

**GENERAL AGREEMENT  
ON TARIFFS AND TRADE**

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COUNCIL  
23 March 1994

MINUTES OF MEETING

Held in the Centre William Rappard  
on 23 March 1994

Chairman: Mr. M. Zahran (Egypt)

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  - Working Party Chairmanship

Prior to adoption of the Agenda, the Chairman, on behalf of the Council, welcomed the United Arab Emirates and Guinea Bissau as the 117th and 118th contracting parties, respectively.

1. Accession of Estonia
  - Communication from Estonia (L/7421)

The Chairman drew attention to the communication from Estonia concerning its interest in acceding to the General Agreement pursuant to Article XXXIII (L/7421), and proposed that the Council agree to establish a working party with the following terms of reference and composition:

Terms of reference

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

Membership

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

Chairman

The Council would authorize its Chairman to designate the Chairman of the Working Party in consultation with representatives of contracting parties and with the representative of Estonia.

The Council so agreed.

The Chairman invited the Government of Estonia to consult with the Secretariat as to further procedures, in particular regarding the basic documentation to be considered by the Working Party.

2. Interpretation of Article XXXV
  - Proposal by the United States (C/W/775)

The Chairman recalled that at its meeting in February, the Council had considered this matter and had agreed to revert to it at the present meeting.

The representative of the United States said that his delegation had held a number of consultations with interested contracting parties on its proposal in C/W/775, and believed that the Council would be able to reach a consensus on the adoption of the proposed decision at the present meeting.

The Chairman proposed that the Council take note of the statement and adopt the decision in C/W/775.

The Council so agreed.<sup>1</sup>

The representative of Japan said that his Government had certain procedural concerns with regard to this matter. It believed that since the United States' proposal had in substance changed the legal context of Article XXXV, it should have been addressed through the formal amendment procedures provided for in Article XXX. Japan had chosen not to block the consensus on this issue, however, in the understanding that this would not constitute a precedent.

The Council took note of the statement.

3. European Economic Community

- (a) Import régime for bananas  
— Panel report (DS38/R)

The Chairman recalled that at its meeting in June 1993, the Council had established a panel at the request of the Governments of Colombia, Costa Rica, Guatemala, Nicaragua and Venezuela to examine the European Community's common import régime for bananas. The report of the Panel was now before the Council in document DS38/R.

Mr. Kesavapany, Chairman of the Panel, introducing the report, said that the Panel had held two substantive meetings with the parties, on 20-21 October and 11-12 November 1993. At the invitation of the Panel, and after agreement with the parties, a number of contracting parties with a substantial interest in trade in bananas had attended the two substantive meetings with the parties. For the sake of transparency, these contracting parties had been provided with copies of the parties' submissions to the Panel, and had been requested to make submissions and oral statements at the meetings. Because of the special circumstances of this case, the Panel was of the view that this procedure should not be considered a precedent for future cases. The report of the Panel had been submitted to the parties on 18 January, and to the participating countries shortly thereafter. In relation to this dispute, he drew attention to communications from Venezuela and Colombia in documents DS38/10 and DS38/11, respectively. The Panel had concluded that: (a) the Community's tariff quota on imports of bananas was not inconsistent with Articles XI and XIII; (b) the security requirements and other formalities connected with the importation of bananas were not inconsistent with Article VIII; and (c) the Community had not acted inconsistently with its obligation under Article XVI:1 to discuss, upon request, the possibility of limiting the subsidization of bananas. The Panel had further concluded that: (a) the specific duties levied by the Community on imports of bananas were inconsistent with Article II; (b) the preferential tariff rates on bananas accorded by the Community to ACP countries were inconsistent with Article I and could neither be justified by Article XXIV nor by Article XX(h); and (c) the allocation of import licenses granting access to imports under the tariff quota was inconsistent with Article III and Article I and could neither be justified by Article XXIV nor by Article XX(h). The Panel had recommended that the CONTRACTING PARTIES request the Community to bring its tariffs on bananas and the allocation of its tariff quota licenses into conformity with its GATT obligations. Before concluding, he drew attention to the remarks by the Panel in paragraph 168 of its report.

