

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Multilateral Trade Negotiations

Group "Safeguards"

INTERNATIONAL SURVEILLANCE SYSTEMS

Note by the Secretariat

1. At its meeting of November 1975, the Group "Safeguards" requested the secretariat to prepare a survey of the most important surveillance systems used in the commercial policy field in different international bodies along the lines set out in the secretariat's feasibility study MTN/SG/W/6.

2. The feasibility study had suggested that international surveillance systems are designed to monitor developments in the trade field with a view to verifying whether specific international obligations are being observed or whether a situation has arisen in which corrective action may be necessary if agreed objectives are to be attained; that they are also designed to signal cases in which action is necessary; and that they are also frequently empowered to make recommendations or decisions in such instances.

3. This paper deals with the following international surveillance systems set up in the framework of the GATT:

	<u>Paragraphs</u>
(a) General;	5-9
(b) Committee on Trade and Development;	10-14
(c) Subsidies and State trading;	15-17
(d) Border tax adjustments;	18-19
(e) Quantitative restrictions;	20-40
(f) Committee on Anti-Dumping Practices;	41-51
(g) Arrangement Regarding International Trade in Textiles;	52-69
(h) Arrangement Concerning Certain Dairy Products;	70-75
(i) International Meat Consultative Group.	76-79

Sessions of the CONTRACTING PARTIES, the Council and the newly-established Consultative Group of Eighteen may also be considered as having surveillance functions.

4. This paper goes on to give a brief description of:

	<u>Paragraphs</u>
(a) The OECD Trade Committee;	80-84
(b) The FAO Consultative Sub-Committee on Surplus Disposal	85-90
(c) Commodity Agreements.	91-98

General

5. Article X:1 and 2 lays an obligation on contracting parties to publish details of measures which they adopt in the trade policy field before they are implemented, but there is no provision that contracting parties should notify all such matters to the GATT. It is in general assumed that each contracting party will find out which publications are used, will monitor them and will identify the facts which are of relevance for it.

6. One of the main purposes of the surveillance undertaken by individual contracting parties is to verify whether the provisions of the General Agreement are being observed. If a contracting party has doubts on this score the normal course of action is for it to take up the matter bilaterally in the first instance with the other contracting parties concerned. Two Articles of the General Agreement are particularly relevant, Article XXII:1, which provides for consultations on any matter related to the Agreement, and Article XXIII:1, which refers specifically to the nullification or impairment of benefits. Bilateral consultations are also foreseen in certain specific cases, e.g. resolutions relating to the disposal of surpluses and the liquidation of strategic stocks (BISD, 3rd Supplement, pages 50 and 51).

7. Agreements reached bilaterally must be published (Article X:1) so that other contracting parties can check that their interests are not adversely affected. If no agreement can be reached bilaterally, a contracting party may bring the problem to the CONTRACTING PARTIES for multilateral consultations. Such matters are usually brought either under Article XXII:2 or Article XXIII:2 and discussed in the first instance by the Council. Normally the Council will establish a working party to assist if the matter is brought under Article XXII and a panel if the matter is brought under Article XXIII. A background paper on Articles XXII and XXIII has been issued as MTN/3D/2 and a further paper on dispute settlement is in the course of preparation in the secretariat.

8. The Council and sessions of the CONTRACTING PARTIES discuss whether the rules of the GATT have been observed but also whether corrective action should be taken. The Consultative Group of Eighteen, which was established by the Council in July 1975 (C/M/107), also has surveillance functions, its mandate specifying that the task of the Group is to facilitate the carrying out, by the CONTRACTING PARTIES, of their responsibilities, particularly with respect to:

- (a) following international trade developments with a view to the pursuit and maintenance of trade policies consistent with the objectives and principles of the General Agreement;

- (b) the forestalling, whenever possible, of sudden disturbances that could represent a threat to the multilateral trading system and to international trade relations generally; and action to deal with such disturbances if they in fact occur;
- (c) the international adjustment process and the co-ordination, in this context, between the GATT and the IMF.

In pursuit of this task, the Group shall take into account the special characteristics and requirements of the economies of the developing countries and their problems.

9. Generally speaking, the GATT leaves it to individual contracting parties to collect the facts which they need and requires them to take the initiative if they require further facts or explanations. Information on further provisions which apply to specific areas will be found below.

The Committee on Trade and Development

10. One of the main functions of the Committee on Trade and Development is "to keep under continuous review the application of the provisions of Part IV of the General Agreement" (BISD, 13th Supplement, page 76).

11. The Committee has adopted a reporting procedure which provided that "contracting parties are requested to notify the secretariat of any action taken by them in pursuance of the provisions of paragraphs 1, 3(a), 3(b) and 4 of Article XXXVII" (BISD, 13th Supplement, page 79). Guidelines agreed upon by the Committee in June 1966 (COM.TD/24, paragraph 10) stated that notifications made by governments should be as exhaustive and as comprehensive as possible and that they should relate both to measures specifically mentioned in Article XXXVII:1, 3 or 4 and to all steps and measures which are of interest to the contracting parties in relation to the objectives and provisions of Part IV.

12. The Committee undertakes a full review once a year on the basis of a background note prepared by the secretariat consolidating the notifications submitted by governments. The latest set of notifications is contained in COM.TD/234 and the report on the last annual review in L/4252. This deals, inter alia, with reduction or elimination of customs duties on products of export interest to developing countries, with removal of import restrictions applied on such products, etc.

13. The Group on Residual Import Restrictions (a sub-group of the Committee on Trade and Development) also acts as a surveillance body with respect to import restrictions affecting products of interest to developing countries.

14. Article XXXVII:2 provides that consultations can be held with the CONTRACTING PARTIES whenever it is considered that effect is not being given to the provisions of the Article.

