, but informal consultations should be initiated to consider these issues with a view to reporting at an appropriate later date on how one might proceed.

Mr. Manhusen (Sweden), speaking on behalf of the Nordic countries, recalled that the Decision on the TPRM had been one of the first substantial results of the Uruguay Round. Experience with these reviews had been very good and the Nordic countries welcomed the fact that this mechanism would form part of the future WTO work. In the preparation of the often very comprehensive reports for the reviews, it was important to bear in mind that the function of the review mechanism was to focus clearly on and to examine the impact of a contracting party's trade policies and practices on the multilateral trading system. During the course of the TPRM reviews, the Nordic countries had on several occasions underlined the importance of giving all delegations the possibility of studying the reports well in advance of the review. Unfortunately, this had not always been the case, and on several

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<sup>3</sup>See C/M/258.



occasions reports had been made available only a very short time before the review. In order to have as fruitful a discussion as possible, the Nordic countries considered it important to receive views and comments from their embassies and other relevant parties, which had to be given the opportunity to study the reports and provide comments. The Nordic countries therefore wished to stress once again the importance of providing reasonable time to study the reports, and believed that some flexibility in fixing the dates of the reviews would perhaps alleviate the situation. Regarding the frequency of reviews, the Nordic countries believed that, given the increasing number of contracting parties and the fact that several countries would already in 1994 be under review for the second or even third time, the moment had come to consider this question once again. It seemed evident that unless something was done, the number of reviews in the coming years would increase to such an extent that the workload both for the Secretariat and for contracting parties would become too heavy.

Mr. Kenyon (Australia) said that the TPRM was the earliest outcome of the Uruguay Round negotiations and a particularly important element of the GATT's work and of the future WTO. While Australia would participate in any discussion and review of this question in the future, it had some concerns about reducing the frequency of review particularly for those contracting parties the trade policies of which had a great impact on the rest of the trading environment that others had to work within. If there was a problem relating to the timing with which contracting parties received the reports to be discussed, this should be perhaps addressed in the context of the resources that would be available to the WTO in the future, rather than to give consideration to lengthening the period between which individual countries, particularly those in the first or the second group, had their trade policies reviewed.

The CHAIRMAN said there appeared to be a general desire that informal consultations be held by the Council Chairman on the issue of frequency of reviews as well as on issues relating to widening the scope of the TPRM reviews to other areas.

The CONTRACTING PARTIES agreed that the Council Chairman should hold informal consultations on the issue of frequency of reviews under the TPRM and the extension of the scope of the reviews thereunder to other areas. The CONTRACTING PARTIES then took note of the reports by the contracting parties under review and by the Secretariat.

Point 4. Trade in Textiles  
— Report of the Textiles Committee

The CHAIRMAN drew attention to the report by the Committee on its meeting of 9 December 1993 (COM.TEX/76).

The Director-General, Chairman of the Textiles Committee, introduced the Committee's report on its annual review of the operation of the Multifibre Arrangement (MFA) as extended by the 1986 Protocol (BISD 33S/7), and as maintained in force by the 1992 Protocol (L/7159). At its meeting, the Committee had also concluded its discussions on the future of the MFA, and had decided to extend the MFA and the 1986 Protocol for a further twelve-month period to 31 December 1994. Annexed to the Committee's report were the texts of the new Protocol maintaining in force the MFA and the 1986 Protocol, as well as the Decision by the Committee in this regard. With respect to the membership of the Textiles Surveillance Body (TSB) for the year beginning 1 January 1994, the Committee had decided that the TSB would be composed of members designated by Canada, China, the European Economic Community, Hong Kong, Japan, Norway, Pakistan, Thailand, the United States and Uruguay. The Committee had accepted a request by the representative of Chinese Taipei for observer status in the Committee. The Committee had also carried out the mandatory requirement of Article 10:5 of

the MFA that it "meet not later than one year before the expiry of this Arrangement to consider whether the Arrangement should be extended, modified or discontinued", although there had been no discussions on the future of the Arrangement at that meeting.

