

**GENERAL AGREEMENT  
ON TARIFFS AND TRADE**

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COUNCIL  
22 February 1994

**MINUTES OF MEETING**

**Held in the Centre William Rappard  
on 22 February 1994**

Chairman: Mr. M. Zahran (Egypt)

**Review of work under way in the GATT relating to the follow-up  
to the United Nations Conference on Environment  
and Development (UNCED)**

The Chairman opened the Council meeting by welcoming Grenada as the one-hundred-and-sixteenth contracting party. He also welcomed Bahrain, Brunei Darussalam and Paraguay as Council members, following their requests.

He recalled that at their Forty-Eighth Session in December 1992, the CONTRACTING PARTIES had agreed that the Council should hold a meeting to review, and as necessary supplement, the work under way in the GATT relating to the follow-up to the United Nations Conference on Environment and Development (UNCED), undertaken by the Committee on Trade and Development (CTD) and the Group on Environmental Measures and International Trade (EMIT). The CTD had been invited by the CONTRACTING PARTIES to examine, within the scope of its terms of reference, those matters raised by the UNCED in the context of promoting sustainable development through trade liberalization (Agenda 21, Chapter 2: Introduction and Section A). The EMIT Group had been asked, within the scope of its terms of reference, to examine the propositions and principles enumerated in Chapter 2: Introduction and Section B of Agenda 21. In their decision, the CONTRACTING PARTIES had noted that, in respect of matters raised by Chapter 2.22(a), (b), (h) and (k) of Agenda 21, the Council, in discharging the responsibilities of the CONTRACTING PARTIES between Sessions, was the responsible GATT body for matters relating to inter-institutional and other external relations.

The CONTRACTING PARTIES had agreed also that the CTD and the EMIT Group should contribute to the Council's review by reporting on the progress they had made. These reports had been made available as documents COM.TD/W/509, Let/1870, TRE/12, 13 and 14 plus Corr.1, and L/7402. He drew attention also to a draft report prepared by the Secretariat (Spec(94)5) in response to a request by the United Nations Under-Secretary-General for Policy Coordination and Sustainable Development for information to assist in the preparation of a consolidated report for a meeting of the Commission on Sustainable Development (CSD) scheduled to be held in May 1994, which would, inter alia, assess the progress achieved in the implementation of the relevant chapters of Agenda 21.

The representative of the European Communities said that the Secretariat's report in Spec(94)5 was an objective and comprehensive synthesis of the work carried out in the GATT on the follow-up to UNCED, and a factual reflection of the range of contracting parties' positions. The Community believed that the conclusion of the Uruguay Round, which was the GATT's most obvious and immediate

contribution to the UNCED follow-up, responded to Agenda 21, Chapter 2.10(e), and that the rôles of the CTD and the EMIT Group had been complementary and had provided the analytical framework for future work in this area.

As regards the work of the CTD, the Community emphasized the concept of sustainable development, which entailed taking into account the needs of the current generation as well as subsequent generations, especially the poorest, and it recognized the need for universal access to the transfer of "green" technologies to developing countries. Although the latter was a matter for other fora, GATT had to consider this concept in its work. The Community viewed international cooperation in the area of trade and environment as the establishment of a relationship between the GATT and multilateral environmental agreements so as to eliminate any contradictions between defending the values of the multilateral trading system and the adoption of individual or collective measures to protect the environment. The concept of equity meant defining an equitable burden-sharing of the costs of protecting the environment so as to take into account joint but differing responsibilities given differing levels of development. With respect to Part IV of the GATT, he noted that the drafters of Agenda 21 had foreseen that the industrialized countries would adopt higher standards while developing countries would limit themselves initially to lower environmental standards. However, developing countries would have to accept gradually increasing responsibilities, with suitable transitional phases, in accordance with an increase in their level of development. Concerning the work of the EMIT Group, the Community emphasized the need to carry out operational work in any future committee on trade and environment. In this connection, the Community's priority would be to orient work towards a collective interpretation of Article XX. With respect to the description in Spec(94)5 of the environment-related provisions in agreements resulting from the Uruguay Round, he said that specific mention should be made of the Decision on Sanitary and Phytosanitary Measures in paragraph 11. It seemed appropriate also to employ more neutral wording in this paragraph in order to reflect the environmental rôle of agriculture in maintaining the rural environment, particularly in the more impoverished areas.

The Community believed that the GATT had reached the end of an exploratory stage in the area of trade and environment. The work programme in this area, to be adopted at the forthcoming Marrakesh Ministerial meeting, would be an extension of the Decision of the Uruguay Round Trade Negotiations Committee (TNC) on Trade and Environment adopted on 15 December 1993 (MTN.TNC/40, Annex 2). In this context, he indicated three areas of concern for the Community, without wishing to prejudge the results of the consultations on a work programme. First, on the institutional aspect, the GATT had become aware that trade and environmental policies could and should promote sustainable development. As such, the creation of a committee on trade and environment would respond to expectations that this should be an ongoing concern in the policymaking process of the contracting parties. The Community considered that, while awaiting the formal establishment of a committee after the entry into force of the WTO, work should commence immediately following the Marrakesh Ministerial meeting on an interim basis. Second, regarding substantive aspects, the TNC Decision provided a suitable basis for a decision by Ministers. He suggested that it might be necessary to draw a distinction between the "terms of reference" and an "agenda" which would evolve but should initially be defined at the Marrakesh meeting. The initial agenda should extrapolate from the work of the EMIT Group, but should also meet the expectations of developing countries which had been expressed in the report of the CTD. Third, with regard to transparency and public concern regarding the environment, it was essential to illustrate that the GATT was embarking upon a stage of harmonizing the interface between international trade and the environment from the perspective of sustainable development. He noted that many delegations at a recent United Nations Environment Programme (UNEP) informal meeting on trade and environment had considered that it was necessary to define the scope of competence of the GATT and other international organizations. In this respect, it was essential that the GATT be present in every area within its competence while bearing in mind the contractual nature of the relations which bound its member countries. The Community considered it preferable for the GATT to define its rôle rather than allow it to be imposed by UNEP, the United