Subsidies and State trading

15. According to Article XVI:1, contracting parties are to notify any measures which operate directly or indirectly to increase exports from, or reduce imports into, their respective territories. This information shall include the extent and nature of the subsidization, the estimated effect on the circumstances making the subsidization necessary. In accordance with the decision of the CONTRACTING PARTIES at their twentieth session (BISD, 11th Supplement, page 58), contracting parties are requested to submit every third year new and full responses to the questionnaire on subsidies contained in pages 193-194 of 9th Supplement (see Annex 1). New and complete notifications were to be submitted in January 1975 (see document L/4141 and addenda). Subsequent notifications in 1976 and 1977 will cover changes to the basic notifications for 1975. The 1976 notifications will be issued as addenda to L/4295.

16. Article XVI:1 goes on to state that "in any case in which it is determined that serious prejudice to the interests of any other contracting party is caused or threatened by any such subsidization, the contracting party granting the subsidy shall, upon request, discuss with the other contracting party or parties concerned, or with the CONTRACTING PARTIES, the possibility of limiting the subsidization". A certain degree of international surveillance is therefore envisaged. In 1961 a Panel on Subsidies summarized the results of six consultations which had been held under the provisions of Article XVI:1 (See BISD, 10th Supplement, page 207). Since that time no further cases have been brought to the CONTRACTING PARTIES under the provisions of this paragraph.

17. With regard to State trading, Article XVII:4(a), which was added to the Article at the recommendation of the Review Session in 1955, lays down that contracting parties shall notify the CONTRACTING PARTIES of the products which are imported into or exported from their territories by State-trading enterprises as defined in paragraph 1(a) of the Article. The latest questionnaire on State trading is contained in Annex 2. As with subsidies, the CONTRACTING PARTIES have requested governments to submit new and full responses to a questionnaire every third year. Such complete notifications were to be submitted in January 1975 (see document L/4140 and addenda). The supplementary 1976 notifications will be issued as addenda to L/4296.

Border tax adjustments

18. In 1970 the Council adopted a notification procedure (L/3464) on a provisional basis, it being understood that notifications need not be made prior to the changes. The notifications are to relate to any major changes in tax adjustment legislation and practices involving international trade, and in particular at bringing periodically up to date the information contained in the consolidated document on contracting parties' practices (L/3389) on tax adjustments drawn up in the course of the Working Party's work. Six countries (Belgium, Germany, Ireland, United Kingdom, United States, Sweden) made notifications under this procedure (L/3518 and addenda 1 to 10).

19. The Council also established a consultation procedure which provides for multilateral consultations upon request by a contracting party. No consultations have, in fact, been requested under this procedure. The Director-General was asked to consider, at convenient intervals, on the basis of the notifications referred to above, and in consultation with interested parties, whether a review of notified changes is called for. He was also asked to consider after an adequate period of operation, and in consultation with interested parties, whether the provisional notification procedure should be continued, modified or discontinued.

Quantitative restrictions

20. It has been noted that quantitative restrictions affecting products of export interest to developing countries are under surveillance in the Committee on Trade and Development and the Group on Residual Import Restrictions. In addition, the GATT has established procedures to deal with quantitative restrictions applied by three categories of contracting parties. These procedures relate to import restrictions but not to export restrictions.

21. Quantitative restrictions applied by eighteen developed contracting parties (which account for about three quarters of world trade) have been examined by the Joint Working Group, set up by the Council in January 1970. The name of this body derives from the fact that it was a joint group of the Committee on Trade in Industrial Products and the Agriculture Committee (both of which were preparing the ground for the Multilateral Trade Negotiations) and the Committee on Trade and Development.

22. The examination in the Group was conducted on the basis of a table consolidating notifications made by both importing and exporting countries regarding import restrictions applied to agricultural and industrial products. The table included information on the following types of measures: quotas (bilateral and

global); embargoes; State trading; automatic, liberal and discretionary licences; so-called voluntary export restraints; minimum price requirements; and seasonal restrictions (C/M/60).

23. The Council agreed that the table should be updated every year. The latest version of the table has been issued in COM.IND/W/117, COM/AG/W/94. The Council also agreed that further reviews should be conducted annually or every second year. None have taken place, the measures in question being under discussion in the Sub-Group "Quantitative Restrictions" and in the Group "Agriculture".

24. The second category of contracting parties are those invoking the balance-of-payments provisions of the GATT to justify quantitative restrictions which they maintain.

25. Articles XII and XVIII permit contracting parties to impose import restrictions in order to safeguard their external financial position and their balance of payments subject to certain conditions which are set out in the relevant Articles. Developed countries consult under Article XII and developing countries under Article XVIII. One of the main differences between the two articles is that developed countries are required to consult each year while developing countries are required to consult once every two years. The Articles provide for a degree of multilateral surveillance of action taken under them and a government invoking them must consult with the CONTRACTING PARTIES as to the nature of its balance-of-payments difficulties, alternative corrective measures which may be available, and the possible effect of the restrictions on the economies of other contracting parties. The CONTRACTING PARTIES have established the Balance-of-Payments Committee to conduct these consultations on their behalf. Some import surcharges and import deposit schemes imposed for balance-of-payments reasons but not covered by Articles XII and XVIII have also been referred to the Committee by the Council on an ad hoc basis.

26. The procedures for these consultations have been described in detail in a note by the Chairman of the Committee circulated as L/3388 of 27 April 1970. A report on the work of the Balance-of-Payments Committee: 1970-1974 has been distributed in L/4200. The surveillance functions of the Committee are therefore summarized only briefly in the present paper.

27. The consultations are based on documentation supplied by the consulting country and the International Monetary Fund. The consulting contracting party supplies a basic document for each consultation concentrating on the trade aspects of the restrictions and covering the following points:

- (a) legal and administrative basis of the import restriction;
- (b) methods used in restricting imports;
- (c) treatment of imports from different sources including information on the use of bilateral agreements;
- (d) commodities, or groups of commodities, affected by the various forms of import restrictions;
- (e) State trading, or government monopoly, used as a measure to restrict imports for balance-of-payments reasons;
- (f) measures taken since the last consultation in relaxing or otherwise modifying import restrictions;
- (g) effects of the import restriction on trade;
- (h) general policy in the use of restrictions for balance-of-payments reasons.