The CONTRACTING PARTIES adopted the report of the Textiles Committee (COM.TEX/76).

Point 23. Recourse to Articles XXII and XXIII

Sub-point (e)(iii). United States - Legislation concerning the use of imported tobacco by domestic cigarette manufacturers

The CHAIRMAN recalled that at its meeting in December, the Council had considered a request by Brazil, Chile, Colombia, El Salvador, Guatemala, Thailand and Zimbabwe for the establishment of a panel to examine this matter, and had referred it to the CONTRACTING PARTIES at the present Session for further consideration.

Mr. Lampreia (Brazil), speaking on behalf of Chile, Colombia, El Salvador, Guatemala, Thailand and Zimbabwe, said that Section 1106 of the United States' Omnibus Budget Reconciliation Act of 1993, which amended the US Agricultural Adjustment Act of 1938 in order to protect domestically-produced tobacco from international competition, was contrary to the letter of the General Agreement and adversely affected exports of tobacco to the US market. The Act violated several GATT provisions, including Article III, paragraphs 1, 2, 4 and 5, and Article VIII, paragraph 1. It established a 75 per cent local-content requirement on tobacco used in the manufacture of cigarettes, as well as penalties for non-compliance. The Act also included three assessments on raw tobacco imports: a fee on imports of flue-cured and burley tobacco to fund the domestic price support programme; an inspection fee to be levied on imported tobacco; and a marketing assessment fee to be paid by importers of flue-cured and burley tobacco. Article XXIII:1 consultations with the United States had regrettably not resulted in a satisfactory solution. Their countries therefore requested the establishment of a panel pursuant to Article XXIII:2 and in accordance with the 1989 dispute settlement procedures (BISD 36S/61) to examine, in light of the information contained in documents DS44/1, 2 and 5, the GATT conformity of the US legislation, the nullification or impairment of benefits accruing to their countries under the General Agreement, and any other implications on their tobacco exports.

Mr. Gosselin (Canada) recalled that, at the December Council meeting, his delegation had expressed concern that the US tobacco legislation threatened severe damage to Canada's tobacco-growing industry. In the light of the failure of consultations with the United States to result in a satisfactory resolution of the dispute, Canada had indicated that it would be carefully considering its own options in this matter. Having fully reviewed these options, Canada had decided to request that a panel be established also to rule on the issues raised by Canada during the course of its consultations with the United States. A description of these issues was contained in Canada's formal request for a panel, which had recently been submitted for circulation (DS44/6 and Corr.1).

Mr. Brotodiningrat (Indonesia), speaking on behalf of the ASEAN countries, said that the US legislation was indeed in breach of several GATT provisions, mainly — but not restricted to — Articles III:1, III:2, III:4, III:5 and VIII:1. There was no need to elaborate in detail on the fact that this legislation had adverse effects on tobacco exports to the United States. Given that this matter had been discussed at some length and that no progress had been achieved thus far, the ASEAN countries supported the request for a panel by Brazil, Canada, Chile, Colombia, El Salvador, Guatemala, Thailand and Zimbabwe.

Mr. Bisley (New Zealand) said that in the context of New Zealand's general support for an effective system for the prompt settlement of disputes in the GATT, New Zealand supported the requests for a panel and wished to reserve its rights to make a third party submission.

Mr. Abbott (European Communities) said that the Community also supported the establishment of a panel, and reserved its rights to make a submission thereto. The Community had an interest in this matter both in terms of principle and in terms of trade.

Mr. Yerxa (United States) said that the United States would not object to the establishment of a panel.

The CONTRACTING PARTIES agreed to establish a panel with the following terms of reference:

"To examine, in the light of the relevant GATT provisions, the matters referred to the CONTRACTING PARTIES by Brazil, Canada, Chile, Colombia, El Salvador, Guatemala, Thailand and Zimbabwe in DS44/5 and DS44/6 and Corr.1, and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided for in Article XXIII:2".