Nations Conference on Trade and Development (UNCTAD) or the CSD. In addition, the concept of transparency should be defined with respect to non-governmental environmental organizations (NGOs). Despite the fact that there was no question of NGOs participating in the GATT negotiations, the need to inform them and consider their suggestions, especially at the national level, should be recognized. With respect to the transparency of GATT's work, the Secretariat could play an intermediary rôle and thereby avoid the need for direct interaction between NGOs and contracting parties. The Secretariat could, on its own initiative, organize meetings not only for environmental NGOs but also for industrial organizations and consumer associations. In this respect, the Community supported the organization of a symposium on trade and environment following the Marrakesh Ministerial meeting.

The representative of New Zealand said that the successful conclusion of the Uruguay Round had met one of the main recommendations of governments at the UNCED for international cooperation to promote sustainable development through trade. While trade and environment had not been specifically on the agenda of the Round, a number of its results either explicitly dealt with the environment or provided for the possibility of environmental enhancement through progressive reductions of distortive subsidization and protectionism. As the reports from the EMIT Group and the CTD showed, contracting parties had already expended a considerable amount of time and effort exploring in depth a number of issues concerning the trade and environment interface, and had reached a better understanding of them. The TNC Decision had been a demonstration of contracting parties' commitment to address these issues across the GATT and the World Trade Organization (WTO) system as a whole, which would be further reflected in the work programme to be agreed at the Marrakesh Ministerial meeting.

Given that the General Agreement was a contract between governments, each government had a national responsibility under Chapter 2.22(k) of Agenda 21, and in the light of country-specific conditions, to ensure public input in the formation, negotiation and implementation of its trade policies as a means of fostering increased transparency. At the international level, the GATT had taken steps to ensure cooperation with other institutions involved in activities relevant to trade and environment by providing for observership. His delegation applauded the Director-General for his initiative to organize a symposium on trade, environment and sustainable development early this summer, pursuant to Chapter 2.22(b) of Agenda 21, to help promote a dialogue among the trade, environment and development communities. New Zealand supported the draft Secretariat report to the CSD which would make more widely known the scope, nature and progress of the GATT's work. His delegation had taken an active rôle in the GATT's work on trade and environment and would remain committed to ensuring that the GATT and the WTO played their rôle in promoting sustainable development.

The representative of Austria said that substantive work on trade and environment had been achieved, as demonstrated by the reports of the CTD and the EMIT Group. Also, the TNC Decision had provided a framework for elaborating a work programme for the future WTO. Since other fora were also taking up this subject, an enhanced exchange of information between them should be promoted. Austria did not believe that the trade and environment interface was only a matter for experts, and welcomed initiatives to demonstrate to the public that both environmental protection and international trade served complementary objectives of securing a safer, healthier, more satisfying and richer existence for humanity. In this regard, Austria supported the proposed symposium on trade and environment. The multilateral trading system, as represented by the GATT, had contributed to prosperity, individual freedom and better international relations and, as such, the GATT and the WTO should provide tools for enhancing the protection of the global environment while maintaining a firm stance against protectionism.

The representative of Thailand, speaking on behalf of the ASEAN countries, said that the follow-up to the UNCED formed an important part of the GATT's debate on trade and environment, and that the present meeting provided an opportunity to review the relevant work carried out by the CTD and the EMIT Group. The work of these bodies had complemented the results of the Uruguay Round,

which could be seen as the most significant contribution the GATT could have made to the UNCED follow-up. The reports by the CTD and the EMIT Group presented a comprehensive picture of their work relating to the UNCED follow-up, within the scope of their agendas, and provided a useful basis for future work in this area. There was no doubt that the GATT's analytical exercise in this regard had evolved in a direction which aimed to accelerate sustainable development in developing countries through trade liberalization and to make trade and environment mutually supportive.

He reiterated that the ASEAN countries attached importance to the principles and guidelines embodied in the Rio Declaration and Agenda 21. It was imperative, in their view, to reinforce the momentum achieved by the UNCED through cooperation at the national, regional and international level in order to ensure that environment, development and trade policies could proceed in a harmonious and efficient manner. With respect to international cooperation, governments could contribute to the goal of making trade and environment policies mutually supportive by adhering to UNCED principles and recommendations in the design and implementation of trade measures relating to environment and supporting the work of the GATT and the WTO, as well as other relevant international and regional organizations, in making those policies operational.

With regard to the UNCED goal of accelerating sustainable development in developing countries, the improvement of market access for developing country exports was crucial and was also stipulated in the provisions of Part IV of the GATT. The ASEAN countries shared the view in paragraph 24 of Spec(94)5 that "these provisions needed only to be implemented without awaiting any renegotiation or interpretation of Part IV". Also, as stated in paragraph 19 of that document, access to environmentally-sound technologies as well as resources required to protect the environment in developing countries needed to be ensured. At the same time, the principles and recommendations in Agenda 21, Chapter 2.22, which formed the basis for the work on the UNCED follow-up in the EMIT Group, should be observed and implemented at the national level. In particular, Chapter 2.22(i) called for the avoidance of unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country and for the application of principles of, among others, non-discrimination, least trade-restrictiveness, transparency, and consideration to the special conditions and developmental requirements of developing countries. The ASEAN countries believed that a genuine climate of cooperation had to be maintained and the integrity of the multilateral trading system preserved so as to build the mutual trust necessary for common efforts to achieve sustainable development.