28. The International Monetary Fund provides a statement assessing the consulting country's external financial position and the most recent Fund report on economic developments in the country concerned, or when such a report is not available, a specially prepared economic background paper. During the consultations the IMF provides a statement, approved by the Fund's Executive Directors, which generally concludes with an assessment of the country's restrictions in the light of its external financial position.

29. The consultations are conducted according to a plan approved by the CONTRACTING PARTIES comprising four main headings:

- (a) balance-of-payments position and prospects,
- (b) alternative measures to restore equilibrium,
- (c) system and methods of the restrictions, and
- (d) effects of the restrictions

The full text of the plan for the consultations is contained in Annex 3.

30. The Committee makes a report on each consultation which is submitted to the Council for adoption and for forwarding to the next session of the CONTRACTING PARTIES for final approval.

31. The procedures for periodic consultation with developing countries have been simplified (see L/3772/Rev.1 of 10 January 1973). Countries invoking Article XVIII:B may supply a concise statement every other year on the nature of their balance-of-payments difficulties, the system and methods of restriction,

the effects of the restriction and prospects for liberalization, etc. If the Committee does not determine that a full consultation is desirable, it recommends to the Council that the contracting party be deemed to have consulted and to have fulfilled its obligation in this respect.

32. In the period 1970 to 1975 there were fifty-six consultations and seven examinations of requests for waivers undertaken by the Balance-of-Payments Committee, involving twenty-five different countries. Five countries invoked Article XII; eighteen countries invoked Article XVIII:B; and two further countries invoked Article XVIII:B, but no agreement has been reached as to whether Article XII or XVIII:B applies.

33. The number of countries consulted or examined has been on average nine a year. Within the five-year period under review, there was one reinvoication (South Africa) and only two new invocations, both of them Article XVIII:B (Argentina in 1972 and Bangladesh after accession). The other twenty-one contracting parties consulted under invocations that dated prior to 1970.

34. Three countries disinvoked Article XII formally (Iceland, New Zealand and South Africa, the latter after stern conclusions by the Committee in 1973). Two countries invoking Article XVIII (Brazil and Uruguay) ceased to consult after the Committee's findings that they no longer applied quantitative restrictions. Spain ceased to consult in 1973 after the Committee concluded that balance-of-payments reasons no longer justified Spain's restrictions.

35. Regularity of consultations - every year under Article XII, every two years for Article XVIII - has not always been observed. In two Article XII cases, more than a year lapsed between consultations and at least nine Article XVIII:B cases have had more than a two-year lapse between consultations. This has been due to a number of reasons, e.g. inconvenient timing for the country concerned or the necessity to take into account the dates of the International Monetary Fund missions to the countries concerned.

36. The procedures may be summarized as follows.

37. They ensure that detailed information is made available regarding import restrictions imposed for balance-of-payments reasons by consulting countries and that contracting parties have an opportunity to obtain further information during the multilateral consultations in the Committee. During the consultations the Committee examines whether or not the overall level of the restrictions is no more than is necessary to safeguard the balance-of-payments position of the country concerned. Consultations are also held on the practical application of the restrictions. Similar international surveillance is exercised with regard to surcharges and import deposits referred to the Committee.

38. The Balance-of-Payments Committee has itself, however, pointed out (L/4200) a number of shortcomings in the international surveillance:

- (a) there have been many cases where trade restrictions imposed for balance-of-payments reasons were not notified to GATT;
- (b) there is no uniformity in the treatment of surcharges and import deposits and the Committee's terms of reference have not been adapted to relate to these measures;
- (c) Once contracting parties cease to invoke the GATT balance-of-payments provisions, the Committee has no means of ascertaining whether its recommendations to remove restrictions have been implemented, and
- (d) the Committee's consultations are based on documentation provided by the consulting country and by the International Monetary Fund but there are no questions or documentation prepared by the GATT secretariat.

39. The previous paragraphs have dealt with countries whose restrictions are under surveillance by the Joint Working Group and the Balance-of-Payments Committee.

40. A third category of contracting parties consists of newly independent developing countries which do not invoke the GATT's balance-of-payments provisions to justify quantitative restrictions which they maintain. In 1960 the CONTRACTING PARTIES agreed that quantitative restrictions should be notified even if their status had not yet been determined (BISD, 9th Supplement, page 19). Some twenty-five newly-independent countries have submitted notifications under this procedure (L/2336, L/2577, L/2579, L/2984, L/3213 and their addenda).

Committee on Anti-Dumping Practices

41. The Anti-Dumping Code interprets the provisions of Article VI of the General Agreement and lays down rules for their application in order to provide greater uniformity and certainty in their implementation.

42. The rules in Part I of the Code relate to determination of dumping and material injury; investigation and administration procedures; anti-dumping duties and provisional measures; and anti-dumping action on behalf of a third country.

43. Article 14 lays down that each party to the Code shall take all necessary steps to ensure the conformity of its laws, regulations and administrative procedures with the provisions of the Code.

44. The Code also establishes an international surveillance system, the essential purpose of which is to ensure that these rules are applied and to further the objectives of the Code.

45. Article 15 provides that "each party to this Agreement shall inform the CONTRACTING PARTIES to the General Agreement of any changes in its anti-dumping laws and regulations and in the administration of such laws and regulations".

46. Article 16 goes on to provide that "each party to this Agreement shall report to the CONTRACTING PARTIES annually on the administration of its anti-dumping laws and regulations, giving summaries of the cases in which anti-dumping duties have been assessed definitively".

47. A standard form for the reports has been adopted, containing the following headings:

- (a) Cases pending as of 1 July of the year before the report is submitted
- (b) Investigations opened
- (c) Cases on which provisional action taken
- (d) Cases on which final decision reached
 - (i) anti-dumping duties
 - (ii) cases settled through price undertakings
 - (iii) cases dismissed
- (e) Revocation of anti-dumping duties
- (f) Cases pending as of 30 June of the year the report is submitted.