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

#### Australia - Import restrictions on salmon

Mr. Gosselin (Canada) said that on 24 January, Canada had requested Article XXII:1 consultations with Australia regarding Australia's Quarantine Proclamation 86A of February 1975, which prohibited imports of flesh, live fish, semen and ova of salmonids, i.e., salmon and trout. Canada believed that the prohibition was inconsistent with Australia's GATT obligations, including Article XI:1. Canada had unsuccessfully attempted to resolve this issue in consultations since 1975. It hoped that the Article XXII:1 consultations would result in a mutually satisfactory resolution to this impediment to market access.

Mr. Kenyon (Australia) noted that the request for consultations by Canada had only been made on 24 January. For its part, Australia remained ready to participate in the consultations.

#### Point 25. Customs unions and free-trade areas; regional agreements

##### EFTA - Hungary Free-Trade Agreement

Mr. Heikinheimo (Finland), speaking on behalf of the EFTA countries and Hungary, drew attention to communications recently circulated by Austria on behalf of the EFTA countries and Hungary in documents L/7360/Rev.1 and L/7360/Add.1, which provided information on the EFTA-Hungary Free-Trade Agreement.

The CONTRACTING PARTIES agreed to establish a working party with the following terms of reference and composition:

Terms of reference

"To examine, in the light of the relevant provisions of the General Agreement, the EFTA - Hungary Free-Trade Agreement, and to report to the Council".

Membership

Membership would be open to all contracting parties indicating their wish to serve on the Working Party.

The CONTRACTING PARTIES authorized the Council Chairman to designate the Chairman of the Working party in consultation with the delegations principally concerned.

EFTA - Poland Free-Trade Agreement

Mr. Heikinheimo (Finland), speaking on behalf of the EFTA countries and Poland, drew attention to communications recently circulated by Austria on behalf of the EFTA countries and Poland in documents L/7372 and Add. 1 and Corr. 1, which provided information on the EFTA-Poland Free-Trade Agreement.

The CONTRACTING PARTIES agreed to establish a working party with the following terms of reference and composition:

Terms of reference

"To examine, in the light of the relevant provisions of the General Agreement, the EFTA - Poland Free-Trade Agreement, and to report to the Council".

Membership

Membership would be open to all contracting parties indicating their wish to serve on the Working Party.

The CONTRACTING PARTIES authorized the Council Chairman to designate the Chairman of the Working Party in consultation with the delegations principally concerned.

Point 26. Waivers under Article XXV:5

Sub-point 26(c). Harmonized System

The CHAIRMAN recalled that the requests for waivers by Costa Rica, El Salvador, Guatemala and Nicaragua, in connection with their implementation of the Harmonized System, had been considered by the Council in December and had been forwarded to the Session for further consideration. It was his understanding that consultations on these requests had taken place and that contracting parties were now in favour of granting the waivers. Accordingly, he drew attention to the draft decisions contained in documents C/W/772 - Costa Rica, C/W/773 - El Salvador, C/W/780 - Guatemala, and C/W/781 - Nicaragua, and proposed that they be adopted.

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.

The Decisions were adopted as follows, with 77 votes each in favour and none against: Costa Rica (L/7348); El Salvador (L/7349); Guatemala (L/7355); Nicaragua (L/7356).

Point 29. Interpretation of Article XXXV

The CHAIRMAN said that while the proposal by the United States concerning this matter had been raised at the Council meeting in December and referred to the Session for further consideration, it was his understanding that the United States did not wish to have its proposal considered at the present time. Accordingly, he proposed that the CONTRACTING PARTIES agree to refer this matter to the Council for further consideration.

The CONTRACTING PARTIES so agreed.