The representative of Argentina said that following the Marrakesh Ministerial meeting, the CONTRACTING PARTIES would be in a position to show the international community concrete results regarding one of the objectives in Chapter 2 of Agenda 21, namely, the conclusion of the Uruguay Round, which fulfilled the provisions of Agenda 21, Chapter 2.10(e). The work carried out thus far in the GATT, both in the EMIT Group and the CTD, constituted a point of departure for the work to be undertaken in the WTO. Argentina wished to underline the importance of avoiding the duplication of work, as mentioned in Agenda 21, Chapter 2.21(b). In this connection, some of the issues that had been outlined in paragraph 26 of Spec(94)5 might duplicate work being undertaken in other bodies such as UNCTAD, in particular concerning the improvement of market access for environmentally-friendly products from developing countries, and the development of ways in which developing countries could take advantage of positive environmental action to increase trade. In this regard, he noted that the UNCTAD was implementing a programme to increase the use of, and the trade in, environmentally-friendly products. There might also be duplication with the UNCTAD in the collection and monitoring of environmental data.

As regards the concept of "eco-dumping", he said that it was an erroneous term as it referred to implicit subsidies resulting from government policies. As such, there was no GATT rule which authorized the application of trade sanctions for differences in costs arising from differences in environmental standards. Where such differences existed, Argentina believed that the solution should

not be the application of sanctions, but cooperation with a view to improving environmental standards. On transparency, he said that the idea of *ex ante* notification of environmental regulations with trade implications, noted in paragraph 45 of the EMIT Group's report (L/7402), should be included in the Secretariat's report to the CSD. With regard to Agenda 21, Chapter 2.22(b), which recommended the promotion of a dialogue between the trade, development and environment communities, his delegation supported the proposed symposium on trade and environment. The participation of environmental experts and NGOs would enhance mutual understanding and dissipate the image of the GATT as an organization which ignored views other than those raised in its forum. NGOs could make an important contribution at this symposium, which would contribute to greater transparency on this complex issue.

The representative of Australia agreed with previous speakers that the GATT had already made a substantial contribution to the UNCED follow-up by successfully concluding the Uruguay Round. The preamble to the WTO was evidence of the CONTRACTING PARTIES' recognition of the need to allow for the optimal use of world resources in accordance with the objective of sustainable development, and several agreements negotiated under the Round made explicit reference to the environment. Australia believed that Agenda 21 provided an important benchmark for the continuation of work in the GATT, and recognized that further work needed to be done on some outstanding issues, particularly in relation to the objectives under Agenda 21, Chapter 2.21.

The GATT's involvement in the trade and environment debate had been an important development for all contracting parties. Australia, for its part, had been required to make shifts in its policy objectives to account for this new dimension of international trade. It had established an extensive mechanism to promote a dialogue between the trade, development and environmental communities, under which formal and informal meetings were held regularly to keep these communities informed of developments in the GATT, the OECD and UN bodies involved with the environment. Australia supported the Secretariat's proposal to initiate contact with NGOs, and believed that these organizations could be involved in the process in a way that followed OECD procedural guidelines. However, it remained opposed to NGOs being involved directly in intergovernmental discussions in the WTO.

Referring to the need to define the GATT's rôle in relation to other UN bodies which were taking an interest in trade and environment, Australia agreed with the Community that there was a clear rôle for the GATT to look at the conditions under which its existing rules could be applied in the pursuit of environment and sustainable development objectives. There was also a rôle for expert input from the UNEP, for example, in the GATT and the WTO work, particularly in the area of standards, in examining the scientific justification for trade measures taken for environmental purposes and in examining the proliferation of voluntary eco-labelling systems.

The representative of India recalled that the decision to hold the present meeting of the Council had been taken, in part, to counter the growing public misperception that the GATT was not doing enough to address the trade and environment interface. Although the circumstances were now different, the present meeting served an important purpose at a time when there was heightened interest, prior to the Marrakesh Ministerial meeting, in how the GATT was addressing this issue, and it indicated the GATT's commitment to fulfil its UNCED mandate. It was important to underline also that work in the GATT relating to the UNCED follow-up was an on-going process, as had been made clear by the TNC Decision.

The reports of the EMIT Group and the CTD were balanced and comprehensive accounts of their work, and recorded the significant analytical progress that had been made in understanding the issues. His delegation broadly supported the Secretariat's report to the CSD, particularly the reference to the beneficial effects that might flow from the successful conclusion of the Uruguay Round, and would caution others against making drafting suggestions, given that the report was not a negotiated document. With regard to Agenda 21, Chapter 2.22(b), which concerned the promotion of a dialogue

between the trade, development and environment communities, India believed that the Secretariat should be the vehicle for performing this rôle, and noted with satisfaction that a symposium was being planned in early summer. Regarding the principle of ensuring public input in the formation, negotiation and implementation of trade policies as a means of fostering increased transparency, the country-specific element meant that this needed to be done by national governments, taking into account domestic concerns and priorities. His delegation supported Australia's view in favour of not associating NGOs in the GATT's work, as the General Agreement was a contract among national governments. India considered that the TNC Decision, in conjunction with Agenda 21, provided a basis for future work in the GATT in the area of trade and environment.