Under headings (b)-(f), the cases should be split up in two categories:

- (i) cases where the proceedings were initiated before the beginning of the period covered by the report, and
- (ii) cases where the proceedings were initiated in the course of the period covered by the report.

48. Article 17 of the Anti-Dumping Code reads as follows:

"The parties to this Agreement shall request the CONTRACTING PARTIES to establish a Committee on Anti-Dumping Practices composed of representatives of the parties to this Agreement. The Committee shall normally meet once each year for the purpose of affording parties to this Agreement the opportunity of consulting on matters relating to the administration of anti-dumping systems in any participating country or customs territory as it might affect the operation of the Anti-Dumping Code or the furtherance of its objectives. Such consultations shall be without prejudice to Articles XXII and XXIII of the General Agreement."

49. The Committee has, in practice, met once a year during the eight-year period since the Code was adopted as part of the final Kennedy Round package in 1967. Membership of the Committee is limited to contracting parties of the GATT since the Code interprets provisions of the General Agreement and is not self-contained. Only contracting parties which have signed the Code are members and no observers attend the meetings, other than observers from governments which have indicated their intention to adhere to the Code. ¹The Committee reports annually to the CONTRACTING PARTIES on its work.

50. The consultations are based on the reports made by each member under Articles 15 and 16 of the Code. The consultations give members the opportunity to ask for further information and clarification and to discuss any problems that have arisen. In a number of cases, members of the Committee have urged particular modifications in the practices of other members. In certain cases the modifications requested have been made. The Code does not contain provisions for the settlement of disputes. The Committee would be able to make recommendations to the party concerned but if no agreement were reached the drafters of the Code intended that recourse would be made to Articles XXII and XXIII.

51. At its last meeting, the Committee agreed that an analytical inventory should be drawn up of problems and issues arising under the Code and its application by the parties to the Code.

¹The last report is contained in L/4241 of 6 November 1975. Previous reports have been circulated in L/3333, L/3521, L/3612, L/3748, L/3943 and L/4092.

Arrangement Regarding International Trade in Textiles

52. The Textiles Arrangement came into force on 1 January 1974, succeeding the Short- and Long-Term Arrangements Regarding Trade in Cotton Textiles which had been in force since 1961.

53. The Textiles Arrangement is a complex document which is reproduced in full in BISD, 21 Supplement, pp. 3-19. It is not possible to summarize all the provisions of the Arrangement here, but the following are the main features relevant to the present paper:

- Article 2 of the Arrangement lays down rules governing all quantitative measures affecting textiles, whether unilateral or bilateral, which were in force when the Arrangement entered into force. These must be terminated or brought into conformity with the provisions set out in the Article.
- The Arrangement also provides that no new restrictions on trade in textiles may be imposed unless they conform to its provisions, in particular to the provisions of Articles 3 and 4.
- Subject to carefully drafted conditions, Article 3 permits the imposition of restrictions on products and countries whose exports are causing market disruption. Such restrictions may be bilaterally agreed (Article 3:4) or, in cases of special urgency, unilaterally imposed (Article 3:6).
- Article 4 permits the conclusion of bilateral agreements on mutually acceptable terms to eliminate risks of market disruption: such agreements must be more liberal than measures provided for in Article 3.
- Article 6 relates to special treatment for exports of textile products from developing countries.
- Article 8 deals with the circumvention of the Arrangement by trans-shipment, etc.
- Article 9 deals with additional trade measures which have the effect of nullifying and impairing the objectives of the Arrangement.

54. International surveillance of actions taken under the Arrangement is exercised by two special bodies: the Textiles Committee and the Textiles Surveillance Body.

55. The Textiles Committee, set up by Article 10 of the Arrangement, is composed of representatives of all parties to this Arrangement.

56. It is authorized in paragraph 2 of the Article to prepare such studies as the participating countries may decide. It is also expressly directed to undertake an analysis of the current state of world production and trade in textile products, including any measures to facilitate adjustment, and to present its views regarding means of furthering the expansion and liberalization of trade in textile products. The paragraph further instructs the Committee to collect the statistical and other information necessary for the discharge of its functions and empowers it to request the participating countries to furnish such information (Article 10:2).

57. The Arrangement empowers the Committee to give its opinion regarding any divergence of view between participating countries as to the interpretation or application of the Arrangement which is referred to it (Article 10:3).

58. One of the main functions of the Committee is to review the operation of the Arrangement once a year and to report thereon to the GATT Council; to assist in this review, the Committee has before it a report from the Textiles Surveillance Body (Article 10:4).

59. The Textiles Surveillance Body (TSB) is set up by Article 11 "to supervise the implementation of this Arrangement".

60. The TSB is a standing Body which is continuously on call. It has eight members and an independent Chairman. Seats are distributed annually by the Textiles Committee on a country basis, consideration being given in the distribution to the achievement of a proper balance between importing and exporting interests and between geographical regions. However, members are appointed and function as experts in their own names, and are expected to operate with a degree of objectivity and freedom from direction comparable to that of members of GATT panels.

61. The TSB has no counterpart or precedent, either in the field of textiles or elsewhere in GATT. Its functions are central to the operation of the Arrangement and the powers entrusted to it by the participating countries, though strictly limited, are nevertheless of great interest. Several provisions of the Arrangement require that the TSB should take positive decisions - e.g. as to the conformity with the Arrangement of agreements or measures notified to it. In cases of dispute the TSB is required to come to a decision on the basis of the presentation of their cases by the parties to the dispute. In all such matters it operates by consensus, with the important proviso that the consensus may not be obstructed by a TSB member whose country is party to a dispute under examination. This rule, which does not appear in the Arrangement, was adopted by the TSB as part of its procedures for ensuring equity in treatment in cases of dispute. Its effect is that in such cases the TSB can reach a consensus of seven members. In all cases to date where an action taken has been disputed has the TSB been able to reach a consensus. This is an essential difference from the procedure of a typical GATT working party, for example, where the agreement

of all members including the member whose measures are under examination is needed for a consensus. It should, however, also be noted that in practice the TSB has given much attention to its rôle as a conciliator rather than as a judge.