The representative of Guatemala, speaking also on behalf of Mexico, Honduras, Ecuador and Panama, noted that the Panel report had found the Community's régime to be GATT inconsistent for various reasons. Having heard the Community advocate free trade and respect for the multilateral

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<sup>1</sup>The Decision was subsequently issued as L/7435.

trading system on various occasions, one would have hoped to see it take the opportunity offered by the Uruguay Round to find a solution that would be satisfactory to all the countries exporting bananas to its market. Unfortunately, that had not been the case, and the Community's offer in its draft final schedule remained inconsistent with its GATT obligations. Thus, in spite of the recommendations of this Panel report, the Community continued to insist on a régime that was contrary to GATT. The Community, in offering to tariff access to the entire Community market, had not taken into account that most of its member States did not have non-tariff measures that needed to be tariffed. If the Community's position was that these measures were necessary to unify its common external régime, then it should have followed procedures laid down in Article XXIV, which it had likewise failed to do. As Mexico had indicated at the February Council meeting, a group of banana exporting countries — Guatemala, Ecuador, Honduras, Mexico and Panama — had made a proposal to the Community aimed at resolving this issue in a way which was both GATT compatible and which attempted to meet the interests of all the parties involved. Accordingly, and in keeping with the spirit of pragmatism that had always been a feature of the Council, he proposed that instead of considering the Panel report with a view to its adoption at the present meeting, a firm commitment be made by all parties concerned to pursue further negotiations under GATT auspices. If this proposal were accepted by the Community, he would ask that the Council Chairman provide the means for the negotiations to begin immediately, so that a settlement could be reached before the Marrakesh Ministerial meeting.

The representative of Colombia, speaking also on behalf of Venezuela, said that the arguments and conclusions of the Panel were important and, by becoming GATT precedents, would substantially affect relations among contracting parties. The outcome of the Panel had proved the co-complainant parties to have been right in their claims. Colombia and Venezuela were looking for an effective and immediate solution that would provide reliable and fair conditions of access for their banana exports to the Community market. With this goal in view, they had worked towards reaching a satisfactory settlement for all the parties involved, and had made use of the framework and timetables provided by the final phase of the Uruguay Round. However, in spite of the Community's readiness for dialogue, their negotiations had not yet reached a satisfactory conclusion owing to the complexity of the matter. The negotiations were continuing, however, and hopes for a solution remained high. If a satisfactory solution was reached, Colombia and Venezuela were prepared to forego their legal rights in the dispute settlement process. Nevertheless, in the absence of such a solution at the present time, they wished to exercise their right to request that the Panel report be adopted.

The representative of the European Communities said that his delegation had listened carefully to the previous statements. On a point of procedure, although Guatemala had spoken on behalf of a number of parties, the Community would recognize it as having spoken only on behalf of the contracting parties among them. The Community had always indicated its availability for a dialogue on the banana issue. However, this was a complex question and was therefore difficult to resolve. The Community believed that all parties must continue the dialogue and be willing to show a certain amount of flexibility if a solution were to be found. The Community had not yet completed its examination of the Panel report, and did not wish to enter into a substantive debate thereon at the present meeting. If this matter were not resolved subsequently, the Council would have to revert to the Panel report at a forthcoming meeting.

The Chairman said he was aware that a process of intensive negotiations was currently under way between the parties concerned in this dispute, and was therefore of the view that the Council would not be in a position to take a decision on this matter at its present meeting. If this was also the view of the parties concerned, he would propose that the Council agree to revert to this matter at its next meeting, and that representatives abstain from making any statements at the present time which might lead to a fruitless debate or jeopardize the possibilities of reaching a compromise solution to this serious question.

The representative of Costa Rica noted that Costa Rica and other Latin American banana-exporting countries had had recourse to the GATT dispute settlement procedures since June 1992 in order to seek a solution to the Community's restrictions on banana imports from their countries. Even though the conclusions and recommendations of two dispute settlement panels had found in their favour, and just a few weeks from the formal conclusion of the Uruguay Round negotiations, a solution to the dispute had still to be found. Costa Rica was concerned that the Community continued to maintain its restrictions on Latin American banana exports, and called on the latter to show some flexibility so as to resolve this dispute. Costa Rica reserved its right to revert to this matter.

The representative of Mexico said that, as suggested by Guatemala, all the interested parties should engage in a dialogue on this matter, so that the concerns of each could be taken into account. Given the proposal made by Guatemala, Mexico saw no reason to request adoption of the Panel report at the present meeting, on the understanding that there would be a commitment on the part of all to enter into negotiations to resolve this matter. However, in order to ensure that there was indeed such a commitment, he proposed that the Council revert to this item at the end of its meeting to permit informal consultations to be held. Failing such a commitment to negotiate, the parties concerned could then exercise their legitimate right to request adoption of the Panel report at the present meeting.

