

GENERAL AGREEMENT ON TARIFFS AND TRADE

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GROUP OF SENIOR OFFICIALS

Draft Report to the CONTRACTING PARTIES

1. At their Special Session held on 30 September-2 October 1985, the CONTRACTING PARTIES took the following Decision on 2 October 1985 (L/5876):

"The CONTRACTING PARTIES meeting in Special Session agree that:

- a preparatory process on the proposed new round of multilateral trade negotiations has now been initiated;
- in order to further this process, a group of senior officials, open to all contracting parties, is established; it will meet for the first time on 14 October;
- this group will report to the CONTRACTING PARTIES at their November session;
- at that session of the CONTRACTING PARTIES, a decision will be taken on the establishment of a Preparatory Committee to prepare the basis for the launching of a new round.

It is understood that:

- the senior officials' group will examine the subject matter and modalities of the proposed negotiations in the light of the GATT Work Programme and priorities for the 1980's as contained in the Ministerial Declaration of 1982 and the continuing consideration of changes in the trading environment so as to ensure that the GATT is responsive to these changes;
- the work of the senior officials' group will not prejudice the ongoing work of the GATT in terms of the 1982 Work Programme, and

will not prejudge the work on services in terms of the 1982 and 1984 decisions and agreed conclusions of the CONTRACTING PARTIES; the November session will also receive reports on this ongoing work."

2. In pursuance of this Decision, the Group of Senior Officials met on 14, 15, 16, 22, 23, 30 and 31 October and 1, [] November 1985 under the Chairmanship of Ambassador F. Jaramillo (Colombia).

3. The Group had an exchange of views on the general objectives of the proposed new round of negotiations and dealt in turn with the possible subject matter and modalities of the proposed negotiations. In considering subject matter, the Group exchanged views on all items included in the GATT Work Programme established by Ministers in November 1982. In view of the submissions put forward by various delegations and of comments made by them in the October 1985 Session of the CONTRACTING PARTIES, and in the light of the understanding concerning the continuing consideration of changes in the trading environment so as to ensure that the GATT is responsive to these changes, the Group also exchanged views on other subjects.

4. The report sets out the main points made in the discussion of each of these items and certain concluding observations, based on its exchange of views, on the broad points emerging from the discussion.

A. GENERAL OBJECTIVES OF NEGOTIATIONS

5. The Group exchanged views on the general objectives of the proposed multilateral trade negotiations.

6. There was broad agreement that their aim should be to strengthen the multilateral trading system and the GATT itself, and to expand trade through liberalization. Some countries said that the central focus should be on the trade needs of developing countries, others considered that the negotiations should benefit all contracting parties. Some countries saw negotiations essentially as a means of completing unfinished business from the Tokyo Round negotiations and above all of carrying forward the Work Programme established by Ministers in November 1982. Others laid greater stress on the need which they saw to adapt the trading system to changing circumstances. There was a widespread view that the negotiations in the GATT should be complemented by, and complementary to, action to improve the international monetary and financial system.

7. With regard to strengthening the trading system and GATT, a very large number of countries saw the proposed round of negotiations as an opportunity to enhance the rule of law in international trade and to reinforce general GATT principles. Among GATT principles, those of non-discrimination and of differential treatment for developing countries were widely mentioned as particularly important and in need of reinforcement. Many countries saw a need to establish greater equity and symmetry in the rights and obligations of contracting parties, although there were sharply differing views as to where inequity and asymmetry existed, and on priorities for action both as regards GATT rules and practices and as regards national trade policies. These differences are reflected under the relevant items in the section of this report dealing with the subject matter for negotiations. Several countries said that it should be an objective to bring trade policy fully inside the GATT.

8. Many countries also saw scope for the strengthening of GATT institutions. Views on possible action in this area, including such matters as improved dispute settlement arrangements, enhanced notification and

surveillance of trade policies and measures, and establishment of new GATT bodies or changes in the composition of existing ones, are also set out in later sections of this report.

9. Many countries said that the GATT should meet the needs of a changing trading environment and provide an adequate framework for the trading system of the future. They did not seek major changes in the objectives of the GATT but, in their view, it should as a multilateral forum deal with all problems affecting international trade relations. Some countries, however, said that GATT's competence related to trade in goods; moreover it could not be extended except by consensus.

10. As regards expansion of trade through liberalization, there was a widespread view that a major aim of the negotiations should be to improve market access on as broad a basis as possible in terms of products, markets and measures. Many countries expressed the view that liberalization should include the reduction of distortions of trade, and placed particular emphasis on the limitation of subsidies. Most countries stated that it would be important to improve market opportunities for developing countries, and especially the least-developed countries. Developing countries said that trade liberalization should give priority to the products and areas of interest to them, and should follow the principle of special and differential treatment in their favour. Their arguments are developed more fully in paragraphs 21-35 below.

11. Some countries stressed that the principles of mutual commitment and mutual advantage should apply in trade liberalization. Many countries took the view that no negotiations should take place on illegal trade restrictions: these should be removed by unilateral action. Views on this issue were also expressed under the heading "Standstill and Rollback". Several countries laid emphasis on trade liberalization being based on non-discrimination and the most-favoured-nation principle.

12. Several countries suggested that suitable formulations to express the objectives of the new round of negotiations already existed. Among formulations cited were the preamble of the General Agreement, Article XXXVI of the Agreement, paragraph 2 of the Tokyo Declaration, and the Ministerial Declaration of November 1982 (particularly its paragraph 6).

B. POSSIBLE SUBJECT MATTER OF THE PROPOSED NEGOTIATIONS

STANDSTILL AND ROLLBACK

13. Many delegations emphasized the importance, in relation to new negotiations, of establishment of a standstill on the introduction of protective measures and of efforts to roll back measures already introduced. Many delegations, in discussing these issues, drew attention to existing commitments in this respect, particularly those undertaken through the Ministerial Declaration of November 1982. They said that they expected these commitments to be honoured.

14. This issue was discussed at length by the Group, in the context of the possible subject matter for the proposed new round of trade negotiations and with regard to the modalities for such negotiations. Some countries took the view that standstill and rollback commitments were an essential prerequisite for negotiations. Their views are set out fully in the section of the present report dealing with modalities, together with the comments made in response by other delegations.

15. Most countries, whether or not they regarded standstill and rollback action as a condition for negotiations, agreed that it would enhance the possibilities for carrying through negotiations successfully.

16. Several delegations argued that standstill commitments would not be credible on their own: standstill should in the view of one delegation be seen as the first stage of a dynamic process, leading on to rollback of existing restrictions and then to contractual commitments for liberalization. Only in such a context would commitments be realistic. It was also stated that standstill and rollback were two parts of the same effort, and should not be separated, as standstill alone would just be agreement on stagnation.

17. Views were put forward on the desirable content of standstill and rollback commitments. As regards standstill, it was asked whether the concept covered actions within the scope of Article XIX, and whether it

would refer to actions by developing countries. It was said that standstill should take account of trade flows. Certain delegations took the view that standstill signified a commitment to refrain from introducing any new restrictive measures. Other delegations said that it would refer only to measures not in conformity with GATT. It was stated that even when measures were based on specific GATT provisions, it would be essential that they conformed fully with the provisions invoked. Another member suggested that standstill commitment should be defined in terms of market access: participants in the negotiations should undertake to refrain from taking steps to reduce overall existing levels of access, whether by means of tariffs or non-tariff measures, applying to all sectors of international trade. Other members emphasized that standstill should cover trade in agricultural as well as manufactured products, and should freeze trade-distorting measures at existing levels. Several members placed emphasis in this regard on a standstill on trade-affecting subsidization. Certain members of the Group called for standstill to apply also to any parallel or subsidiary negotiations under the aegis of GATT, for instance on textiles. A member said the standstill should apply to pressures for voluntary restraints. Another member said that standstill should include developed countries refraining from adopting new fiscal measures that would reduce demand for processed tropical products.