62. Under Article 2, all pre-MFA¹ restrictions must be notified to the TSB, which is also required to review reports on the actions taken, or negotiations undertaken by the participating countries in pursuance of their obligation under this Article to terminate such restrictions and to consider whether the actions reported are in conformity with the Arrangement. At the request of the Textiles Committee, the TSB has drawn up an appraisal of the actions taken or contemplated under Article 2, or the lack of such actions, on the basis of the status reports it had received (COM.TEX/SB/115). As required by Article 2:5, the TSB also considered the conformity with the Arrangement of the actions reported and, where appropriate, made recommendations to the countries directly concerned.

63. A supplementary report, drawn up in accordance with Article 11:12, deals with the TSB's review of restrictions introduced since the coming into force of the Arrangement (COM.TEX/SB/115/Add.1).

64. Agreements concluded under Article 3 must be notified to the TSB (paragraph 4 of the Article). The TSB is required to review these agreements and to determine their conformity with Article 3 and other relevant provisions of the Arrangement. It does this on the basis of the full texts of the agreements negotiated, the evidence supplied in support of the need for the restraints and any additional information or clarification obtained from the countries concerned. The procedure for the review is contained in Annex A of COM.TEX/SB/35. The TSB also reviews actions taken unilaterally under Article 3:5 and 3:6 under which the TSB may make appropriate recommendations to the parties directly concerned. Upon receipt of such recommendations the participating countries concerned "should review the measures taken or contemplated with regard to their institution, continuation, modification or discontinuation".

65. Full details of bilateral agreements under Article 4 must also be submitted to the TSB. The procedure followed by the TSB in reviewing these agreements is set out in Annex B of COM.TEX/SB/35. It indicates the type of documentation required to be submitted in this connexion, and provides for the supply of additional information and consultations with the parties concerned, if deemed necessary.

66. If solutions to the problems foreseen in Articles 8 and 9 are not found bilaterally, these problems may be referred to the TSB, which shall make such recommendations as it considers appropriate. The TSB may not take the

¹The "Multifibre Arrangement" (MFA) is a common name for the Arrangement Regarding International Trade in Textiles.

initiative in investigating such problems. For a case arising under Article 9 which has been discussed by the Textiles Committee, see COM.TEX/6, paragraphs 27 to 34.

67. Recommendations or findings by the TSB must normally be made within a period of thirty days whenever practicable. All such recommendations or findings must be communicated to the Textiles Committee for information.

68. Article 11 of the Agreement lays down that "participating countries shall endeavour to accept in full the recommendations of the Textiles Surveillance Body. Whenever they consider themselves unable to follow any such recommendations, they shall forthwith inform the Textiles Surveillance Body of the reasons therefor and of the extent, if any, to which they are able to follow the recommendations."

69. The Article goes on to lay down that "if, following recommendations by the Textiles Surveillance Body, problems continue to exist between the parties, these may be brought before the Textiles Committee or before the GATT Council through the normal GATT procedures", and that "any recommendations and observations of the Textiles Surveillance Body would be taken into account should the matters related to such recommendations and observations subsequently be brought before the CONTRACTING PARTIES to the GATT, particularly under the procedures of Article XXIII of the GATT". In other words, if the possibilities offered by recourse to the surveillance system of the Textiles Arrangement have been exhausted, recourse may be had to GATT surveillance mechanisms. An example of an Article XXIII action in textiles is referred to in BISD, 20th Supplement, page 237.

Arrangement Concerning Certain Dairy Products

70. The Arrangement, which entered into force in May 1970, establishes a minimum price for skimmed milk powder and participants agree to take the steps necessary to ensure that the export price of the product is not less than the minimum price (Article III:1 and 2). Importing countries undertake to co-operate in implementing the minimum price objective (Article V:1). Derogations may be granted from the minimum price obligations (Article VII:5).

71. The minimum price does not relate to exports of skimmed milk powder for purposes of animal feed (Article III:5) and food aid for developing countries (Article III:8). Derogations from the minimum price may be granted for exports for welfare purposes in developed countries (Articles III:9 and VII).

72. International surveillance is exercised by the Management Committee set up by Article VII:1. It comprises representatives of all participants and carries out "all the functions which are necessary to implement the provisions of the Arrangement" (Article VII:1).

73. The Management Committee normally meets once a quarter but the Chairman may call a special meeting of the Committee on his own initiative. Any participant which considers that its commercial interests are being seriously threatened and which is unable to reach a mutually satisfactory solution with the other participant or participants concerned, may request the Chairman to convene a special meeting of the Committee on an urgent basis so as to determine as rapidly as possible, and within four working days if requested, any measures which may be required to meet the situation (Article VII:3).

74. The Committee is therefore designed to see that participants abide by the rules which they have accepted. In this it is similar to other GATT surveillance bodies discussed earlier in this paper. To a greater extent than most other such bodies it also exercises a different form of surveillance, in that it follows developments in the international market to see if corrective action is necessary. All participants agree to provide regularly and promptly to the Committee established in terms of Article VII of this Arrangement details of exports and imports of skimmed milk powder, and any other information the Committee requires in order to assess the functioning of this Arrangement and the situation in and the evolution of the international market (Article IV). The Arrangement authorizes the Management Committee to modify the level of the minimum price taking into account, on the one hand, the results of the application of the Arrangement, and, on the other hand, the evolution of the situation of the international market (Article III:3) and the minimum price has, in fact, been raised by the Committee. In addition the Management Committee may even amend the provisions of the Arrangement (VIII:3).