The representative of St. Lucia, speaking also on behalf of other ACP countries, said that as the Panel report had only recently been circulated, there had not been time to study it in detail. Furthermore, at this stage, their countries were not able to comment satisfactorily on the proposal by Guatemala. Since the banana issue was the subject of intensive negotiations among certain contracting parties, they believed that consideration of the Panel report should be deferred. He believed that had the Panel taken a broader approach on this dispute and taken account of marketing and economic realities, it would have reached a different conclusion. At this stage, their countries could not agree with any requests for the adoption of the Panel report.

The representative of Jamaica associated his delegation with the statement by St. Lucia. If there were to be any dialogue on the banana issue amongst all the parties concerned, then the ACP countries, with their substantial interest in trade in bananas, should be included.

The representative of Nicaragua associated his delegation with Colombia's statement, and requested that the Panel report be adopted.

The representative of Ecuador, speaking as an observer, said that this dispute had brought the GATT system into a state of crisis, and had cast doubt on its credibility. Ecuador believed that it should be possible to reach a solution through broadbased negotiations. While an impression had been given by some that intensive broadbased negotiations were under way, this was far from the truth. The Community was engaged in negotiations with only one contracting party, which would not resolve the matter to the satisfaction of the other parties concerned by this dispute. He emphasized that this was not a bilateral but a multilateral problem, and expressed support for the statements by Guatemala, Mexico and Jamaica calling for a dialogue amongst all the interested parties, which was the only way to a solution.

The representative of Panama, speaking as an observer, said that this dispute could only be resolved through negotiations. Unfortunately, there had been no sign of goodwill on the part of the Community in this regard. It was important that all the countries concerned should participate in negotiations on this matter, and it was to be hoped that the Community would respond positively to the request made earlier by Guatemala. The Panel report had made clear that the Community's measures on bananas were incompatible with its GATT obligations, and her delegation reiterated that a lasting solution to this problem would only be found through negotiation.

The representative of the Dominican Republic expressed support for the statements by Guatemala, Jamaica and Ecuador calling for an open dialogue amongst all the parties concerned. This would be a step towards a constructive and satisfactory solution to this dispute.

The Chairman said that the discussion had confirmed his earlier view that the Council would not be able to reach a conclusion to this debate at the present meeting. He encouraged further dialogue and negotiation on this matter, and proposed that the Council take note of the statements and agree to revert to this item at its next meeting.

The Council so agreed.

- (b) Member States' import régimes for bananas  
— Panel report (DS32/R)

The Chairman recalled that this matter had most recently been considered by the Council at its meeting in February. At that meeting, he had read out the positions of various delegations on the Panel report, as recorded in the discussions held on several earlier occasions. The Council had also taken note of the statements made at that meeting by Chile and Mexico, and by the observer from Panama. It was his understanding that the situation has not changed since then, and that the Council would not be able to reach a conclusion to this debate at the present meeting. Accordingly, unless any delegation spoke to the contrary, he would conclude that the positions on this matter as recorded remained unchanged, and propose that the Council revert to this matter at a future meeting.

The Council so agreed.

4. Monitoring of implementation of panel reports under paragraph I.3 of the April 1989 Decision on improvements to the GATT dispute settlement rules and procedures (BISD 36S/61)

The Chairman recalled that this item was on the Agenda pursuant to paragraph I.3 of the April 1989 Decision, and that in the course of informal consultations held in 1992 and in early 1993 it had been understood that it would continue to appear on the agenda in its present form.

The representative of the United States, referring to the implementation of the Panel report on US measures affecting alcoholic and malt beverages (DS23/R), said that his authorities were continuing to work towards the implementation of the Panel's recommendations at both the federal and state levels. With regard to the implementation of the Panel report on the US denial of m.f.n. treatment as to non-rubber footwear from Brazil (DS18/R), the United States believed it was close to resolving the outstanding issues.

The representative of Brazil recalled that at the February Council meeting, the United States had indicated that it was continuing to undertake its best efforts to find suitable means to implement the recommendations of the non-rubber footwear Panel report. Since then, however, the United States had not provided any further information, and its statement at the present meeting did not amount to a breakthrough. Brazil hoped that the United States was continuing to search for means to implement the Panel's recommendations, and that it would be in a position to announce positive results at the next Council meeting.