Point 34. International Trade Centre UNCTAD/GATT

Sub-point 34(b). Appointment of a new Executive Director

The Director-General recalled that for the past two years the International Trade Centre (ITC) had faced growing uncertainty because of the failure to appoint an Executive Director, a situation that had created considerable difficulties for the ITC and its work programme. This was particularly unfortunate in view of the ITC's task of providing effective practical assistance to developing countries in the area of trade promotion and expansion, assistance that was all the more important now for countries that wished to take advantage of the opportunities opened up by the Uruguay Round. The difficulties had also given rise to considerable frustration among a number of the principal donor countries that had urged an early appointment of a new Executive Director at the appropriate level if their future support for the ITC was to be secured. He had raised this matter with the United Nations Secretary-General in 1993, and had requested the latter to review the UN Secretariat's position in view of the strong wish of the CONTRACTING PARTIES and the UN General Assembly that the appointment of the Executive Director be made at the level of Assistant Secretary-General (ASG). The Secretary-General had subsequently commissioned his own review of ITC programmes and administrative practices and had endorsed the conclusions of the review, including agreement to the appointment of a first class manager with a background in trade promotion at the ASG level. He added that earlier in the month, he had held further discussions with the Secretary-General on the procedure that should now be followed regarding the appointment of an Executive Director. He had been particularly concerned that the joint partnership between the GATT and the UN, acting through UNCTAD, should function effectively so as to reach a speedy decision. He had also been concerned to ensure that the procedure to be followed would reflect the fundamental principle that appointments be based solely on merit and that the best qualified person among the interviewed candidates would be appointed. Consequently, on 13 January, he had proposed to the Secretary-General that they both agree to delegate their powers to decide on the appointment to two representatives who, within the next 30 days, would conduct the interviews and, having regard to the already agreed criteria, decide jointly on the best person among the candidates that had been announced at the meeting of the Joint Advisory Group on 8-11 November 1993. Both of them would also agree in advance to support the conclusion to be reached jointly by their representatives. The Secretary-General had been favourably disposed to the procedure whereby the

candidates would be interviewed by their two representatives but had wished to reflect further on other aspects of the proposal. He hoped that a positive response to his proposal would shortly be forthcoming so that early action could be taken to appoint a new Executive Director and thus enable the ITC to provide an effective service in the interests both of developing country users and the donor countries. If, however, it proved not to be possible to resolve the matter satisfactorily between then and the first Council meeting of the year, the ITC would face an even more critical situation which would have to be addressed by the CONTRACTING PARTIES sooner rather than later. Since the ITC had originally been established under the auspices of the GATT, he believed that contracting parties had a particular responsibility to ensure that developing countries were not deprived of the potentially invaluable service it had been able to provide in the past.

Mr. Manhusen (Sweden), speaking on behalf of the Nordic countries, said that this matter had been of great concern to them. With the agreement to appoint a new Executive Director at the ASG level, the management crisis at the ITC would now hopefully come to an end. After many ordeals, it should now finally be possible to appoint a competent person quickly to head the ITC, an organization which the Nordic countries had traditionally supported and were major donors to. The procedure to appoint the right person should safeguard transparency and equal treatment of the candidates. The Nordic countries wanted the most qualified person for the job, and believed that contracting parties should be properly notified and informed of the situation, and of the possibility to present candidates. The Director-General had the strong support of the Nordic countries in taking the necessary steps to appoint the most competent candidate. If agreement could not be reached on the procedure to achieve this goal then, in order to ensure a more rational use of scarce financial resources, there would be a need to consider alternative approaches to the current arrangements on joint governance of the ITC by the GATT and the UN acting through UNCTAD.

The CHAIRMAN said that this matter would need to be pursued between then and the next Council meeting, and hoped that the Director-General would keep contracting parties informed of developments through the Council.

Point 38. Procedures for the derestriction of GATT documents

The CHAIRMAN recalled that in presenting the report of the Council to the CONTRACTING PARTIES, the Council Chairman had indicated that substantial and useful progress had been made in consultations held on this matter in 1993 and that the Council was nearing consensus on improved, streamlined and simplified derestriction procedures. In light of this, he proposed that the CONTRACTING PARTIES agree to invite the present Council Chairman to continue the consultations he had been conducting and to report to the Council.

The CONTRACTING PARTIES so agreed.

The meeting adjourned at 6 p.m.