75. The Arrangement provided that it might be extended to other products at a later date and a Protocol Relating to Milk Fat entered into force on 14 May 1973. The provisions of the Protocol, which are of the same type as those of the Arrangement, establish a separate Management Committee with substantially the same surveillance functions as those outlined above. However, this Management Committee is not empowered to grant derogations from the price provisions. When reviewing the situation in, and the evolution of the market, the Committee takes into account the evolution of prices in international trade in each of the other dairy products having implications for the trade in products covered by the Protocol.

International Meat Consultative Group

76. The International Meat Consultative Group was established by the GATT Council in February 1975. Membership of the Group is open to all countries, including countries not members of GATT, interested in international trade in meat. At present about thirty-five countries are participating in the work of the Group.

77. In the year since its inception the Consultative Group has held four meetings, although whether the Group is to meet on a quarterly, half yearly or on some other regular basis has not yet been decided.

78. According to its terms of reference, "the Group shall provide continuing opportunities for appropriate intergovernmental consultations on international trade in meat and cattle and shall make such studies of the world situation in meat and cattle, as it sees fit, having regard especially to the desirability of providing regular accurate information regarding the supply and demand position and of its probable development. For this purpose the Group shall, as necessary, arrange for the collection and dissemination of appropriate information making use of existing sources so far as practicable" (L/4157).

79. Procedures have been established for the collection of the data required to enable the Consultative Group to carry out its functions. This information, together with written submissions made by individual participants, are treated as confidential to the Group. The Group carries out its surveillance function through consultations and the exchange of views on all matters affecting international trade in livestock and meat. The Group's activities are directed to developing closer co-operation amongst participants and a better mutual understanding of the international meat market, and to the provision of an early warning system designed to promote the formulation of more harmonious national policies and the avoidance of market disequilibria. It has been noted in this connexion that the Group's consultations take place in the GATT against the background of contractual commitments which most participants share, and that one of the objectives in the early warning context is a better assessment of whether and to what extent these contractual commitments could come under pressure in the immediate future.

OECD Trade Committee

80. Under the Declaration adopted by the Governments of OECD member countries on 30 May 1974 ("Trade Pledge") which was extended in May 1975 for another year, the OECD countries declared their determination to consult with each other, making full use of the general procedures of consultation within OECD, in order to assure that the Declaration was properly implemented.

81. Under a procedure agreed in 1962, member Governments notify the Trade Committee of any significant changes in trade policies or practices and indications of the reasons for which a particular measure has been taken. An illustrative list of fields to be notified covers changes in import practices (quantitative restrictions, State trading, customs duties), changes in export practices (quantitative restrictions, governmental measures exclusively or mainly benefiting exports) and legislation regarding trade. When other member countries feel that an action taken by another member but not notified to the Organization should be notified that country may request such a notification through the secretariat.

82. The Trade Committee's mandate provides that any member country shall be able "to obtain prompt consideration and discussion by the Committee of trade measures by another member which adversely affect its interests, with a view to removing or minimizing such adverse effects". The Trade Committee has adopted an informal and flexible general consultation procedure, cases being referred to the Organization only when direct bilateral consultations have proved unsuccessful.

83. Specific consultation procedures have been adopted relating to quantitative restrictions and further procedures relating to "administrative and technical regulations which hamper the expansion of trade". This latter category covers most non-tariff measures other than quantitative restrictions. Other consultation procedures cover border tax adjustments, export credits and credit guarantees, government purchasing, import licensing and customs procedures and anti-dumping regulations.

84. A very pragmatic approach to the organization of consultations has been followed. A special consultation group is sometimes set up which is composed of those member countries which have a more direct interest in the case studied and elects its own chairman. The country which has taken the measure under study usually submits a memorandum on the measure.

FAO Consultative Sub-Committee on Surplus Disposal

85. The FAO's Principles of Surplus Disposal lays down guidelines for the disposal of agricultural surpluses and international sales of agricultural products on concessional terms. The main purposes of the Principles are to encourage the constructive use of food aid in low income, food-deficit countries and at the same time to safeguard the interests of commercial suppliers.

86. The general Principles (1-3) underline the need to seek solutions to problems of surplus disposal by increasing consumption rather than restricting supplies; to dispose of surpluses in an orderly manner; and to give an undertaking that such disposal will be made "without harmful interference with the normal patterns of production and international trade". The Principles governing sales on concessional terms (4-6) cover certain factors in the light of which harmful interference with prices and patterns of production and trade can be ascertained and assessed, in particular additional consumption (i.e. consumption which would not have taken place in the absence of the deliveries concerned). Principles 7-9 concern resale or re-export of commodities supplied on special concessional terms and the sale of government-held stocks in exceptional volume, or at an exceptionally rapid rate.

87. The FAO's Committee on Commodity Problems (CCP) has drawn up a catalogue of twenty specified categories of transactions specifying those which are likely to interfere with normal patterns of production and commercial trade, and which are therefore covered by Principles.

88. The CCP has also established procedures for notifications, prior consultation and establishment of Usual Marketing Requirements (UMR). Any transaction undertaken by governments in categories covered by the Principles is subject to the establishment of a UMR, as appropriate to the specific situation, in order to ensure that the transaction would result in additional consumption and would not harmfully affect normal production and commercial trade.

89. A Consultative Sub-Committee on Surplus Disposal (CSD) has been established to supervise the application of the Principles. The main functions of the CSD are:

- to keep under review developments in the disposal of agricultural surpluses and to assist countries in developing suitable means of surplus disposal;
- to provide a forum for consultations and notifications of transactions in the light of the Guiding Lines and Principles;
- more generally to provide a forum for the examination of any difficulty that may arise, and to promote observance of the Principles.

90. As the Sub-Committee's name implies, the main value of its work lies in the opportunity offered for the exchange of information and for consultations, since governments are not formally bound to accept conclusions reached by CSD in its review of proposed or adopted measures.