The representative of Canada said that Canada continued to look forward to progress by the United States in implementing the recommendations of the alcoholic and malt beverages Panel report,

which had been adopted almost two years earlier. An early indication by the United States of its intention to amend its federal tax measures would be particularly welcome.

The representative of Australia reiterated Australia's interest in the outcome of the alcoholic and malt beverages Panel report, and in the progressive implementation of the Panel's recommendations by both the federal and state authorities.

The Council took note of the statements.

5. United States - Standards for reformulated and conventional gasoline  
— Recourse to Article XXIII:2 by Venezuela (DS47/2)

The Chairman drew attention to the communication from Venezuela in DS47/2 requesting the establishment of a panel to examine its complaint.

The representative of Venezuela recalled that on 14 January, his Government had requested consultations with the United States on its new regulations on reformulated gasoline (DS47/1), which in Venezuela's view were in violation of the United States' obligations under the GATT. Consultations had been held on 11 February, and subsequently the two countries had had an exchange of information on this matter. Since Venezuela's request for the inclusion of this item on the Council's Agenda, the bilateral consultations had been resumed in a positive way. Consequently, Venezuela requested that this item not be considered by the Council at its present meeting, and reserved the right to revert to this matter in future if the bilateral consultations under way did not lead to satisfactory results.

The Council took note of the statement.

6. Implementation of accession commitments

The Chairman said that this item was on the Agenda at the request of New Zealand.

The representative of New Zealand said that in the course of verifying market access schedules subsequent to the conclusion of the Uruguay Round negotiations, his delegation had become aware of the lack of an appropriate mechanism in the GATT to monitor the implementation of commitments relating to tariff and non-tariff measures undertaken by a government upon its accession. When a government acceded to the GATT, the report of the working party established to examine its accession request might reflect commitments which that government had agreed to undertake, either immediately on accession or over a phased period. However, adoption of the report by the Council and the subsequent formal accession by the government concerned had usually been taken as the end of the process, and there was no follow-up to review the actual implementation of these commitments. He believed that, in view of the large number of governments now applying for accession to GATT, it would be timely for contracting parties to reflect on this question.

New Zealand believed that improved transparency would assist the monitoring process, which was of particular importance in cases where the Council had agreed to the phased elimination of certain GATT-inconsistent measures in order to facilitate the necessary adjustments by the acceding government. While New Zealand had no formal proposals to make at this stage, one possibility could be to include such an element on the agenda when the contracting party was first reviewed under the Trade Policy Review Mechanism. However, as such reviews occurred only at intervals of two years or more, this solution might not be entirely effective. Another possibility might be for the contracting party concerned to submit periodic reports to the Council on the implementation of its accession commitments regarding

tariffs and non-tariff measures. He proposed that the Council return to this issue at a later date, when all had had an opportunity to reflect on these points.

The representative of the United States said that his delegation had also recently become aware of the continued existence of certain non-tariff measures in countries that had undertaken commitments during their accession process to progressively eliminate such measures. The United States shared New Zealand's concerns, and believed that this issue merited careful consideration by contracting parties.

The representative of Australia supported the comments made by New Zealand. Australia had also been concerned, particularly during the verification process of Uruguay Round schedules, about a number of cases in which accession commitments were not being strictly observed in the way that would have been expected. New Zealand's suggestion that the Council revert to the question of an appropriate mechanism to monitor implementation of such commitments was a sensible one.

The representative of the European Communities said that this issue deserved the Council's full attention, particularly in view of the number of countries in the process of accession. The GATT system would not tolerate significant deviations from commitments agreed to. He supported the proposal to consider this matter at a later date.

The representative of Canada associated his delegation with New Zealand's statement. Canada expected countries to comply fully with all commitments contained in working party reports and protocols of accession, and welcomed an opportunity to discuss how this could best be assured.

The representative of Argentina said that New Zealand's proposal was very appropriate, bearing in mind certain ongoing accession negotiations, as well as other recently concluded accession processes.

The representative of Chile expressed his delegation's support for New Zealand's proposal.

The Council took note of the statements.

7. Canada - Article XIX action on boneless beef (L/7219/Add.1, 2, 3, 4, 5, 6, 7 and 8)

The Chairman recalled that at its meeting in February, the Council had considered this matter under "Other Business". It was on the Agenda of the present meeting at the request of Australia.