18. With regard to rollback, several delegations believed that attention should concentrate on non-tariff measures. An effort should be made, it was said, to define how commitments would apply to measures such as voluntary restraints, variable duties, subsidies, quantitative restrictions and non-bound tariffs. Other delegations said that the advanced implementation by them of scheduled Tokyo Round tariff cuts should be regarded as rollback action. Many delegations defined rollback action as the removal of protective measures inconsistent with GATT obligations, and a number of developing country delegations said that all such measures maintained by developed countries and affecting the trade of developing countries should

be covered. The view was also expressed that rollback should also apply to anti-dumping and countervailing measures used in lieu of Article XIX.

19. Some members said that emergency treatment was required, in the context of standstill and rollback action, to provide trade opportunities for countries with debt problems. As an example, they suggested zero duty bindings for all products under the GSP.

20. A number of proposals were made as regards the timing of action under standstill and rollback commitments, the nature of these commitments, and notification and surveillance arrangements. These points are recorded in the section of this report dealing with modalities for the proposed negotiations.

TREATMENT AND CONTRIBUTION OF DEVELOPING
AND LEAST-DEVELOPED COUNTRIES

21. Many members saw the principle of differential and more favourable treatment for developing countries as a cornerstone of the multilateral trading system. In their view, this principle had been developed gradually over the years, initially by recognition of the concept of protection for infant industries in Article XVIII, then with the incorporation of Part IV and the notion of non-reciprocity in Article XXXVI:8, and further in the 1970s with the acceptance of the concept of preferences and the adoption of the Enabling Clause. It had thus, they maintained, been enshrined definitively in the General Agreement and should not be questioned.

22. A number of developing countries said that this principle had not been complied with in the Kennedy and Tokyo Rounds, which had been conducted on the basis of reciprocity and mutual advantage. In future negotiations, the principle of differential and more favourable treatment for developing countries should be strictly adhered to.

23. Some developing-country delegations said the determination of the level of reciprocity to be offered by developing countries should not be left for decision in the course of negotiations, as a matter to be settled by individual developing countries with individual developed countries. For a new round of trade negotiations to be meaningful it would be necessary for the CONTRACTING PARTIES to agree beforehand, during the preparatory phase, on precise formulae to govern the level of reciprocity to be expected from such developing countries. Such formulae should be drafted in a manner which would automatically ensure, in concrete situations, the effective application of the principle of special and differentiated treatment in favour of developing countries. Differentiations could be established as regards trade coverage, type of concession, extent of reduction of trade barriers and the timing of implementation of concessions.

24. Some developing countries saw the Enabling Clause as a dynamic element in trade relations between developed and developing countries, which could constitute a framework for further action in respect of tariffs, the MTN

Codes and new trade issues. One delegation said that the best way to ensure a dynamic interpretation of Part IV and of the Enabling Clause would be to guarantee their application in the proposed new round. It was suggested that if the system was to evolve positively, Part IV should be elevated to a higher status of obligation than being a mere best endeavours clause in GATT: solutions should be sought to the problems which affected developing countries identified in the course of the recent Part IV consultations in the Committee on Trade and Development.

25. Some developing countries said that the proposed trade negotiations had to address the problems of developing countries in the context of the general issues. Differential and more favourable treatment for developing countries should constitute an integral element of GATT activities in both traditional and new areas including safeguards, subsidies, agriculture, services, etc., and should not be seen as a special dispensation accorded on a discretionary basis.

26. It was stated that the strengthening of GATT in priority areas such as safeguard rules, and the inclusion of trade in agriculture under effective GATT disciplines, would justify consideration by developing countries of some contribution in terms of the liberalization of their import régimes for goods. Such a contribution would have to be consistent with their development, financial and trade needs, as foreseen in the Enabling Clause.

27. One developing country said that the proposed new trade round should concentrate on finding concrete ways and means of making the existing rules work, and giving developing countries the chance to achieve the status of full partners in the trading system. These matters should not be left for the unilateral decision of developed countries, in the absence of criteria collectively agreed upon by all contracting parties.

28. Another delegation agreed that at present, major developed countries were using different criteria in applying unilateral "graduation". It would be necessary to address such issues as whether there should be differentiation among developing countries in applying differential and more favourable treatment, and what criteria should be used in pursuit of such a

policy. It was also necessary to ensure that GATT rules were not applied in a discriminatory manner against less-developed contracting parties, as had happened with the MFA, quantitative restrictions, tariff escalation and the like. Developing countries should be integrated more fully into the GATT system but such integration should take fully into account Part IV, the MTN Framework Agreement and Articles XII and XVIII of the General Agreement, as well as of paragraph 7(iv)(a) of the Ministerial Declaration of 1982, since the levels of development of developing countries did not allow them to trade on equal terms with the more mature economies of the industrialized countries.

29. One member believed that in certain key areas, such as textiles and tropical products, trade liberalization should be pursued in the interest of developing countries. In other areas such as safeguards, quantitative restrictions, non-tariff measures, agriculture and tariff escalation, multilateral solutions should aim to benefit all countries.

30. Many countries stressed the need for special attention in the proposed trade negotiations to the needs of the least-developed countries. A number of delegations said that the special measures for the least-developed countries established in the Annex to the 1982 Ministerial Declaration should be implemented fully and expeditiously, and would facilitate the integration of these countries in the international trading system.

31. Several members said that one of the objectives of the proposed negotiations should be to encourage economic growth in developing countries so that these countries could pay their foreign debt obligations. Some delegations proposed the establishment of an emergency programme to assist heavily indebted developing countries and countries affected by natural catastrophes. Such a programme would provide immediate trade liberalization, perhaps on a provisional basis, for products of interest to these countries, and might include the duty-free binding of current GSP items and the inclusion of additional items in the GSP.

32. Some developing countries said that they had recently been pursuing trade liberalization on an autonomous basis. They asked how this autonomous action could be recognized as a contribution to liberalization and to the proposed trade negotiations. In this respect it was suggested that the trade value of the autonomous liberalization carried out by some developing countries might be quantified.

33. Some countries asked what steps might be taken to increase trade among developing countries. In this connection, the view was expressed that the global system of trade preferences, now in preparation, should be considered as a contribution by developing countries to the proposed trade negotiations. Some developed countries said that they would support the GSTP in the light of paragraph 2(c) of the Enabling Clause, but that this activity had to be carried out in a spirit of unity and should not lead to differentiation between developing countries. Moreover, other countries should be kept informed about these activities. Developing countries said in response that they were fully aware of their commitments under the Enabling Clause and would in due course discharge their obligations under it.

34. Some developed countries said that they were observing the principle of differential and more favourable treatment. They cited recent legislation to enhance the GSP, the advanced implementation of Tokyo Round tariff cuts, and action programmes to liberalize trade. Some developing countries, however, felt that the GSP was regarded as a sort of compensation for wrongs in other areas. They referred to the shortcomings of the GSP. Certain countries said that, due to the structure of their exports, the GSP was of limited interest to them.

35. A number of developed countries confirmed that Part IV and the Enabling Clause would not be put into question in a new round of trade negotiations. However, in their view, the implementation of these provisions had to be dynamic and forward-looking in the light of the economic development of developing countries. It was to be expected that as time went by the situation of these countries would evolve, at least in certain sectors, and

not be fixed in perpetuity. Paragraph 7 of the Enabling Clause which referred to the integration of developing countries into the multilateral trading system should lead to a better balance of rights and obligations commensurate with the evolving economic development and the financial and trade situation of individual developing countries. One delegation saw a need to ensure that less-developed contracting parties fulfil their obligations as contracting parties subjecting themselves to the disciplines of the rules of the GATT system.

TRADE IN AGRICULTURE

36. It was very widely agreed that agriculture was an essential element for any major negotiation aimed at an expansion of international trade and a strengthening of the multilateral trading system. Several delegations were of the view that the results in the agricultural sector would determine the success or failure of the whole new round of negotiations.

37. In the view of many members of the Group, the problems of trade in agricultural products needed a comprehensive solution. Much of the credibility gap that had been undermining the efficiency of the GATT itself could be traced back to the absence of an effective set of disciplines and of contractual rights and obligations that would apply to trade in agricultural products and to a marked tendency to conduct trade policy regarding agriculture outside even those rules which existed. In consequence, amidst a plethora of rules, practices and exceptions, access had become increasingly restricted, conditions of competition had worsened and the increasing direct and indirect costs of protection had become a major source of concern to all governments. These members stressed that agriculture should be brought fully into the GATT system through the establishment of fair rules on access and competition and the elimination of all measures inconsistent with the General Agreement as matters of priority.