Commodity Agreements

91. The following five commodity agreements are currently in force or have recently been concluded: the International Wheat Agreement 1971, the International Sugar Agreement 1973, the Fifth International Tin Agreement 1975, the International Cocoa Agreement 1975 and the International Coffee Agreement 1976. The Tin Agreement is expected to enter into force on 1 July 1976, and the Cocoa and Coffee Agreements on 1 October 1976.

92. The Tin, Cocoa and Coffee Agreements contain provisions designed to stabilize world market prices through buffer stock interventions, export quota regulations, export controls or a combination of such measures. The Wheat and Sugar Agreements currently in force are extensions of previous agreements whose economic provisions have been suspended.

93. In the Tin, Cocoa and Coffee Agreements all the powers necessary for the implementation of the economic provisions of the agreements are vested in a Council composed of representatives of all the member States. The Council in each case has primary responsibility for controlling the observation by member States of their obligations under the agreements, as well as the execution of its own decisions. Each of these three agreements creates general obligations to the member States to furnish the statistical information required by the Council to perform its functions. All three agreements also provide procedures for the settlement of complaints and disputes, and the Cocoa and Coffee Agreements also provide for consultations concerning the application or other matters relating to the Agreements.

94. In the Tin Agreement, the Council is empowered to request participating countries to furnish available data on production, costs, consumption, etc., and "any other information necessary for the satisfactory administration of the Agreement" (Articles 7 and 39). The Council controls buffer stock operations through the Executive Chairman to whom the Buffer Stock Manager is responsible (Article 28).

95. In the Cocoa Agreement member States have in addition to a general obligation to provide information as required (Article 57), a specific obligation to report quantities exported and imported to the Executive Director who is responsible for maintaining a record of such transactions as a means of verifying compliance with export quotas (Articles 47 and 48). Certificates or other control documents are authorized by the Council and these documents must be required by the exporting members and importing members respectively before permitting exports or imports of cocoa from or into their territories (Article 49). Compliance with export quotas may be ensured by measures determined by the

Council, and members undertake to inform the Council of any breach of the Agreement of which they may have cognizance (Article 35). Buffer stock operations are carried out by the Buffer Stock Manager in accordance with rules adopted by the Council (Article 37). Finally, the Cocoa Agreement provides (Article 59) for an annual review of its operations and of "the performance of members in conforming to the principles and promoting the objectives thereof". The Council may make recommendations to members regarding ways of improving the functioning of the Agreement.

96. The Coffee Agreement provides for a general obligation of members to furnish all the statistics required by the Council in the performance of its functions (Article 53). The Council is also vested with the power to approve the data used for the adjustment of basic quotas (Article 32), to require members to adopt measures for the effective implementation of the quota system (Article 42) and to carry out an annual survey of the volume of coffee stocks in the hands of individual exporting members (Article 51). The surveillance of the obligations in respect of mixtures and substitutes provided under Article 49 is also vested in the Council, which verifies compliance with the provisions of that Article on the basis of a periodic report submitted by the Executive Director.

97. Although the Wheat Agreement does not involve economic provisions, it contains certain obligations concerning the notifications and records of commercial purchases and sales of wheat and of special transactions (Article 4). In connexion with these obligations the International Wheat Council establishes regulations concerning the frequency and content of notifications and, in case of non-observation of its obligations by a member, the Executive Committee shall arrange consultations with that member to remedy the situation. The Executive Committee reports annually to the Council on developments in concessional transactions in wheat (Article 9). An Advisory Sub-Committee on Market Conditions keeps this situation under review (Article 16) and calls the attention of the Executive Committee on the existence or the threat of market instability (Article 6). The Executive Committee may in such cases inform the Chairman of the Council who may convene a session of the Council to review the situation. To assist in the performance of this task the Council may ask member States to furnish necessary statistics and information. The obligations of member States under the Food Aid Convention, which is part of the Wheat Agreement, come under the surveillance of the Food Aid Committee which receives information from member States on the amounts, composition, etc., of food aid contributions, examines the way in which the obligations under the Food Aid Programme have been fulfilled and proceeds to regular exchanges of information on the functioning of food aid contributions under the Convention (Article IV). In cases of infraction of the obligations contracted under the Convention, the Food Aid Committee decides on appropriate measures to meet the situation (Article V).

98. The Sugar Agreement charges the Council with carrying out an annual survey of developments on the sugar market and their effects on the economies of member States (Article 27). A Consumption Committee created by the Council studies various aspects of sugar consumption (including the effects of trade barriers, substitutes, etc.) and presents recommendations to the Council on measures which should be adopted by it or by member States (Article 28). There are, however, no specific obligations under the existing Sugar Agreement which require the surveillance by the executive organs of the Agreement.

ANNEX 1

Questionnaire on Subsidies, Adopted on 24 May 1960
(BISD, 9S, pages 193-194)

Reports should be made in writing for individual commodities and under the headings listed below. A suggestion of the type of information which might be included under each heading is shown within brackets:

I. Nature and extent of the subsidy

- (a) Background and authority- (The reason for the subsidy and the legislation under which it is granted.)
- (b) Incidence - (Whether paid to producers, to exporters, or in some other way; whether a fixed amount per unit, or fluctuating; if the latter, how determined.)
- (c) Amount of subsidy - (Total cost estimated or budgeted or, when this is not feasible, cost in preceding year.)
- (d) Estimated amount per unit.

II. Effect of subsidy

- (a) Estimated quantitative trade effects of the subsidy; and the reason why it is considered that the subsidy will have these effects.
- (b) Statistics of production, consumption, imports and exports:
 - (i) For the three most recent years for which statistics are available;
 - (ii) For a previous representative year, which, where possible and meaningful, should be the latest period preceding the introduction of the subsidy or preceding the last major change in the subsidy.

ANNEX 2

1. New questionnaire on State trading, adopted on 24 May 1960
(BISD, 9S, page 184)

I. Enumeration of State-trading enterprises

Does your country maintain enterprises covered by the provisions of Article XVII? If so, list the products or groups of products for which a State enterprise is maintained or for which an enterprise has exclusive or special privileges.