The representative of Australia said that his Government wished to reiterate its concern over what it regarded as Canada's unjustified use of Article XIX against imports of boneless beef. Most recently, as notified in L/7219/Add.8, Canada had put into effect for 1994 the same quantitative restrictions that it had put into place half way through 1993, even though no solution to Australia's concerns had been found in Article XIX consultations with Canada in 1993. Australia maintained that there had been no justification for the imposition of import restrictions in 1993 and, based on the most recent information regarding Canada's beef market, that there was no justification for the extension of such measures into 1994. Despite record levels of imports in 1993 there was no evidence of any serious injury, or threat thereof, to Canadian beef producers. Canada had previously cited increased levels of beef imports from Australia in 1992 and 1993 as justification for its Article XIX action. However, Article XIX only allowed a contracting party to take action to the extent necessary to prevent or remedy serious injury. It was not an instrument to prevent increased trade, particularly in circumstances of near-record returns to the industry, which was the situation at present in Canada. Australia intended to pursue its rights under Article XIX and to continue consultations with Canada in order to find a solution to this matter. It hoped that an early date could be found for these consultations. He underlined that unless an acceptable solution were found for Australia's concerns,

it would be forced to consider action against what it considered to be a nullification and impairment of its GATT rights resulting from Canada's action.

The representative of Canada recalled that Canada's decision to invoke safeguard measures under Article XIX had been based on a finding by the Canadian International Trade Tribunal (CITT) that imports of boneless beef constituted a threat of serious injury to Canada. Canada was aware of Australia's keen interest in this matter, and had held five consultations with Australia in an effort to find a solution. These discussions were continuing at the official as well as ministerial level, and Canada would work with Australia to find a suitable date for further consultations if the latter so wished.

The representative of the European Communities expressed the Community's full support for Australia's position. The Community continued to believe that there was no legal justification for Canada's Article XIX action since the conditions in Canada's market were favourable with higher than usual prices for beef. As regards the CITT, this was an internal institution and as such was not in a legal position to define what was right or wrong in GATT terms.

The representative of Argentina associated his delegation with the statements by Australia and the Community. The GATT trading system was based on multilateral standards, and Canada could not evade its obligations to accept consultations and to follow all the mandatory steps provided for in the General Agreement, on the basis of a unilateral finding by the CITT.

The representative of Canada said that in Canada's understanding the CITT's findings fulfilled Canada's obligations under Article XIX to review the situation and make a determination of injury.

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

8. North American Free-Trade Agreement (NAFTA)  
— Communication from the Parties to the Agreement (L/7176)

The Chairman drew attention to the communication from the Parties to the North American Free-Trade Agreement (NAFTA) in document L/7176. He recalled that at the CONTRACTING PARTIES' Forty-Ninth Session in January, the United States, on behalf also of Canada and Mexico, had indicated that the NAFTA had been ratified in all three countries and had entered into force on 1 January. The United States had also stated that the Parties to the NAFTA were prepared to make available such further information regarding the Agreement as would enable the CONTRACTING PARTIES to make such reports and recommendations as they deemed appropriate.

The representatives of Korea, Brazil, New Zealand, Australia, Argentina, the European Communities and Uruguay expressed their gratitude to the Parties to the Agreement for the notification in L/7176.

The representatives of Korea, Thailand on behalf of the ASEAN countries, Japan, Australia and the European Communities expressed their support for the establishment of a working party to examine the Agreement, and most of them expressed the hope that this would be done as soon as possible.

The representatives of Korea, Brazil, New Zealand, Australia, Argentina, Japan, Uruguay, Turkey and Norway on behalf of the Nordic countries expressed their interest in participating fully in the working party examination.

The representative of Korea said that his country had considerable trade interests in North America, and attached great importance to the NAFTA. Now that the Agreement had been ratified, Korea looked forward to the notification by the Parties of supplementary agreements under the NAFTA.

The representative of Australia said that the Parties to the NAFTA were very important in Australia's bilateral trade.

The representative of Turkey said that his country had important trade and economic links with North America, in particular with the United States.

The Council took note of the statements and 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 North American Free-Trade Agreement, and to report to the Council."

Membership

The Working Party would be open to all contracting parties indicating their wish to serve on it.