38. It was generally recognized that improved access for agricultural products was of interest to both developed and developing countries. A number of developing country representatives, pointing out that present difficulties had adversely affected agricultural exports which were in many cases essential to their economies, referred to the principle of differential and more favourable treatment for developing countries and reiterated that this principle should be fully recognized in the negotiations concerning the agricultural sector.

39. Several countries emphasized that full account should be taken of the specific characteristics and problems in agricultural production and trade. This sector was of extreme complexity due to differences in productive

structures, climate and social conditions, phenomena such as intensive or extensive production, the degree of specialization, and the sometimes conflicting objectives of national agricultural policies. A number of members insisted on the legitimacy of such objectives of national agricultural policy as food security and adequate levels of nutrition, demographic balance, employment, the living standards of small farmers and land conservation. Conflicting domestic pressures had to be reconciled. In this respect some other delegations stated, however, that the burden of adjustment could not be externalized indefinitely.

40. Certain reservations made at the time of adoption of the 1982 Ministerial Declaration were recalled. A group of developed countries had accepted and supported the work programme on agriculture on the understanding that this was not a commitment to any new negotiation or obligation in relation to agricultural products. This reservation had not been withdrawn. However, this group of countries was ready to explore negotiations in relation to the agricultural sector if this was part of a balanced grouping of subjects for negotiation.

41. The representative of this group of developed countries referred to the economic and social objectives of the group's common agricultural policy. The current task facing this group was not to interpret or revise these objectives but to ensure that the means to implement them were adequate under present circumstances. Without adequate markets agricultural production did not have a good future. This group of countries would look for market-oriented approaches and explore possible international solutions that would promote order and stability in world markets. In order to permit the necessary adaptations to its export instruments, this group of countries would seek through negotiations, and on a contractual basis, to elaborate the conditions under which substantially all measures affecting trade in agriculture would be brought under more operationally effective GATT rules and disciplines. It expected that all contracting parties would work towards improvements within the existing framework of the rules and disciplines in GATT covering all aspects of trade in agricultural products, both as to imports and as to exports, taking full account of the specific characteristics and problems in agriculture.

42. Commenting on the question of preservation of national policy objectives, one delegation said that liberalization of trade in agriculture need not threaten basic agricultural policy objectives, and could assist governments to restore greater equity and more efficient resource allocation in domestic economies. Another delegation advocated setting up precise limits to the external effects of domestic policies, and said that the discussions and negotiations on trade in agriculture should be carried out without preconditions, and on the basic premise that everything was negotiable.

43. In the view of several delegations, the new round of trade negotiations should cover all agricultural products without exception. A number of members stated that, having regard to the interests of both exporters and importers of agricultural products, it would be desirable that all contracting parties take part in these negotiations.

44. Some delegations suggested that the objectives of the new round of trade negotiations in respect of agriculture should be: improving market access conditions to all major import markets, and significant trade expansion; increasing the predictability and security of negotiated market access conditions; enhancing the fairness and effectiveness of trade rules applying to export subsidies, domestic support programmes and import regimes including variable levies, voluntary export restraints, grey area measures, quantitative restrictions and tariffs; and bringing greater equity into the trading system by ensuring that the rules apply equally to all major importers and exporters. In their view, any new round of multilateral trade negotiations should take all these factors into account.

45. Many members of the group took the view that the Committee on Trade in Agriculture had established a framework for negotiations and that the work of the Committee should be further pursued and concluded within a new round of multilateral trade negotiations.

46. One member said that, in his view, the CTA was essentially pursuing a structural adjustment approach which might provide insights useful in other sectors besides agriculture. Another delegation said that the ideas

expressed in document AG/W/9/Rev.1 were an adequate basis for negotiation but required further elaboration in the areas of differential and more favourable treatment for developing countries, termination of waivers, elimination of quantitative restrictions, strengthening of minimum access commitments, additional transparency, periodic notifications, tariff reductions, elimination of voluntary export restraints, sanitary and phyto-sanitary obstacles, etc. Another delegation said that AG/W/9/Rev.1 contributed a very appropriate basis for negotiations aimed at liberalizing trade in agriculture with the inclusion of the ideas which had been circulated in writing by this delegation.

47. In the view of several members, negotiations should examine all exceptional measures such as those maintained under waivers, protocols of accession and pre-existing legislation, even if these were allegedly justified by the specificity of the agricultural sector. Some delegations said that negotiations would not be successful if those countries which enjoyed special and unique privileges did not renounce waivers, subsidization practices, restrictive administrative and sanitary regulations, and other exceptions to the general rules. In this respect some delegations asked that the United States, in order to create a proper climate for negotiation, should indicate its willingness to accept a phasing-out of the import controls in the agricultural sector adopted under the waiver granted in 1955.

48. Many delegations felt that the new round was the proper opportunity to let the market mechanism begin to work in the agricultural sector. Protection for one economic sector extracted a high price from other sectors. The time had come to evaluate the domestic and external costs of agricultural protection. These included the effect of depressing the prices of developing countries' exports, thereby inhibiting their ability to grow. Consequently, trade liberalization should be the central objective of work in this sector.

49. With regard to access, some delegations believed the proposed trade negotiations should aim at the observance of GATT rules and the establishment of criteria providing for minimum access for all agricultural

products. The binding of tariff rates, and the establishment of adequate formulae for tariff reductions as well as for the elimination of various measures which were outside the scope of the provisions of the General Agreement, should be seriously considered.

50. Several delegations said that the question of market access was closely linked to the establishment of firm, credible commitments by all contracting parties on standstill and rollback in particular in the agricultural sector. Market access would also be helped by the strengthening of the disciplines of the General Agreement as applied to agriculture, since this would bring all quantitative restrictions and other related measures under effective GATT surveillance and discipline. The cumulation of restrictive measures imposed by some developed countries on the same agricultural product, with the effect, often, of virtual prohibition of imports, should be eliminated.

51. Several delegations emphasized the need for improved rules and strengthened disciplines in the field of subsidies. In their view, the ineffectiveness of the rules had encouraged the use of subsidies by an increasing number of countries. Countries pursuing internal social and economic policies should not use subsidization to gain special advantages in international markets, or as an instrument of protection against imports.

52. Some developing countries, agreeing that the proposed trade negotiations would have to deal with the problem of subsidies, said that in considering competition in world markets account should be taken of the difference between the impact of subsidy policies applied by developed countries and the effects of export assistance applied by developing countries. With regard to export subsidies, the differences between the objectives of developed countries and those of developing countries in applying those subsidies should be considered. In many instances developing countries had been compelled to resort to subsidies in order not to be excluded from markets by heavily-subsidized exports from competing developed countries. The proposal for a broadly based prohibition, with limited and well defined exceptions, on direct export subsidies and other forms of export-related assistance deserved careful consideration.

SAFEGUARDS

53. It was generally recognized that the issue of safeguards was central to the effective functioning and preservation of an open multilateral trading system. An agreement in this area would provide an essential underpinning of the GATT system and was thus an objective to which the highest priority must be given in any new round of negotiations.

54. A large number of members felt that the absence of effective and universally-applied disciplines for emergency action in GATT lay at the root of the proliferation of market-sharing discriminatory arrangements that in their view undermined the credibility of the GATT system. Some members stated that a solution in this area was also essential to secure the results of past liberalization efforts in the GATT and to ensure that the benefits of any future liberalization were not compromised or nullified.

55. Many members believed that an agreement on safeguards was required for progress towards liberalization in important sectors of export interest to developing countries like textiles. Reference was made to the need to protect the rights and interests of developing countries, in particular through ensuring that discriminatory measures affecting them were eliminated on a priority basis.

56. Some members said that an understanding on this issue would be an important step towards encouraging a fuller integration in the GATT system of the developing countries. These countries could not afford to seriously contemplate trade liberalization in its absence.

57. A number of other members considered that an understanding on safeguards was necessary to govern mutual trading relationships in the '80s and '90s, and to maintain confidence in the business community to justify new investments in international markets.