The representative of Canada joined previous speakers in supporting the attention given by the Council to the follow-up to the UNCED, which illustrated the commitment of the CONTRACTING PARTIES in this area. Canada had played an active rôle in the preparations for the UNCED, and was committed to the realization of the goals expressed. Canada had made important strides in ensuring that its policies were consistent with and supported the UNCED objectives, including making trade and environment a high priority in its domestic and international policies, and in the dialogue in Canada with the NGOs and the business community. He reiterated that the UNCED follow-up in the GATT should be pursued on two levels. Firstly, the key UNCED principles should be fully reflected in the GATT's treatment of trade and environment issues. Secondly, the specific trade-related issues identified in Agenda 21 must be addressed. The work done by the EMIT Group and the CTD provided excellent reference points from which to make the transition to a work programme in the WTO. The GATT had been quick to recognize the importance of UNCED issues within the world trading system, and it was a measure of the sensitivity of the CONTRACTING PARTIES to these issues that the EMIT Group had been activated six months before the UNCED and that the three items on its agenda addressed many of the issues outlined in Chapter 2.22 of Agenda 21. The UNCED had stressed the importance of cooperation and partnership between the developed and developing countries in order to forge a consensus on environment and development issues, and Canada believed that the EMIT Group had performed a useful rôle in this regard.

The UNCED had also affirmed the importance of an open multilateral trading system, and the successful conclusion of the Uruguay Round was an important contribution in this regard. He emphasized that efforts would have to be continued within the mandate and competence of the GATT and the WTO to promote sustainable development. He noted that the CONTRACTING PARTIES were currently engaged in the finalization of a work programme for pursuing the trade and environment agenda in the post-Uruguay Round context, in which UNCED follow-up was a key part. Canada believed it was important to communicate to the outside world that the relationship of trade to the environment was a central issue in the GATT, and that much good work was being done on UNCED follow-up and to further the goal of sustainable development. Canada welcomed the content of the Secretariat's draft report to the CSD, and hoped that the NGOs, the business community and national governments would continue to debate trade and environment issues with a view to forming national policies. Canada also welcomed the Secretariat's proposed symposium on trade and environment.

The representative of Colombia said that the Secretariat's draft report in Spec(94)5 reiterated the determination of the CONTRACTING PARTIES to orient their work on trade and environment on the basis of two essential elements which had emerged from the UNCED. First, that international cooperation was the only way of dealing with the supranational dimension of the relationship between environmental measures and international trade. Second, that sustainable development was the primary objective of trade, which underlined that trade was not an end in itself but a means to achieve that objective. In this respect, the report had emphasized that the greatest contribution made by the CONTRACTING PARTIES to furthering UNCED objectives was the successful conclusion of the Uruguay Round. Whether or not this would indeed further the UNCED objectives, however, would depend on its application, particularly with regard to market access for exports from developing countries.

As the report had noted, for developing countries, where poverty was the primary policy preoccupation and the most important obstacle to better environmental protection, global trade liberalization, coupled with financial and technological transfers, was essential for promoting sustainable development.

The work in the EMIT Group and the CTD had provided a foundation on which to deal with the interrelationship between trade rules and environmental measures, within the limits of the GATT's competence, i.e. the formulation of rules which maintained trade liberalization and market access. A WTO work programme on trade and environment would benefit from the discussion on these issues in the GATT which had been agreed by consensus. However, his delegation noted that some issues mentioned in the reports of the EMIT Group and the CTD had been advanced by single and sometimes isolated delegations. The reference, for example, to "eco-dumping" did not convince Colombia of the economic rationale which this concept supposedly embodied, nor the relevance and form in which it could be dealt with in the GATT. In this respect, the work programme to be agreed at the Marrakesh Ministerial meeting should reflect those issues upon which there was a clear consensus, with the objective of strengthening the multilateral trading system. The work in the GATT had shown that it was dealing with the environment issue, contrary to the perception in some circles. Nevertheless, dealing responsibly with this issue did not mean changing the GATT's scope, nor compromising the principles which were relevant to the objectives of the GATT and the WTO.

The Secretariat's draft report had not referred to the complementary work being carried out in other intergovernmental bodies. For example, the UNCTAD and the UNEP had a vast capacity for analysis and technical assistance. The competence of each body needed to be recognized in order that they complemented each other, contrary to the suggestion that the issues should be dealt with only in the GATT. Agenda 21 stated that the multilateral trading system should preserve the free flow of trade while, at the same time, respecting the environment in the pursuit of sustainable development. Contracting parties had to keep this in mind when defining the type of institutional mechanism that would be most appropriate for the discussion of environment, trade and sustainable development in the WTO. His delegation believed that the GATT's work should be disseminated to NGOs through symposia, provided that participation was geographically and sectorally representative.

The representative of Brazil said that the reports of the EMIT Group and the CTD and the related discussions that had taken place at the Forty-Ninth Session of the CONTRACTING PARTIES were testimony to the seriousness with which the CONTRACTING PARTIES had met the task of examining the trade and environment interface and, more specifically, the follow-up to the UNCED recommendations as they pertained to GATT. It was important to bear in mind, in view of the Uruguay Round results, that the present meeting represented the conclusion of a whole cycle of UNCED follow-up in GATT. In addition, the TNC Decision would lead to a Ministerial decision on a work programme on trade and environment for sustainable development at Marrakesh. Brazil believed that future work should be nurtured by the work accomplished thus far. Nevertheless, it was clear that this initial phase had been exploratory, not exhaustive, and it had not sought consensually agreed conclusions. Therefore, not all the issues touched upon in the report to the CSD would necessarily be pursued in future discussions and new issues could be raised in the future.