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

The representative of the European Communities said he wished to raise a tariff issue which had a direct bearing on the establishment of the NAFTA. All were familiar with the concepts of trade creation and trade diversion that might follow from any regional trade arrangement. In the case of NAFTA, and more particularly Mexico's participation in it, the trade diversion factor was self evidently the dominant factor, and this should be a matter of legitimate concern to all countries trading with Mexico on an m.f.n. basis. The Community noted with concern that in the latest Uruguay Round draft tariff schedule submitted by Mexico, previous offers of a 35 per cent tariff rate on a wide range of items had been withdrawn and replaced by offers of a 50 per cent rate. Affected by these modifications were some vital sectors such as chemicals and pharmaceuticals, steel products, telecommunication equipment and electronic products. The revised rates meant that Mexico was not making any new reductions at all on these items, which seemed a curious contribution to the market access and trade liberalization process from a country that was a party to the NAFTA and other regional free-trade arrangements, that was an advanced developing country, and that was, furthermore, a candidate for membership of the OECD. Tariff rates as high as 50 per cent constituted an insurmountable obstacle for outsiders to gain access to Mexico's market in competition with other suppliers that would be entering, progressively, on a duty-free basis. Even the previously offered rates of 35 per cent would have caused problems, and hence his delegation's earlier reference to the near certainty of trade diversion resulting from the NAFTA. As all were aware, although Mexico maintained lower applied duty rates, there were no guarantees that these would be maintained in the future. One could add that whereas in the past the effects of regional integration had been balanced by multilateral liberalizations in earlier GATT negotiating rounds, Mexico had chosen on this occasion to intensify the regional effect and to walk away from any balancing measures in the Uruguay Round. The Community was at a loss to understand either the economic or political motivation for Mexico's action.

The representative of Norway, speaking on behalf of the Nordic countries, said it had been their presumption that Mexico's offers on the products just referred to by the Community would be

maintained at 35 per cent. The Nordic countries were therefore concerned that Mexico's action in revising its offer was not in conformity with its declared trade policy goals as an advanced developing country actively engaged in a trade liberalization process. They were also concerned because their trade interests would be adversely affected by the 50 per cent tariff rates now proposed. Should these prohibitive rates be upheld in the final tariff schedule, they would be conceived as an ominous departure by Mexico from the liberal trade policy it had successfully pursued in recent years.

The representative of Mexico expressed surprise that the Community had chosen to raise a Uruguay Round tariff negotiations matter during the Council's discussion on NAFTA. That being said, he would note that Mexico's Uruguay Round tariff offer and its schedule of concessions remained the same as had been submitted on 15 December 1993. Mexico had stated on that date that it was withdrawing offers on products of interest to the Community, and the latter had not raised this issue in two subsequent rounds of schedule verifications. He would note, too, that Mexico's schedule complied with the objectives set out at the Uruguay Round Mid-Term Review meeting in Montreal. In addition, while Mexico had bound its entire tariff at 50 per cent upon accession to GATT, its applied tariffs were much lower, with the highest applied tariff at present being 20 per cent. Therefore, the legal security granted by GATT bindings was one thing, while the tariff applied in fact was another. He stressed that Mexico's autonomous liberalization measures remained the same, and that one should not give the impression that Mexico's tariffs were being raised as this would have a direct effect on economic operators. Mexico reserved the right to raise its tariffs up to the bound levels in respect of the Community without having to hold consultations, because it considered that the Community's offer with respect to Mexico had been unsatisfactory. Mexico had respected the rules and had submitted its offers on 15 December, not later, and had acted in full transparency. While it did not feel it could be criticized, Mexico remained open to a dialogue with any interested party.

The representative of Japan sympathized with Mexico's position that this issue should be dealt with in the verification process of the Uruguay Round negotiations. His delegation had not been aware of the situation regarding Mexico's schedule until then, and would need to study further its implications. He expressed the hope that the NAFTA would be a truly open entity, in the common endeavour to strengthen the multilateral trading system.

The Council took note of the statements.

#### 9. Mexico - Costa Rica Free-Trade Agreement

The representative of Mexico, speaking also on behalf of Costa Rica, under "Other Business", informed the Council that, at the beginning of the month, Mexico and Costa Rica had successfully concluded negotiations for the establishment of a Free-Trade Agreement between them. Like other free-trade agreements concluded in the region, the coverage of this Agreement went beyond trade in goods and included also investments, intellectual property and trade in services, and provided for a dispute settlement mechanism. The Agreement was intended to promote the economic and trade relationships between the two countries and at the same time to constitute a positive contribution to the multilateral trading system. The Agreement would enter into force on 1 January 1995, after completion of internal procedures in both countries. A copy of the Agreement would be submitted in due course to the Secretariat in order to be made available to interested contracting parties.

The Council took note of the statement.