58. In discussion on the possible nature and content of a solution in the area of safeguards, it was generally recognized that the problem was difficult, and that despite arduous work during and since the Tokyo Round

there had been little or no progress towards its solution. Many members believed that a comprehensive solution was necessary, as partial solutions tended to endanger the most-favoured-nation principle and also ran the risk of legitimizing existing measures and practices which were not in conformity with the General Agreement.

59. It was suggested by a number of delegations that the elements in the 1982 Ministerial Declaration (transparency, coverage, objective criteria for action, including the concept of serious injury or threat thereof, temporary nature, compensation and retaliation and notification, consultation, multilateral surveillance and dispute settlement) provided a good basis for developing a comprehensive understanding on safeguards.

60. Some members stressed that it was important to embark upon this work in a pragmatic way and said that the objective should be to arrive at practical, effective and equitable rules.

61. Some delegations felt that a comprehensive solution with universal application had a better chance of being achieved in the broader framework of new negotiations. It was argued that negotiations should be carefully prepared, that a realistic approach be adopted, and that genuine efforts be made to achieve concrete results in the new round, which might be the last opportunity to do so.

62. A large number of members called for an agreed time-frame to ensure that a solution was reached early in any new negotiations.

63. Some members argued that, while a comprehensive solution should be elaborated, an interim agreement should be reached on the less controversial elements (temporary nature, degressivity, transparency, surveillance) on the understanding that there must be no implication of conferring legitimacy, explicit or implicit, to existing measures and practices taken outside the disciplines of the General Agreement.

64. Some members stated that future negotiations on safeguards should take into account the work already undertaken, e.g. the statement of the Chairman of the Council on the status of discussions on safeguards, contained in MDF/16 and the proposal put forward by Brazil. For some members, the concept of threat of injury was not acceptable as, in their view, it lent itself to protectionist pressures.

65. It was stated that special and differential treatment for developing countries should be provided generally in the area of safeguards and, in particular, in respect of the elements of compensation and retaliation, which were liable to misuse and did not work to protect the trade interests of developing countries.

66. It was stated that safeguard measures should not be used to stifle or retard the process of liberalization and the element of degressivity was therefore crucial.

67. Many members insisted that the agreement on safeguards must be based on the principles of the General Agreement including notably its most-favoured-nation clause. For many members, the most-favoured-nation clause was non-negotiable.

68. Some members stressed that the agreement should be binding on all contracting parties, and that the disciplines agreed upon must be observed by all. In this context it was suggested that it would be preferable to proceed by means of a formal amendment to the General Agreement.

69. Some members felt that any GATT discipline, to be effective, should cover all actions taken to restrain imports. GATT's central rôle in regulating different forms of safeguard measures should be restored.

70. Some members suggested that safeguard measures should be related to undertakings on structural adjustment by protected industries. Others said that adjustment must proceed independently: safeguards were emergency measures designed to offset, during a short prescribed period, serious injury resulting from a sudden unforeseen rise in imports, and should not be

used to solve longer-term problems of adjustment affecting certain critical sectors in the industrialized countries.

71. The need was widely felt for tightening up the GATT machinery with regard to surveillance and follow-up and examination of safeguard measures taken by different countries.

72. Many members linked the issue of safeguards with the questions of standstill and rollback.

DISPUTE SETTLEMENT

73. The view was widely expressed that dispute settlement is crucial to the credibility and viability of the GATT, and that improvement in this area would increase confidence in the multilateral trading system.

74. Many members of the Group agreed that the proposed negotiations would offer an opportunity to review and improve the GATT dispute settlement mechanisms, which in the view of several members were not, in spite of the efforts made in the Tokyo Round to improve them, functioning satisfactorily. Among problems identified as requiring attention were delays at various stages of the procedure (notably in forming panels and hearing cases), lack of clarity in the findings and recommendations of panels, and sometimes lack of compliance with Council recommendations.

75. A number of delegations stressed that improvement of the dispute settlement and enforcement mechanisms was required in order to introduce greater equity into the GATT system and thereby to protect the rights of the smaller and weaker contracting parties, and especially of the developing countries. The point was made that such improvements should not lead to excessive litigation, particularly directed against developing countries.

76. Several specific suggestions were made as to ways and means of improving the GATT dispute settlement process. They included:

- greater use of the possibility of third-party complaints under the existing procedures;
- specific authorization to the Director-General of GATT to initiate mediation and conciliation at an early stage in disputes;
- the development of effective follow-up procedures to ensure enforcement of panel recommendations;
- a new name for panels to better reflect their importance and the nature of their recommendations;

- development of a global dispute settlement machinery that would deal with all disputes arising under both the GATT and the various codes.

77. Some countries cautioned, however, that there were limits to what could be achieved through improvement of the dispute settlement procedures. Many of the problems encountered in dispute settlement cases in recent years lay in specific deficiencies of the GATT rules, and it was these deficiencies of substance, rather than procedural issues, which needed primarily to be addressed. A further view was that some of the problems arose from divergent conceptions of the nature of the dispute settlement procedures, and from the differing use which contracting parties accordingly sought to make of those procedures. The dispute settlement panels should not, several delegations stated, be asked to resolve through adjudication problems which ought to be a matter for negotiation. The resolution of disputes, it was added by one delegation, could best be achieved if conclusions were arrived at by a consensus in the Council: GATT was not a tribunal and should not be converted into one.

78. A number of countries distinguished between the conciliatory and adjudicative aspects of the dispute settlement procedures, and called for a proper balance between them. Some delegations placed the greater stress on conciliation. They saw adjudication only as a final resort which could be an appropriate means to ensure effective application of existing rules, but which could not create obligations that were not clearly established in the text of the GATT.

79. One delegation said that the special and more favourable treatment to which developing countries were entitled could best be assured by the observance of the substantive rules of the GATT rather than by reinforcement of the dispute settlement procedures.

80. Another delegation commented that while no effort should be spared to improve dispute settlement procedures, what was most needed was a higher level of commitment on the part of contracting parties to abide by the results of these procedures.

TEXTILES

81. There was general recognition that textiles should feature in any programme designed to address multilateral trade problems because of its significant share in world trade and its often critical importance for the economies of the developing countries, including the least developed among them.

82. A large number of members reiterated their concern at what they saw as the increasingly restrictive implementation of the Multi-Fibre Agreement, including the intensification of restrictions during the lifetime of MFA III, contrary to the basic principles of the GATT and to the Arrangement and its Protocol of Extension. They felt that the situation caused by a trade régime which was in their view fundamentally unfair and discriminatory to competitive developing-country exporters was being further aggravated by legislative and other initiatives in developed importing countries that created pressures for additional concessions from exporting countries. Special arrangements for textiles could in their view no longer be justified on the basis of a need for temporary relief to allow for adjustment to the impact of imports from developing countries. They recalled that in the Ministerial Declaration of 1982, contracting parties undertook individually and jointly to pursue measures aimed at liberalizing trade in textiles and clothing, including the eventual application of the General Agreement.

83. Many members felt that the guiding principle of liberalization envisaged for the proposed new round of negotiations should apply to textiles and clothing. Some expressed disappointment that contracting parties who had in place severe import restrictions in this sector had either omitted this issue from their submissions, or had not given it the emphasis it deserved, on the ground that the Textiles Committee had already commenced the process of considering future arrangements for international trade in textiles upon the expiry of the current MFA in July 1986. Some members felt that though this work had its own separate and definite

time-frame, work on the implementation of the 1982 Ministerial Work Programme in relation to textiles and clothing should continue in parallel, as this continued to be a priority area.

84. A large number of delegations stressed the need to move towards a significant and substantial liberalization in this sector. They proposed that a categorical and unconditional commitment be made by the developed importing countries to the full application of the rules of GATT as a first step for meaningful negotiations. They stressed that a return to GATT should not be seen as an automatic return to emergency import relief but to the MFN principle, and to trade regulated through tariffs. Some members stated that in any process of liberalization special attention be paid to small suppliers, new entrants, cotton producers and the least developed countries.