The debate on trade and environment should address issues of interest to developing countries in order that their participation not be limited to reacting to concerns which were external to the immediate attention of their governments and domestic opinion. Of course, it was the responsibility of developing countries to identify and bring to the attention of members of the WTO their concerns in this respect. The debate on the UNCED follow-up had stressed the need for genuine international cooperation in the realm of trade and environment if sustainable development was to be achieved. In this respect, discussion of "responsible unilateralism" in this area, an expression which was in itself a contradiction, concerned his delegation. It seemed evident that the unilateral and extraterritorial threat was continuing to poison the debate and that only an unequivocal commitment by all to the principles

of Agenda 21 and against unilateral measures would allow for a productive, long-term debate. In this respect, trade placed different societies with different values, objectives and ecosystems in contact. Therefore, the issue of trade and sustainable development was essentially an invitation for greater international cooperation. Brazil believed also that if environmental problems were not tackled at their roots, as required by Agenda 21, pressure would develop for trade measures to deal with environmental problems which would not improve environmental conditions and would damage the multilateral trading system. Despite the fact that there had been little progress since the UNCED in this area, the route to international cooperation lay in financial and technology transfers. Progress in the debate on trade and environment could not be expected if it was conducted in isolation from the commitments contained in Agenda 21.

The representative of Switzerland welcomed the opportunity to discuss the UNCED follow-up. It might have been more useful, however, to have discussed this issue earlier so that the Council could have contributed to and oriented the work of the EMIT Group and the CTD. He was confident that the issues raised in Agenda 21 which related to trade, sustainable development and the environment would be dealt with in the post-Uruguay Round work programme. Like others, Switzerland believed that in concluding the Round, the CONTRACTING PARTIES had responded to one of the main requests of the UNCED. The conclusion of the Round had created the framework for improving macroeconomic conditions which should contribute to facilitating sustainable development, although a great number of other measures would have to be taken, not all of which were directly within the GATT's purview, to contribute to sustainable development.

The work of the EMIT Group and the CTD had furthered the knowledge of the interlinkages between trade, sustainable development and the environment, all in the context of the UNCED follow-up. The discussions in these bodies had clearly indicated that the GATT was the appropriate organization in which to examine the linkages between trade, environment and sustainable development. The efforts made thus far had laid the foundations for future work on UNCED follow-up in the WTO which should enable attention to be focused on specific and relevant issues in Agenda 21. A number of aspects should be considered in future work, not all of which had come to light as yet, such as the rôle in environmental protection that agriculture could play in a number of countries. With regard to Chapter 2.22(k) of Switzerland attached great importance to informing the public on issues relating to trade and environment. The impetus given by public opinion to an analytical process was useful for the continuation of work in this respect. For this reason, Switzerland had established an inter-ministerial structure entrusted with the task of drawing up recommendations on aspects of topics dealt with at UNCED. Switzerland agreed with others that a dialogue between governments and NGOs should be held at the national level, as outlined in Agenda 21. As regards the promotion of an international dialogue amongst the various communities that were active in the areas of trade, development and environment, Switzerland supported the Secretariat's activities in this regard in order to increase transparency. Switzerland considered that the draft Secretariat report to the CSD reflected the exchange of information in the area of trade and environment in the GATT, and was convinced that the report would enable the CSD to take note of the CONTRACTING PARTIES' intentions to continue their analysis of the existing linkages between trade, environment and sustainable development in the WTO. Switzerland would intensify its efforts to participate in this new phase of work which would constitute an essential component of the future work of the WTO.

The representative of Hong Kong said that the reports from the EMIT Group and the CTD, and the draft secretariat report to the CSD were evidence of the work which had been done by contracting parties on the UNCED follow-up in the GATT. It was evident that contracting parties were willing to meet the challenge posed by the interlinkages of trade and environment with the degree of urgency it deserved. A watershed had been reached with the conclusion of the Uruguay Round, which was the most significant, single contribution to trade and environment the GATT could make, and the TNC Decision, which outlined the broad parameters for future discussions. A sound analytical base had

been established which would enable future work in this area. He outlined several principles which should be used to guide future work. Hong Kong believed in an integrated examination of the trade, environment and development issues in a coordinated manner, and was open to institutional arrangements which were considered to be most appropriate in this regard and which aimed to strengthen the multilateral rules-based system. In this respect, it was necessary to guard against the risk of unilateral and protectionist measures taken under the guise of environmental protection. His delegation opposed any specific items being considered in isolation which had an inherent bias, such as "eco-dumping" or processes and production methods. Discussions should be undertaken in a mutually supportive and cooperative manner on the basis of an equal partnership where all participants supported the protection of the environment and no one country or territory claimed a higher moral ground. Although his delegation recognized the existence and influence of NGOs and supported any informal dialogue which helped to promote a better understanding of different positions and the functioning of the GATT, NGOs should not be associated formally with the process which existed among governments in the GATT.

The representative of Uruguay agreed with previous speakers that the conclusion of the Uruguay Round was the most important contribution that could be made to the UNCED follow-up. The GATT had begun a process to ensure greater confidence in the complex area of trade and environment in which developing countries had real concerns. He believed that this was an area where confrontation could be avoided by building a climate of confidence. Governments had shown their willingness to work constructively in understanding the interlinkages between trade and sustainable development in order to build a conceptual foundation upon which to base future work. Uruguay believed that the basic postulate that trade and environment policies were mutually supportive was correct as long as the link was established with sustainable development. At this stage, the fear of trade protectionism disguised under environmental pretexts might result in decreased trade possibilities for developing countries, and represented a risk which would have to be challenged responsibly by all governments. There was no point in efforts to liberalize trade, such as those made in the Uruguay Round, if eco-protectionist measures were to neutralize the concessions obtained, or if production in developing countries was faced with requirements which they were unable to finance. Future work should be guided by the objective of finding the manner in which to ensure compatibility between trade, environment and sustainable development. Contracting parties would thereby be respecting the aims expressed at the UNCED at the highest level and through consensus contained in Agenda 21. In conclusion, he affirmed Uruguay's conviction that the principles relating to trade and environment which were contained in the Rio Declaration and Agenda 21 should be taken both as a starting point and a final objective of the GATT's work in this area.