10. Canada - Licensing regulations on imports of pasta

The representative of the European Communities, speaking under "Other Business", said that on 2 February, the Canadian Wheat Board — responsible for the issuance of licenses for imports of wheat and wheat products — had announced new regulations for the granting of licenses which omitted an exemption provided under previous regulations permitting pasta products with a maximum weight per package of 2.3 kilos to be imported in unlimited quantities. This measure had severely disrupted the Community's exports of pasta products to Canada. The Community was the second biggest supplier of such products to Canada, and had raised its concerns bilaterally with Canada's authorities. The Community reserved its rights to pursue this matter in the GATT, if necessary.

The representative of Canada said that while his delegation had not received advance notice from the Community regarding the latter's concerns, it had been made aware of them. On 21 March, a meeting had been held in Ottawa with Italian and other European officials, and these discussions would continue.

The Council took note of the statements.

11. United States - Executive Order relating to the identification of trade expansion priorities

The representative of Japan, speaking under "Other Business", expressed serious concern over the recent Executive Order in the United States which administratively reintroduced procedures similar to the "Super 301" provision in effect in 1988-1989 under the US Omnibus Trade and Competitiveness Act of 1988. He recalled that at the most recent review of the United States under the Trade Policy Review Mechanism (C/RM/M/45), a number of contracting parties had voiced their concern over the unilateral approach of the United States as reflected in these procedures. It was particularly regrettable that this Executive Order had entered into effect at a time when the participants in the Uruguay Round were about to sign the results of the negotiations and establish the World Trade Organization. Japan strongly hoped that the United States would abide by multilateral rules in the application of the Executive Order and would not act in a way that would undermine the results of the Round, and in particular the strengthened dispute settlement mechanism agreed upon.

The representative of the United States said that the objective of the so-called Super 301 provision was to open foreign markets, and not to close the US market. The recent Executive Order in no way lessened the US Administration's commitment to trade expansion and to the multilateral trading system. As his delegation had repeatedly stated, the "Super 301" provision, as well as the regular Section 301 provisions, could be administered in a manner fully consistent with the obligations undertaken by the United States in the Uruguay Round. Neither of those provisions required the Administration to take actions inconsistent with US obligations under the GATT or the new WTO agreements. Indeed, Section 301 specifically required the Administration, when considering allegations that a country was in violation of its GATT obligations, to have recourse to the GATT or the WTO dispute settlement mechanisms.

The representative of the European Communities noted that following the new Executive Order in the United States, the Community's Council of Ministers had stated the Community's opposition to the use of unilateralism as a means of settling disputes in international trade. While the Community had noted the United States' statement at the present meeting, it nevertheless had some doubts as to the legality of the Executive Order in terms of GATT obligations, and was looking closely into the matter.

The representative of Hong Kong said that his delegation had noted the statement by the United States reaffirming its commitment to the multilateral trading system. However, Hong Kong was

concerned over the existence of a legislation or trade instrument that could lead to unilateral action. The results of the Uruguay Round included a more effective, automatic and reliable dispute settlement mechanism. Hong Kong would therefore urge all participants in the Round to bring trade disputes which could not be resolved satisfactorily at the bilateral level to the multilateral level in order to find a solution.

The representative of Korea shared the position taken by Japan, the Community and Hong Kong, and said that the US action was regrettable and disturbing. Korea understood that the ultimate goal of the United States was to increase market access and trade liberalization, and had noted the US statement at the present meeting. However, Korea believed that the United States' goal should be pursued within the multilateral trading system and not on a bilateral basis. Korea agreed with the view expressed by the Director-General in a recent address that a new outbreak of bilateral trade tensions was putting the achievements of the Uruguay Round to the test even before they were fully operational. Korea therefore urged the United States to revoke the Executive Order, and believed that all participants in the Round should first follow the dispute settlement mechanism agreed to in the negotiations before considering the alternative of having recourse to bilateral means.

The representative of Argentina recalled that during the trade policy review of the United States, his delegation had observed that even provisions conceived in the best of good faith could have negative effects while those with ill intent could have beneficial effects. Argentina had also indicated on an earlier occasion that the aim should be to actually open markets rather than to resolve disputes unilaterally, and that the United States did not need to be the guarantor of the multilateral trading system. He would note that some of the measures taken by Japan in response to the US decision, including the provision of credits for purchases from the US market, were not a defence of the multilateral trading system or of the m.f.n. clause. Similar problems had been encountered on earlier occasions when Section 301 provisions had been used. Argentina believed that what was really needed was a true multilateral trading system and not one based on a unilaterally defined approximation. Although the use of the "Super 301" provision in the past might have assisted in the conclusion of the Uruguay Round, Argentina believed that all participants in the Round should now focus on the strengthening of the multilateral trading system.