85. Some members referred to other possibilities of liberalizing trade in textiles and clothing in the context of a new round. Textile tariffs, for example, should in their view be included in the agenda for any future negotiations.

86. Some members said that progress towards full trade liberalization for exports and imports was a responsibility shared by all participants and that liberalizing actions should be made gradually and progressively on the basis of possibilities facing each contracting party.

87. Some members of the Group said that textiles and clothing should be discussed in the new round of negotiations with a view to exploring possibilities of achieving trade liberalization in the medium and long term. Some developed-country delegations accepted the desirability of working toward further improvement in market access, with special benefits for developing countries. They felt that, seen in this context, further work on the implementation of the objectives laid down by Ministers could only be undertaken in the context of a negotiation. Other members argued that, while further liberalization of trade in this sector was desirable, progress

would inevitably depend upon progress in other areas to be taken up for negotiation in the new round. Some members stated that they were prepared, in the new round, to join in an examination of possible coordinated actions aimed at limiting special measures of protection in sectors such as textiles and clothing which in their view were particularly exposed to problems of international competition.

88. Many members argued that standstill and rollback commitments to be adopted in connection with the proposed negotiations must, in order to be meaningful, cover measures in the sector of textiles and clothing. Some members felt that though extension of the MFA might be a pragmatic interim arrangement, the importing countries should undertake a standstill commitment in respect of their import régimes in this sector during the lifetime of the extended MFA.

89. It was recalled in this connection that the Working Party on Textiles and Clothing, established by the Ministerial Decision of 1982, had done useful work in this area and that it had agreed that there was need to continue consideration of the issues involved. Some members felt that the next step should be identifying and agreeing upon the precise steps that would be necessary to bring about a proper application of GATT rules, with a movement towards full liberalization - a process which should be guided, in their view, by the principle of equal treatment and non-discrimination, elimination or reduction of protectionist measures in various forms, and special and differential treatment for developing countries. They argued that responsibility for the dismantling of discriminatory restrictions under the MFA should fully rest with the developed importing countries and that there could not be any reciprocity in this process from the developing exporting countries.

TROPICAL PRODUCTS

90. A number of developing countries said that new negotiations should give special and priority attention to tropical products. Full liberalization of trade in this sector could bring considerable benefits and make participation in new multilateral negotiations meaningful for the many developing and least-developed countries who continued to depend for their export earnings on tropical products. It was noted that the aim of unrestricted duty-free entry for tropical products in primary, semi-processed and processed forms was far from being fulfilled. Although some progress had been achieved in the Tokyo Round, developing countries continued to face obstacles to their exports of tropical products. One developed country, for instance, still maintained relatively high tariffs for products such as shellac, black tea, castor oil and jute products originating in developing countries. The "consultations and appropriate negotiations" undertaken under the Work Programme of 1982 had identified problems affecting the export of tropical products to the markets of developed countries, and developing countries had submitted lists of requests. However, the outcome of the negotiations had in their view been most disappointing, and progress had been virtually stalled because of disagreement on the meaning of the expression "appropriate negotiations".

91. These delegations therefore called for a comprehensive attack on the obstacles to exports of tropical products in their primary, semi-processed and processed form, covering action on tariffs and non-tariff measures affecting these products, including internal taxes and levies, and with particular attention to the problem of tariff escalation.

92. These delegations also urged that any negotiations on tropical products should comply fully with the provisions of Part IV of the General Agreement. Concessions should be made on a non-reciprocal basis, and a short and special timetable should be established both for negotiations and for the implementation of concessions. Such action would have an important confidence-building effect, as a demonstration by developed countries of their commitment to the principle of differential and more favourable treatment for developing countries.

93. Some developing countries said that the tropical products negotiations should be carried out on the basis of Article XXXVI:8 of the General Agreement and of paragraph 5 of the Enabling Clause. In the light of the principle of differential and more favourable treatment, any concessions which developing countries might decide to give should be postponed until they had been able to evaluate the global results of the negotiations.

94. A number of developing countries called for consideration of the proposal that developed countries harmonize tariff rates for specific tropical products to the lowest tariff level applicable to such products in any developed country.

95. One delegation suggested that export promotion of tropical products should also receive special and priority attention.

96. Another delegation said that in order to preserve preferential access for a number of small exporters, trade liberalization in this sector might commence with matters of common interest to all exporters such as tariff escalation, variable levies, fiscal taxes, subsidies, technical barriers, etc. Export promotion and price stabilization mechanisms might also be considered, along with such issues as counterfeiting and the question of the operation of commodity exchanges which, in the view of that delegation, determined the prices and consequently the income of the exporters.

97. One developing country suggested that negotiations on commodities and tropical products should be part and parcel of those on agriculture.

98. One delegation stated that it was inconsistent to seek to liberalize trade in high-technology goods when trade in tropical products was still far from being liberalized.

99. A number of developed countries agreed on the importance of action on tropical products in new negotiations. They said that imports of tropical products from developing countries generally entered their markets duty free, on an m.f.n. basis. Average tariff rates were low. In response to developing countries' requests, they had taken unilateral measures aimed at

99. A number of developed countries agreed on the importance of action on tropical products in new negotiations. They said that imports of tropical products from developing countries generally entered their markets duty free, on an m.f.n. basis. Average tariff rates were low. In response to developing countries' requests, they had taken unilateral measures aimed at the liberalization of trade in tropical products. One developed country said that a trade liberalization programme recently announced would unilaterally improve the conditions of market access for some additional tropical products; remaining barriers affected mainly sensitive sectors, but even in this case there were improved prospects for further liberalization in tropical products in the context of the new round of trade negotiations. It was suggested that difficulties encountered with the concept "appropriate negotiations" could be more easily overcome within the framework of the new round, since tropical products would constitute a natural element in the negotiating package.

100. The representative of a group of developed countries said that trade negotiations in a single and global framework would make it easier for the importing countries to improve the conditions of access, and to offer tropical products concessions without reciprocity in response to requests. However, liberalization on an m.f.n. basis encountered certain difficulties in the market of this group, where many developing countries, as a result of contractual links, already enjoyed duty-free conditions of access for tropical products and should not be penalized. Thus it would be necessary to take into account the trade liberalization measures adopted by other trading partners and consider other areas for trade cooperation such as export promotion.

101. Another delegation said that its authorities were willing to respond positively to the concerns of others in the sector of tropical products assuming that others would also respond positively to their concerns in the new round.

NON-TARIFF MEASURES

102. It was generally recognized that problems in the field of quantitative restrictions and other non-tariff measures must be tackled on an urgent basis, particularly as these measures posed a serious and increasing danger to international trade. The view was widely expressed that the elimination and liberalization of these measures was essential for the credibility of the GATT system.

103. Many members of the Group stressed that, in the ultimate analysis, their participation in the proposed new round of negotiations would depend upon the success that it achieved in curbing protectionism.

104. In this context, the Group took cognizance of the work done by the Group on Quantitative Restrictions and Other Non-Tariff Measures since its establishment in 1983. There was agreement that while the Group had done useful work in this area, further efforts were necessary to progress towards the objectives laid down by Ministers.

105. Many members again stressed the importance which they attached to the implementation of the commitments of standstill and roll-back through the formulation of appropriate modalities for this purpose. They felt that concrete results achieved as regards measures inconsistent with the General Agreement had been modest and that it was not easy, moreover, to measure those results in terms of real liberalization. It was stated that, in some cases, credit was being claimed in this context for measures of liberalization that would have been taken anyway for quite other reasons.

106. Many members proposed that a short and special time-table be established for the elimination or phased liberalization of measures not in conformity with the GATT, with priority attention to quantitative restrictions and other non-tariff measures affecting products of export interest to developing countries in areas such as agriculture, tropical products and textiles. Action in this area should in their view be

concluded prior to and, in any case, independently of, the new round and that during the process there should be no attempt to confer legality on the non-conforming measures. Many members suggested that a multilateral mechanism should exist in the GATT to maintain surveillance over progress with the elimination of non-conforming measures and to monitor or oversee the negotiation of liberalization of the other measures.

107. Reference was also made to paragraph 7(iii) of the Ministerial Declaration of 1982 requiring contracting parties individually and jointly to abstain from taking restrictive trade measures, for reasons of a non-economic character, not consistent with the General Agreement.