The representative of Japan noted that despite intensified negotiations in the final stages of the Uruguay Round, the GATT had addressed the issues of trade and environment, including those identified at the UNCED. The UNCED had agreed on principles and recommendations by consensus at the highest level, and those results had a bearing on the interface between trade and environment in the GATT, specifically, that the maintenance of an "open and non-discriminatory multilateral trading system was consistent with the goals of sustainable development". In this respect, the successful conclusion of the Uruguay Round was a significant contribution from the GATT. Also, the Uruguay Round Final Act (MTN/FA) contained direct references to the environment. However, the issue of trade and environment had been on the CONTRACTING PARTIES' agenda even before they had decided to engage in the UNCED follow-up at the Forty-Eighth Session.

For the past two years, the EMIT Group and the CTD had discussed the complex issue of trade and environment, which could already be taken as a contribution by the GATT to the UNCED follow-up. He noted the shared view among the participants of the EMIT Group that its three agenda items had anticipated many of the UNCED principles. Agenda item one, the relationship between GATT principles and multilateral environmental agreements, encompassed many of the core issues contained in Chapter 2, Section B, of Agenda 21. Specifically, he mentioned 2.22(e), which called for the avoidance of

the use of trade restrictions or distortions as a means to offset differences in costs arising from the differences in environmental standards and regulations, and 2.22(i), which stated that unilateral actions should be avoided in dealing with extraterritorial environmental challenges. There had been wide agreement in the Group on the need to develop a "genuine international consensus" in order to clarify the interface between trade and environment. From this perspective, the work programme to be agreed at the Marrakesh Ministerial meeting should be built around the work already achieved in the GATT, particularly in the EMIT Group, which had taken a cautious approach so as not to undermine the mutual trust and confidence which had been achieved.

While the CONTRACTING PARTIES had given the Council responsibility for matters relating to inter-institutional and other external relations as stated in Chapter 2.22(b), to "promote a dialogue between trade, development and environment communities", he would note that the discussions in the EMIT Group had already facilitated the dialogue from both the trade and environment sides within, as well as outside, each individual government. The Group had considered it essential to dispel any misperceptions that the GATT contradicted or jeopardized any collective efforts to address trade and environmental issues. In this context, the Secretariat proposal to host a symposium involving external participation might be useful. Nevertheless, as had been stated by previous speakers, it was necessary in the process not to dilute the GATT's basic contractual framework among governments. As such, the symposium needed to be carefully organized and the participants carefully chosen to represent a wide range of interests. Japan supported the Secretariat's report to the CSD, and suggested that it should be supplemented by the work programme which would be agreed at the Marrakesh Ministerial meeting, as this would represent the most recent effort to address trade and environment in the multilateral trading system. In addition, all the documents concerning trade and environment which had been derestricted should be attached to the report, including the report by the EMIT Group Chairman.

The representative of Mexico said that the Secretariat's report to the CSD should focus on two elements. One, the conclusion of the Uruguay Round, which would be beneficial as regards market access and trade rules related to the environment, and the other, the reports drawn up by the CTD, the EMIT Group and the Secretariat. It was important to indicate that a future work programme would be based on an integrated approach contained in a Ministerial Declaration as henceforward the matters considered by the CTD and the EMIT Group would be dealt with in a single group. With respect to public relations, he believed it was worth mentioning that the contracting parties had agreed that the Secretariat should convene a symposium for NGOs working in the field of environment and sustainable development. As regards the relationship of the GATT and the WTO to NGOs, his delegation considered that this should be examined in the light of the provisions of Article V of the WTO. His delegation saw no reason as to why some NGOs should receive differential treatment, although it believed it was premature to take a final position at this time.

Mexico believed it was important to maintain the spirit of cooperation, and not to consider the interaction of trade and environment as a North-South matter, since protectionism could affect all. The purpose of the GATT's work on the trade and environment interface was to avoid disguised protectionist measures and, as such, a consensus should exist that no participant would use trade as an instrument of pressure to ensure action in the environmental field. Trade provisions should be considered only in those cases in which trade itself was the root of an environmental problem and not as a tool to raise or modify environmental standards. A clear understanding on this aspect would clarify discussion regarding unilateralism and extraterritoriality.

The representative of Hungary said that the Secretariat's draft report to the CSD was a thorough synopsis of the GATT's work relating to trade and environment and was testimony to the attention participants in the international trading system attached to the positive interaction between trade, environment and UNCED follow-up within the GATT's competence. Particular mention should be

made in this respect of the useful work that had been carried out by the EMIT Group. As had been stated by previous speakers, the single most important contribution of the GATT to achieving sustainable development was the successful completion of the Uruguay Round. His delegation was convinced that the trade liberalization which would result from the Round would have an indirect but positive impact on the protection of the domestic, transboundary and global environment. Increased predictability in trade relations, market access opportunities and export earnings would result in increased resources for environmental protection and sustainable development.

Although the relationship between trade and environment had not been included as a separate issue for negotiation in the Uruguay Round, environmental considerations had been addressed in a number of the agreements. These provisions could be regarded as important to the follow-up to UNCED. The TNC Decision to elaborate a work programme on trade and environment represented an important milestone in the history of the multilateral trading system, and was an indication of the will of the CONTRACTING PARTIES to deal with this issue in the WTO. The adoption and implementation of such a work programme would provide the best guarantee for further UNCED follow-up. The involvement of the CTD in the UNCED follow-up had proved to be very useful. Hungary shared the view that the initial agenda of the EMIT Group had anticipated and responded to many of the points which were included in the UNCED and had facilitated the TNC Decision. Hungary believed that the work done thus far had confirmed that trade liberalization and the smooth functioning of an open and non-discriminatory multilateral trading system were significant contributions to achieving the UNCED objective of sustainable development. In addressing these issues, the GATT rules emphasized multilateral cooperation and recognized that the particular interests of each contracting party had to be considered, including the ability, needs and concerns of developing countries and economies in transition. Hungary endorsed the Secretariat's draft report to the CSD, with the observation that the present meeting should be reflected along with a summary of the salient features of the UNCED follow-up in the GATT. Hungary supported the Secretariat's initiative to organize, on its own responsibility, a symposium on trade and environment in order to contribute to a better understanding of the issues involved.