II. Reason and purpose for introducing and maintaining State-trading enterprises

State for each product the reason and purpose for introducing and maintaining the enterprise (it should be indicated, for example, whether the purpose or the effect of the enterprise is to prevent prices to consumers from exceeding certain maximum limits, or to protect domestic producers by the control of imports and/or the purchase of domestic supplies at above world price levels, or to facilitate export sales, or to make it possible to establish or administer a stabilization arrangement). A description of the legal provisions should be included in so far as this has not been submitted in earlier notifications.

III. Description of the functioning of the State-trading enterprises

Describe item by item, the functioning of such enterprises and state in particular¹:

Whether the enterprise deals with exports or with imports or both.

Whether private traders are allowed to import or export and, if so, on what conditions. Whether there is free competition between private traders and the State-trading enterprise.

The criteria used for determining the quantities to be exported and imported.

How export prices are determined. How the mark-up on imported products is determined. How export prices and the resale prices of imports compare with domestic prices.

¹These questions are identical to those in the questionnaire on State trading prepared by Committee II on Expansion of Trade. In so far as contracting parties have reported to Committee II on State trading in agricultural products they need, in respect of these products, merely to provide a copy of their relevant replies.

Whether long-term contracts are negotiated by the State-trading enterprise. Whether State-trading methods are used to fulfil contractual obligations entered into by the government.

IV. Statistical information

Furnish statistics (where possible by quantity and value) of imports, exports and national production on the products notified, on the following lines:

- (a) the figures should cover the last three available years;
- (b) the figures for the three groups (imports, exports and national production) should be given, where possible, in a comparable form;
- (c) the figures should be broken down so as to show:
 - (i) trade by the enterprise;
 - (ii) other trade.

V. Reason why no foreign trade has taken place (if this is the case) in products affected

In cases where no foreign trade has taken place in the products affected, state the reasons.

VI. Additional information

Provide any additional information that may be appropriate.

2. Supplementary questionnaire on State-trading enterprises, adopted on 16 November 1962 (BISD, IIS, pages 187-188)

1. Has there been any change which requires amendment to your country's answers to GATT questionnaire on State trading (L/1014) in respect of any of the following commodities:

Cocoa, coffee, cotton, cotton manufactures, jute manufactures, lead, oil-seeds, vegetable oils, tea, timber, tobacco, bicycles, sewing machines, electric fans, diesel engines, electric motors, finished leather and leather goods, iron ore, aluminium, alumina and bauxite, sports goods, coir manufactures, steel furniture, ferro-chrome and ferro-manganese, copper rollings and fish (canned etc.), cement and phosphates.

2. What is the degree of autonomy conferred by the Government on the enterprise covered by the notification.
3. Describe any rights and/or obligations in relation to domestic production enjoyed by the enterprise covered by the notification. Indicate in particular whether any obligations include an obligation to purchase the whole of the domestic product, a proportion thereof, or a specified quantity, whether obligations towards domestic production have varied in recent years and whether the enterprise has any influence over determining the size of domestic production.
4. If the enterprise covered by the notification enjoys privileges of manufacture as well as of import, indicate any differential basis of prices paid by the manufacturing undertaking, as compared with c.i.f. prices of imports or producer prices of domestic products.
5. Indicate whether import purchases are negotiated by the privileged enterprise itself or through agents. If through agents indicate:
 - (i) how they are selected;
 - (ii) how frequently their appointments are reviewed or renewed;
 - (iii) whether they are remunerated according to the value or the quantity of their purchases.
6. Indicate what steps have been taken to acquaint the enterprise concerned with the GATT Declaration of 7 December 1961 and to direct its attention to the need to investigate potential sources of supply in less-developed countries.
7. Furnish statistics (where possible by quantity and value) of imports, exports and national production on the products notified, on the following lines:
 - (a) the figures should cover the last three available years;
 - (b) the figures should as far as possible be in comparable form for imports, exports, and national production;
 - (c) the figures should be elaborated so as to show:
 - (i) source of supply of imports;
 - (ii) average value of imports by sources;
 - (iii) average prices paid to domestic producers;

- (iv) proportion of imports obtained from less-developed countries ("Economic Class II" in United Nations commodity trade classification); and
- (v) relation of imports to apparent consumption.

8. In cases where the proportion of imports of the product concerned from less-developed countries is nil, negligible, or has declined, state the reasons.

ANNEX 3

Plan of Discussion for Consultations Under
Articles XII:4(b) and XVIII:12(b)
(Annex 3 of L/4200)

I. Balance-of-payments position and prospects

Balance-of-payments situation and level of monetary reserves.

Balance-of-payments prospects and expected movement in reserves.

Special considerations affecting the availability of or the need for monetary reserves.

Factors, either external or internal, affecting the various elements of the balance of payments, such as exports and imports.

Effects of the restrictions on the balance of payments and expected duration of the restrictions.

Prospects of relaxation or elimination and likely effect of such action on the balance of payments.

II. Alternative measures to restore equilibrium

Internal monetary and fiscal situation and other relevant matters which may affect the balance of payments.

Internal action to preserve or restore equilibrium including long-term measures such as those designed to raise productivity and export capacity or to reduce structural disequilibrium or rigidities.

Other measures which may help to restore the country's balance of payments.

III. System and methods of the restrictions

Legal and administrative basis of the restrictions.

Methods used in restricting imports, including the categories of goods and proportion of imports covered by each method.

Treatment of imports from different countries or currency areas.

The use of State trading or governmental monopoly in imports and the restrictive operation, if any, of such régimes.

IV. Effects of the restrictions

Protective effects of the restrictions on domestic production. Difficulties or hardship that may be expected upon relaxation or elimination of the restrictions.

Steps taken to reduce incidental protective effects of the restrictions.

Steps taken to minimize the difficulties of transition to the stage where balance-of-payments restrictions may be eliminated.

Steps taken in the light of Article XII:3(c) and the proviso to Article XVIII:10.