108. Some delegations expressed disappointment that certain contracting parties had put forward proposals, for action on quantitative restrictions which would be contrary to the basic provisions of the General Agreement relating to non-discrimination.

109. A number of members recalled their view that the grounds and GATT conformity of quantitative restrictions could be seen only in the context of the history of discussion, consultation and negotiations since the early days of GATT and that, as on past occasions, due account would have to be taken of the historical, economic and socio-cultural situation in each sector. They believed that the categorization of quantitative restrictions as clearly "legal" or clearly "illegal" was difficult and that it was in this context that the Group on Quantitative Restrictions and Other Non-Tariff Measures had decided to push ahead with the task of liberalization on a pragmatic basis by inviting written proposals from contracting parties. They hoped this process would continue with greater participation by all contracting parties. These members further stated that the plethora of other non-tariff measures, whose economic impact may well be greater than quantitative restrictions, would have to be addressed during future negotiations as an interconnected problem. There should also be opportunities for collective progress in improving access for products, including tropical products.

110. Many members stated that the interpretation of the relevant Articles of the GATT, in particular Articles XI and XIII, was well established and had been confirmed in a number of recent panel cases. Particular mention was made of residual restrictions and the increasing number of measures taken contrary to the disciplines of, and outside, the GATT.

111. Many members insisted that measures maintained inconsistently with GATT provisions must not be the subject of negotiations for their elimination. Many members suggested that each contracting party should proceed with the elimination of such measures on a unilateral basis, preferably in advance of a new round. With respect to other quantitative restrictions and non-tariff measures, many members felt that the questions of their elimination or liberalization and establishing or expanding the scope for multilateral discipline where necessary, should be explored in the context of a new round. The view was widely held that any future negotiations should encompass all these other measures and that procedures devised for such negotiations should be based on non-discrimination.

112. Some members felt that, in the course of the new round, the question of other non-tariff measures, not adequately covered by the General Agreement, should likewise be tackled. Emphasis was also placed on transparency of application of non-tariff measures and the need to examine further the various methods of bringing non-conforming measures into conformity with the General Agreement.

MTN AGREEMENTS AND ARRANGEMENTS

113. It was widely felt that a major aim of any new round of negotiations should be to create conditions conducive to the participation of as many contracting parties as possible, including developing contracting parties, in the multilateral system of rules governing the trading system.

114. Some members stated that though the MTN Agreements and Arrangements negotiated in the Tokyo Round had this end in view, they had not succeeded in providing increased predictability and certainty for their trade. Some members felt that there had been persistent efforts to transform some agreements into protectionist and discriminatory instruments for harassing weaker trading partners or extracting export restraint undertakings from them. The recurring and disproportionate use of countervailing and anti-dumping procedures against imports from developing countries and in areas like textiles where quantitative import restrictions existed, was mentioned as a case in point.

115. Some members referred to the imposition of excessively burdensome demands as a price for participation or, in some cases, the use of the non-application provision to extract new undertakings that went further than the provisions of the codes themselves, such as in the area of commitments on export subsidies, as examples of how the application or interpretation of certain agreements had led to the erosion of the special and differential treatment for developing countries provided for in them, and thereby hindered their fuller participation and closer integration in the GATT system.

116. Some other members considered that though the various agreements and arrangements, with a few exceptions, had generally led to increased disciplines in trade policies and a strengthening of the open trading system, there was need to enlarge participation and to enhance the level of commitment of contracting parties. In this context, some members proposed that the MTN Agreements and Arrangements be made an integral part of the GATT, applied by all contracting parties.

117. The Group recalled the Ministerial Decision of 1982 to review the operation of the MTN Agreements and Arrangements, their adequacy and effectiveness and the obstacles to their acceptance by interested parties with a view to determining what action if any was called for in terms of the decision of the CONTRACTING PARTIES of November 1979. The Group noted the work done in the Working Group set up for this purpose.

118. Some members stated that further work was necessary to achieve the objectives laid down by Ministers, particularly as a large number of developing contracting parties were still outside the MTN Agreements and Arrangements. They felt that the existing problems, including the question of conformity of some national legislations with certain MTN Agreements and Arrangements, should be dealt with in the GATT preferably before the launching of any new negotiations, that the work of multilateral examination and review should encompass the agreements and arrangements in their totality and that it should proceed in a general body rather than the individual Code Committees. Some members said that deliberations in this area should pay special attention to the observance of basic GATT principles including the most-favoured-nation clause.

119. Some members felt that the contracting parties should exercise closer and more effective surveillance over the work of the individual Code Committees and Councils and, to this end, should systematically receive reports from them which were clear, detailed and uniform in layout and presentation. These members stated that in the review process opportunities for consultation should be provided to contracting parties who felt that their rights under the GATT had been adversely affected and that understandings or decisions reached in individual Code Committees or Councils should enter into force after consideration and review by the CONTRACTING PARTIES.

120. Some members considered that some of the MTN Agreements and Arrangements needed improvement and should accordingly be reviewed as a part of new negotiations and as a major element of new market-opening measures. In this context, some members noted that consultations had been conducted in

several of the MTN agreements, like those pertaining to subsidies, government procurement and standards with a view to clarifying their application and extending their participation and coverage. Several members made particular reference to the need for revising and tightening the existing rules on subsidies and anti-dumping procedures. Some members suggested that it was important to bring any follow-up of the report of the Working Group on MTN Agreements and Arrangements into this negotiating process. In the view of some other members it was essential not so much to bring about a revision or improvement of the Agreements as to ensure their application in the light of the Decision of the contracting parties of November 1979 which reaffirmed the intention of the contracting parties to ensure the unity and consistency of the GATT system and oversee their operation as a whole.

TARIFFS

121. There was broad agreement among delegations that although the average level of tariffs had been considerably reduced in previous rounds of multilateral trade negotiations, further progress in the area was needed and that a new round should address the remaining tariff issues.

122. There was a widespread view that the issue of tariff escalation on products processed from raw materials, many of which were of particular interest to the developing countries, had not been adequately resolved in previous trade negotiations and that it should be dealt with in a new round. A number of developing countries underlined that tariff escalation inhibited the development of processing industries in their countries. Among affected products, tropical products, textiles, leather goods and processed foods were identified as being of particular concern. Several countries said that a short and special time-table should be established for reduction in tariff escalation. It was also suggested that this area should be subject to improved surveillance.

123. A number of countries said that new negotiations should create the opportunity to reduce tariff peaks in a number of product areas, thus contributing to a further harmonization, perhaps along the lines which governed the tariff negotiations in the Tokyo Round, or following some other general formula designed to achieve further progress towards harmonizing tariffs at lower levels. Some countries suggested that tariff negotiations could make use of request and offer procedures.

124. Many members of the group considered that work on tariffs should aim at generally improving the extent and levels of bindings, this being an area where a greater balance of obligations was desirable. The view was expressed that there was an asymmetry in obligations among contracting parties in that some countries had almost all their industrial tariffs bound whereas others had very few bindings. One country stated that the degree of tariff bindings on agricultural products should be comparable to that on

industrial products. Another country, however, took the view that tariff negotiations in the new round would need to take into account the special characteristics of agriculture.

125. One delegation suggested that there should be a common move by the advanced industrialized countries to reduce their tariff rates on industrial products to zero; there could at least be elimination of very low tariffs on industrial products, and substantial reduction or elimination of tariffs on others. Another delegation favoured elimination of tariffs in particular product areas.

126. Some developing countries said that whereas relatively low tariffs applied to trade among developed countries, exports of developing countries to developed-country markets continued to be discriminated against by high tariffs, tariff quotas and variable levies. It was suggested, therefore, that special negotiating goals in the field of tariffs should include reduction of tariffs under GSP, as well as expansion of the items covered by GSP schemes, and zero binding for tariffs on products of particular interest to developing countries. One country added that the special tariff treatment exchanged among a number of developed countries under various regional arrangements should also be extended to developing countries.

127. One delegation said that an aim of tariff reductions should be to improve the competitive position of countries outside Article XXIV arrangements.