The representative of Venezuela said that the outcome of the UNCED was the adoption at the highest level of the ambitious action programme outlined in Agenda 21. In addition, the UNCED had recommended the creation of the CSD to monitor its satisfactory implementation. The action programme laid down the basic guidelines to orient the work of bodies in the international system, including the GATT. Venezuela acknowledged the work carried out thus far by contracting parties, which showed that harmony and consistent criteria existed regarding the principles on which to base development. In particular, the elimination of poverty, optimum use of resources and the transfer of resources, technology and know-how, in addition to an open and non-discriminatory multilateral trading system were indispensable elements in achieving sustainable development. Although the discussions in the CTD and the EMIT Group had not led to clear agreement on the identification of specific priority issues, the basis for future work in the WTO had been defined. The general framework for future work took into account the perspective of developing countries in order that the GATT could identify the priority issues which should be the subject of more detailed examination and, possibly, future negotiation among contracting parties.

The rules relating to the environment to be agreed at the Marrakesh Ministerial meeting should be based on principles that already formed an integral part of the General Agreement, for example, non-discrimination, multilateral transparency, predictability, national treatment, rejection of unilateralism, and that measures should restrict trade as little as possible. In this respect, Venezuela had been the subject of unjustified trade measures based on environmental considerations contrary to these principles, in particular on imports of tuna and gasoline applied by its main trading partner. These disputes underlined the concern regarding the application of protectionist measures for environmental objectives which violated GATT rules. The tuna dispute had been examined by two panels set up by the Council, the second of which was in progress, and involved the unilateral and discriminatory application of trade

sanctions contrary to the GATT for environmental reasons, as well as the violation of the limits fixed by the Inter-American Tropical Tuna Commission (IATTC). With regard to the gasoline dispute, Venezuela was holding consultations with the United States, and hoped that these would lead to satisfactory results which would guarantee non-discriminatory treatment for its petroleum industry in conformity with the principles of m.f.n. and national treatment.

Venezuela's experience had revealed the need for the GATT to make concrete progress in order to prevent the imposition of trade restrictions under the cover of environmental considerations. This work should be carried out in collaboration with other specialized organizations and the secretariats of multilateral environmental agreements so as to ensure that activities were complementary in this regard. Venezuela considered that the GATT's examination of the link between environment and trade should take account of the approaches and priorities of work in other international organizations, such as the UNCTAD and the CSD, in addition to the work of specialized environmental bodies, such as the UNEP, in the field of environmental law. Such an approach would take advantage of the contribution of other bodies, and limit GATT's work to its sphere of competence. Nevertheless, work should advance with caution given the complexity of the issues, as the trade effects of the wide range of economic and environmental measures to which countries might resort in order to defend the integrity of their natural resources were not fully known. Therefore, it was important to avoid introducing rules which modified the balance between the obligations and rights of contracting parties or which considered priorities that were not consistent with the GATT's terms of reference. He shared the view expressed by other speakers that, as far as principles were concerned, the TNC Decision provided an excellent basis for the GATT's future work in this respect. The institutional format in which this work would be carried out was not as important as the definition of the issues. Venezuela considered that a special body, even if it was transitional, could begin work before the entry into force of the WTO so as to lay the basis for the programme and terms of reference of a permanent body.

The representative of Sweden, speaking on behalf of the Nordic countries, said that the Secretariat's draft report to the CSD conformed to what delegations had agreed, in particular that it be factual, not draw premature conclusions and be an account of the work carried out on the UNCED recommendations. In addition to describing the considerable work on trade and environment that had taken place in the GATT, the report focused on the Uruguay Round and the significance of its results to the trade and environment agenda. It was useful that the outline drew attention to the way in which the WTO recognized the objective of sustainable development and the need to protect and preserve the environment. He noted that valuable work had already been done in the GATT on trade and environment and that many issues of interest had been identified in both the CTD and the EMIT Group. The Nordic countries considered it important to build on this work when embarking on the work programme mandated by the TNC Decision. The Nordic countries did not think it was necessary to be exhaustive in the report to the CSD in this respect. Given the transformation of the GATT, it might be better to return to these aspects in a future report. The promotion of a dialogue between those that were affected by the trade and environment relationship should be dealt with, to a large extent, by governments at the national level. Transparency and dialogue should start in capitals and include all interested parties, including environmental NGOs, consumer groups and producers. Nevertheless, the Nordic countries welcomed the Director-General's decision to host a symposium on environment and trade in early summer.