The representative of Australia shared the concerns expressed by previous speakers over the negative effects that bilateral tensions might have on trading interests of third countries, as well as over the use of non-multilateral instruments between major trading partners. Australia also wished to underline the importance it attached to the primacy of multilateral mechanisms for trade liberalization and dispute settlement issues.

The representative of Thailand, speaking on behalf of the ASEAN countries, shared the concerns expressed by previous speakers. The recent US Executive Order, which reintroduced procedures similar to the "Super 301" provision, should not be a case of the end justifying the means. Tendencies to unilateralism should be resisted in the multilateral trading system.

The Council took note of the statements.

12. International Trade Centre UNCTAD/GATT  
— Appointment of a new Executive Director

The Director-General, speaking under "Other Business", recalled that both he and the UN Secretary-General had agreed on a procedure whereby, in accordance with agreed criteria, their representatives were entrusted with the selection process of the Executive Director of the International Trade Centre (ITC). The two representatives — Mr. Dadzie, Secretary General of UNCTAD, and

Mr. Lavorel, Deputy Director-General — had since completed the selection process, including interviews, expeditiously and efficiently, and, based on their assessment of the merits of all the candidates for the post, had been able to make a joint recommendation. As had been agreed beforehand, he and the UN Secretary-General had endorsed the recommendation, and it had therefore been decided to appoint Mr. Denis Bélisle as the new Executive Director of the ITC. Mr. Bélisle, who had extensive management experience in both the private and public sectors in the field of trade promotion and technical assistance to developing countries, would take up his new appointment in the near future.

Now that the issue of the appointment of an Executive Director had been resolved, it was vital for all to give the new Executive Director their fullest support. After three years of uncertainty, the ITC faced a number of key and urgent tasks. In particular, it would have to review its work programme to ensure that its activities were made relevant to the trade promotion priorities arising from the post-Uruguay Round trading environment. The new Executive Director would have important decisions to take with regard to the filling of vacancies at the senior management level. The relationship between the ITC and the World Trade Organization would also have to be addressed, and this should be an opportunity to review also the ITC's relationship with its parent bodies so as to enable the ITC to make the most effective use of the scarce resources provided by donor countries and to avoid duplication. He appealed to all donor countries, especially those that had traditionally supported the ITC's activities and that might understandably have been frustrated by the uncertainties of recent years, to renew their commitment to the ITC, to work closely with the new Executive Director and the parent bodies in shaping a new work programme for the ITC and, on this basis, to seek from their authorities the funds necessary to implement it. The changes ushered in by the Uruguay Round made it imperative that the ITC develop into an effective instrument to help developing countries and countries in transition to participate more fully in the multilateral trading system and to realize as much as possible the opportunities to promote and expand their trade.

The Chairman said he hoped that through their success in reaching a satisfactory solution to this problem and in appointing a new Executive Director of the ITC, both the Director-General and the UN Secretary-General had paved the way to the revitalization of the ITC so that it might continue to carry out its functions and responsibilities in a dynamic manner. He trusted that countries which had traditionally provided the ITC with the voluntary contributions that were critical to its effectiveness, would find it possible to provide, and to increase, their current contributions as the ITC was again in a position to operate with maximum strength under the guidance of its new Executive Director.

The Council took note of the statements.

13. Appointment of presiding officers of standing bodies

The Chairman, speaking under "Other Business", recalled that at the February Council meeting, he had indicated that he would pursue his consultations with regard to the appointment of the Vice-Chairperson of the Committee on Tariff Concessions. On the basis of these consultations, he was in a position to announce that Miss Rachel Thompson (Australia) had agreed to serve as Vice-Chairperson of the Committee.

The Council approved the appointment.

14. Accession of Jordan  
— Working Party Chairmanship

The Chairman, speaking under "Other Business", recalled that the Working Party on the Accession of Jordan had been established by the CONTRACTING PARTIES at their Forty-Ninth Session, and that he had been authorized to designate the Chairman of the Working Party in consultation with the representatives of contracting parties and with the representative of Jordan. He informed the Council that Mr. Kesavapany (Singapore) had agreed to serve as Chairman of the Working Party.

The Council took note of this information.