128. Several countries saw a need for broadening the criteria of "principal supplying interest" or "substantial interest" referred to in Article XXVIII and XXVII. It was suggested that the criteria of Article XXVIII were incomplete because nothing was said about the status of countries for which the export flow to a given market was of particular importance. Others said that these criteria should be corrected in order to take into consideration also the interests of developing countries which were potential exporters of the products concerned. (Further discussion in the group regarding these questions is noted later in this report, under the subject heading "Disciplines under Articles XVII, XXIV and XXVIII.")

129. Several countries recalled that in 1982 the contracting parties agreed that wide acceptance of the Harmonized System, adopted by the Customs Co-operation Council, would facilitate world trade. They suggested that the Harmonized System should be introduced as soon as possible in order to provide a solid foundation for the proposed tariff negotiations.

STRUCTURAL ADJUSTMENT

130. The issue of structural adjustment was frequently raised in the group in the context of such specific subjects as safeguards, agriculture and textiles. In addition, however, the group also discussed structural adjustment as a separate subject for possible inclusion in the proposed new round of negotiations.

131. During the discussion of structural adjustment, some countries said that the reluctance to adjust on the part of several major trading partners had represented a tremendous loss in trade opportunities. A multiplicity of import restrictions originally introduced as temporary relief measures had become permanent shields against imports from more efficient producers.

132. While recognizing that structural adjustment was a domestic policy issue, many countries considered that it would be necessary to envisage modalities of co-operation at the international level which would be conducive to improved adjustment and helpful in finding a solution to the safeguards issue.

133. Some developing countries emphasized that a new round of negotiations could not hold any prospects of sustained benefits for them unless it was recognized that developed economies which had shown a marked vulnerability to foreign competition should not transfer abroad their adjustment problems.

134. Some countries suggested that, without necessarily introducing binding rules or disciplines in the matter, an agreement should be sought on guidelines for, and surveillance of, structural adjustment. For this purpose, a committee could be established within GATT to address the problem of structural adjustment and to deal with the related matters of notification and surveillance.

TRADE IN COUNTERFEIT GOODS

135. There was general recognition of the problem of trade in counterfeit goods.

136. Some members said that trade in counterfeit goods was causing unacceptable and increasing harm to their consumers and producers as well as increasingly disruptive effects on international trade. It was pointed out, for example, that the problem had advanced beyond the sphere of consumer goods to the industrial and capital goods sector. These members felt that the problem must be addressed on an urgent basis in the context of a new round of negotiations and that GATT was the appropriate forum for dealing with the trade aspects of commercial counterfeiting. GATT was the only organization which possessed the legal and institutional framework to deal with the problem, including the necessary machinery for notification, transparency, consultation and dispute settlement. Action in the GATT to discourage trade in counterfeit goods would contribute to the furtherance of GATT's objectives.

137. A number of members stressed that the issue of commercial counterfeiting must be addressed on a multilateral basis. An international framework for action to be taken against trade in counterfeit goods would safeguard against the possibility that the proliferation of unilateral measures against imports of counterfeit goods might lead to barriers to trade in genuine goods. These members felt that, in addition to tackling problems of trademark counterfeiting, consideration should also be given to counterfeiting affecting other forms of intellectual property rights.

138. Some other members, while recognizing that trade in counterfeit goods was a growing problem which may warrant international action, felt that its seriousness should not be exaggerated. As to the competence of GATT, these members felt that the General Agreement was basically designed to address problems of trade flow relating to genuine goods and, as such, its focus of

attention should not be diverted to questions which were better addressed elsewhere, in this case in the World Intellectual Property Organization. In this context, some of these members referred to the work to be undertaken in that organization and to their own active involvement in that work. It was said that creating a new multilateral instrument ran the danger of it being converted into yet another protectionist device at the disposal of governments.

139. Members recalled that their detailed views were reflected in the Report of the Group of Experts on Trade in Counterfeit Goods, circulated as L/5878. Some members expressed disappointment that the Group had not attempted to reach agreement on possible modalities for joint action in the GATT framework, particularly since, in their view, the Group had been able to clarify the legal and institutional aspects involved, according to the mandate of the Ministers.

140. Some members said that, over the longer term, GATT should seek to reduce trade distortions resulting from inadequate treatment of intellectual property rights in general. Some other members noted that suggestions had been made for action in regard to intellectual property questions in addition to problems of counterfeiting. They said that they needed further clarification with regard to the nature of these problems before these could be addressed; however, in general they considered that such problems belonged appropriately to the domain of the WIPO.

EXPORTS OF DOMESTICALLY PROHIBITED GOODS

141. Some delegations recalled that this subject had been included in the 1982 Work Programme at the initiative of some developing countries who felt that this was a question of a general nature that deserved further examination in GATT. Problems had been detected in the areas of pharmaceuticals and drugs, pesticides and other chemical products which, though banned from sale in their country of origin on grounds of human health and safety, were still being marketed abroad. These products were sometimes exported under unrecognizable trade names.

142. It was noted that, in accordance with the provisions of Article XX of the General Agreement, both the importing and the exporting countries could adopt or enforce measures against hazardous or unsafe products in order to protect human, animal or plant life or health. However, it was said, developing countries tended to lack the means to carry out an adequate surveillance of imports as well as domestic judicial mechanisms to seek compensation in the event of injury or damage resulting from foreign products. They had hoped that GATT would be able to fill the vacuum, and through a system of notification disseminate the necessary information and give publicity to domestically prohibited goods. Unfortunately the procedures so far adopted had not been adequate for their needs. Importing countries needed timely and comprehensive information from the authorities in the exporting countries if they were to be able to regulate imports of hazardous goods. These delegations noted that the publicity given to domestic prohibitions was limited. They felt that the GATT secretariat could play a more active rôle in this area and could seek relevant information from UNEP, WHO, FAO, OECD, ITC, and other sources that could be passed on to contracting parties. As a means of ensuring "clean trade", some developing country delegations suggested that the problem might be solved by the banning, on moral and legal grounds, of foreign trade in domestically prohibited goods.

143. Several delegations expressed sympathy with the concerns expressed by developing countries in this area. Some delegations, however, cautioned

against what was termed a "wholesale approach". The motivation of some specific domestic prohibitions might not be relevant in the case of certain exports, and action against them might lead to the imposition of unnecessary new trade restrictions.

144. Several delegations accepted that this appeared to be an issue of consumer protection which deserved further discussion, exploration and negotiation. It was also recalled that similar concerns with respect to human life and health had been stated with regard to the problems of trade in counterfeit goods. A number of delegations suggested that the best way of searching for solutions in this area would be to agree to move to the stage of negotiations.

EXPORT CREDITS FOR CAPITAL GOODS

145. One delegation suggested that those contracting parties who are also parties to international agreements on official export credits should consider the possibility of establishing a new international facility which would improve developing countries' access to credits.

PROBLEMS OF TRADE IN CERTAIN NATURAL RESOURCE PRODUCTS

146. Many delegations attributed particular importance to the problems of trade in the sector of natural resource products, which was defined as comprising non-ferrous metals and minerals, forestry products and fish and fisheries products. In the view of some delegations, the sector of natural resource products was as important for some developing countries as were the issue of services and trade in high-technology goods for other countries.

147. It was noted that only certain problems in this sector such as tariffs, tariff escalation, non-tariff measures and other factors affecting trade fell under the competence of GATT. Many delegations recognized that the Working Party set up by the Council in March 1984, had made satisfactory progress in carrying out analytical studies aimed at identifying the problems in these sectors. In the view of some delegations, this work had been carried forward as much as possible and the time had come to move to a negotiating stage with regard to the classical issues: tariffs, tariff escalation, and non-tariff measures.

148. Some delegations said that the 1982 Ministerial Declaration had not implied anything more than studies and advised against prejudging the conclusions that might be drawn and the further steps that might be taken by the CONTRACTING PARTIES. While some delegations advocated a special programme aimed at a comprehensive, progressive and more intensive trade liberalization in these sectors through a sectoral approach, other delegations said that they were open-minded with respect to any practical negotiating approach that might be decided. Some other delegations cautioned against an unproductive fragmentation of the negotiations.