The representative of the United States welcomed the opportunity to review the work undertaken over the past two years with respect to the UNCED follow-up, particularly given the forthcoming meeting of the CSD. The United States attached a high priority to the UNCED follow-up, and in particular to ensuring that the GATT was responsive to the need to promote a sound environment. It was now generally accepted that trade and the environment could and should be mutually compatible and it was an ongoing task to ensure this in reality. Significant progress had been made by contracting parties in alleviating the suspicion that had originally surfaced with the introduction of this subject in the GATT

and this would be useful in the next substantive phase of the GATT's work on the UNCED follow-up. There was now a greater awareness in the trade community of the intricate ways in which trade and environment interacted, which had led beyond the point of merely asking whether the GATT, within the limits of its competence, could do more to facilitate the achievement of environmental objectives, to ascertaining how this could best be accomplished. The GATT had already produced concrete results on the UNCED follow-up by concluding the Uruguay Round. Although his delegation had hoped that the conclusion of the Round would have brought even more results relevant to the environment, it was important to recognize what had been accomplished to date. Despite the progress achieved and the deeper understanding of key issues, much remained to be accomplished as these issues needed to be tackled in an operational way. Many of the specific achievements of the GATT had been highlighted in the Secretariat's report to the CSD. As regards the TNC Decision, it represented tangible progress and was evidence of the positive contribution that had been made over a short period. Furthermore, it held the promise that by the Marrakesh Ministerial meeting, further steps would be taken to further the UNCED follow-up in the GATT.

With regard to Agenda 21, Chapter 2.22(a), he said that although the Council itself had not carried out work in this area, the Secretariat had prepared reports for the EMIT Group which were now deregistered and which were relevant to this objective. As regards Chapter 2.22(b), his delegation welcomed the Secretariat's initiatives to promote a dialogue between the trade, development and environment communities, including the environment newsletters and the proposed symposium of trade and environment experts in early summer, and suggested that reports on this and other contacts with the private sector would be welcomed. In addition, contracting parties had contributed to meeting the objectives of Chapter 2.22(b) by including experts on environmental issues in their delegations attending GATT meetings relevant to the environment. However, this was clearly an area in which more could be achieved. The United States believed that Chapter 2.22(k) was closely related to 2.22(b). His delegation expected that the symposium would provide for a two-way flow of information which took into account the views expressed by all the participants. Public input and transparency in the trade policy-making process implied taking advantage of the knowledge and expertise that was found beyond the circle of government officials. This was an important task at the national level, but the UNCED had mandated that this question be addressed in the GATT. The United States considered that this was an area which required more creative thought to ensure that the GATT and the WTO could make use of all available resources and in order to build a broad-based understanding of future work.

The representative of Egypt said that the suspicion about the GATT's position concerning the relationship between environment, trade and development had been alleviated as a result of the discussions over the past two years. The reports of the EMIT Group and the CTD, and the present Council meeting were evidence that this matter was being examined seriously in the GATT. Egypt believed that the dialogue with NGOs should continue in order to reach a better understanding as NGOs put pressure on their governments, which, in turn, put pressure on the efforts in the GATT. Growth in the developed countries had not always been environmentally-friendly, and they were now attempting to change their policies in a way that made it difficult for developing countries to follow. In this regard, the idea of establishing international standards should be examined, but from the perspective that not all countries had equal financial capacities with which to achieve these standards. It would be extremely difficult for developing countries to adopt environmentally-sound technologies without international cooperation and assistance. As regards the participation of NGOs, Egypt believed that a dialogue should continue on an unofficial basis, and supported the concept of ensuring transparency but not direct participation. Turning to the institutional aspect of the work programme on trade and environment, to be adopted at the Marrakesh Ministerial meeting, he noted that in the WTO there existed the possibility for cross-retaliation between the goods, services and other areas, and asked whether this concept would apply to the environment area, and, if a committee were created, whether the integrated dispute settlement

system would also apply. In his view, this could not be determined until the relationship between trade and the environment had been further analyzed.

The representative of Korea supported the Secretariat's draft report to the CSD, which accommodated the main features of the discussions in the EMIT Group and the CTD on the UNCED follow-up in the GATT. He reiterated that the successful completion of the Uruguay Round would contribute to sustainable development, in addition to the work which had been carried out in the GATT over the past two years. As regards future work, he said that work should focus on how to differentiate genuine environmental measures from possible trade protectionism. To this end, an open and non-discriminatory multilateral trading system, as well as basic rules and principles such as the avoidance of unilateral action, transparency requirements, and the use of least trade-restrictive measures were prerequisites for ensuring that trade and environment policies were mutually supportive. His delegation supported a dialogue between the GATT and NGOs following the Marrakesh Ministerial meeting.

The Chairman, summing up the discussion, said that contracting parties considered the successful conclusion of the Uruguay Round to be an important step towards creating the conditions for sustainable development. They considered also that trade liberalization and the maintenance of an open, non-discriminatory trading system were key elements of the follow-up to the UNCED. Much work had already been undertaken in the GATT on trade and environment, both in the EMIT Group and the CTD, all of which could be considered as follow-up to the UNCED. These discussions had contributed to deepening the knowledge of the interlinkages between trade and environment. The Decision of the TNC to draw up a new, comprehensive work programme on trade and environment reflected the continuing determination of contracting parties that the GATT should play its full part in ensuring that policies in the fields of trade, environment and sustainable development were compatible and mutually supportive. Contracting parties had also welcomed the initiative of the Director-General to host a symposium in early summer on the subject of trade, environment and sustainable development, which they believed could contribute to increasing awareness of discussions in the GATT on this issue and promote a dialogue between the trade, development and environment communities pursuant to Chapter 2.22(b) of Agenda 21. The Secretariat had been invited to keep delegations informed about the details of the symposium.

The Chairman then proposed that the Council agree that the Secretariat submit, on its own responsibility, a report to the CSD on the UNCED follow-up activities in the GATT, based on document Spec(94)5, and taking into account delegations' suggestions and comments.

The Council so agreed.

The Council then took note of the statements, and agreed that the review of work under way in the GATT on the follow-up to UNCED had been conducted. The Council also agreed that further UNCED follow-up work in the GATT would await the decision of Ministers at their forthcoming meeting in Marrakesh on 12-15 April regarding the future work programme on trade and environment.