149. A number of more specific comments were made. One delegation said that the forestry sector should include cellulose and paper. The point was also made that any negotiation should also address the issue of "negative preferences". Another delegation recalled the negative evolution of the prices of primary products, and noted that the problem of prices could not

be isolated from other trade problems. This member insisted that a new round of trade negotiations should not prejudice the preferences enjoyed by the developing countries members of the Lomé Convention. He also suggested reinforcing the trade promotion activities of the International Trade Centre.

150. Some delegations noted that the issue of access to resources had emerged in the fisheries sector. These delegations considered that negotiations should imply a multilateral approach to all specific factors affecting these sectors.

EXCHANGE RATES AND FLUCTUATIONS
AND THEIR EFFECTS ON TRADE

151. Many members believed that the GATT should conduct an in-depth examination of all the effects of exchange rate fluctuations on international trade, as the problem had an important bearing on the stability and security both of existing obligations and of those likely to result from future negotiations. They felt that the aim of the examination should be to evolve an independent GATT assessment in this area.

152. In the view of certain countries, this examination should take place before new negotiations were launched.

SERVICES

153. In introducing this subject, the Chairman recalled the terms of the understandings included in the CONTRACTING PARTIES' Decision¹ of 2 October 1985. In the subsequent discussion, it was recognized that work in the Group was not to prejudice that undertaken on services in terms of the 1982 and 1984 decisions and agreed conclusions of the CONTRACTING PARTIES.

154. Some delegations said that services now accounted for the largest share of GDP in most countries. Trade in services was an increasingly important engine for growth and development, both domestically and in world trade. The linkages between the services and goods sectors were becoming increasingly close: for example, financial services were a key input for almost all internationally traded goods. Services thus helped to expand the production and exchange of goods.

155. These delegations said that trade in services encountered many regulatory barriers. Insurance, telecommunications, tourism and engineering, for example, met barriers which overtly discriminated against foreign entry into markets. In the view of these delegations a multilateral effort in the area of services was therefore a matter of high priority and great urgency.

156. In the view of these delegations, a greater degree of security and liberalization in the service area would further contribute to the objectives set out in the General Agreement. Some delegations also saw the proposed round of multilateral trade negotiations as an opportunity to make progress in the elaboration of basic rules of the road for services trade, before this trade either became a subject of confrontation in bilateral trade relations or the ground rules were in effect determined unilaterally by national legislation and practices.

¹The full text of this Decision is reproduced in paragraph 1 of the present report.

157. One delegation said that although a number of questions needed more detailed scrutiny and analysis, this should not be seen as an impediment to the development of a multilateral framework for trade in services.

158. Other delegations stressed that trade in goods remained of substantially greater significance than trade in services. More than four-fifths of world trade was trade in goods. One delegation said that the assessment of the relative significance of trade in services against trade in goods was controversial.

159. Several developing countries took the view, moreover, that the GATT framework could not, and should not, be applied to services without a better understanding of what was entailed in those economic transactions labelled "services".

160. Many delegations said that they attached higher priority to work on trade in goods than to trade in services. Some delegations referred in particular to the need to complete work on trade in goods still outstanding from the Work Programme of 1982.

161. Some delegations considered that work on services in GATT should be carried out only within the framework set out by the Ministerial Declaration of 1982 and the agreed conclusions of the CONTRACTING PARTIES of 1984.

162. Certain delegations held that GATT was competent to take up the issue of services.

163. While recording their view that the appropriateness of action in GATT on services could be determined only in the framework of the Work Programme and conclusions referred to above, certain other delegations expressed the view that GATT was not competent to take up the issue of services.

164. On the question of competence, there were different interpretations of the language of the Preamble to the General Agreement and of its Article XXV, as well as of the drafting history of the GATT and past Decisions of the CONTRACTING PARTIES.

165. Some countries said that GATT was the appropriate organization to deal with the issue of expansion of trade in services. It alone, in their view, had accumulated the necessary know-how in dealing with trade matters. One delegation noted in this connection that certain aspects of trade-related services were already specifically addressed in the General Agreement. Another delegation said that issues such as trade in services should be addressed so as to ensure that GATT remained a relevant instrument for dealing with the challenges facing the international trading community and for managing trade relations.

166. Other countries said that because the development perspective was important in services, there was a good case for handling the issue in organizations which had responsibility for both trade and development. They also noted that several international organizations, such as ITU and IMO, already had specific responsibility for particular areas of services.

167. A number of developing countries said that the inclusion of services in the proposed new round of negotiations should not become a condition for blocking progress in trade liberalization in the area of trade in goods. Even less should it be a condition for the observance of existing GATT rules and of specific obligations assumed in successive rounds of negotiations.

168. Some countries said that negotiations on services should be carried out by as many contracting parties as possible under the aegis of the GATT, so that the developing and developed countries alike could influence the elaboration of rules in this area.

169. Some delegations stressed that not all contracting parties would have to participate in the proposed negotiations on services and that participants might withdraw, or new participants might join, during the negotiation process.

170. Several developing countries said that if services were now to be seriously discussed and negotiated in the GATT, with a view to establishing international disciplines, they would wish to be involved.

171. Some members of the Group expressed views on how they envisaged negotiations on services, and the purpose and nature of the agreements which might be sought.

172. Among those delegations which favoured negotiations on services, many did not at this stage have a fixed view as to what kind of multilateral framework should be established to tackle the problems of trade in services.

173. Several countries said that they were most interested in developing a multilateral discipline which would counteract protectionist and arbitrary elements in regulations concerning services.

174. Several delegations, while recognizing that the GATT could not be extended as it stood to trade in services, suggested that GATT principles such as non-discrimination, national treatment and transparency should be drawn on where relevant in developing a framework of rules for this sector. A services understanding should specify principles and procedures to ensure that trade in services is as open as possible, and should be based on a commitment to transparency of practices and the resolution of problems through consultations.

175. Some delegations stated that future agreements on services should aim at a greater security of operations as well as at reducing barriers to trade in services.

176. Several countries said that rules on services should be compatible with those already applicable to trade in goods. They should however be specifically designed for services trade without any implications for the disciplines defined for traditional areas of GATT competence.

177. Many delegations said that any comprehensive system of rules and principles to govern trade in the service sector should be designed keeping in mind the particular needs of developing countries and especially of the least developed among them.

178. Certain countries suggested that it would be necessary to consider the development of both multilateral and sectoral rules, as well as finally and ultimately bilateral negotiations on specific access issues.

179. In the view of one delegation, a services understanding should cover specific sectors such as insurance, data processing, and tourism. In this country's view, priority should be given to developing an agreement on international information flows.

180. Another country said that some sectors might have already been adequately covered by existing international agreements and that there would be a need to answer only the remaining issues.

181. A number of contracting parties felt it was an open question whether the framework for services should be a comprehensive agreement, agreements particular to specific sectors, or a combination of both.

182. One delegation stated that a major restriction in international trade in services related to labour, particularly unskilled labour from developing countries.

183. Many delegations stated that any negotiations on services should be separated from negotiations on goods. Several delegations believed that there should be no explicit link between progress in the two areas.

184. One delegation stated that negotiations on services could be conducted in parallel with negotiations on goods, provided they were conducive to achieving a reasonable mutual balance of overall benefits in the global context of the proposed new round of negotiations.

185. Several countries said that there was no scope for linkage between trade in services and trade in goods.

186. Many countries believed that no hasty decision should be taken on a legal framework for trade in services or on a time-frame for establishing it. Several countries said that a step-by-step approach would be appropriate.

187. Many countries recognized that trade in services was a complex area and elaboration of an international legal framework for services would be a step-by-step and time-consuming process.

188. Several delegations said that it was unlikely and even undesirable that an agreement would be reached on a framework for trade in services before completion of negotiations on trade in goods.

189. Several countries said that in view of development needs of the developing countries, transitional measures could be envisaged, such as a provisional accession to a services code under certain conditions and for a limited period.

190. Several countries said that various options and modalities of services negotiations should be considered in the Preparatory Committee.

191. A number of countries said that negotiations on services should be serviced by the GATT secretariat.

192. Some other countries suggested that it might be appropriate to have an intergovernmental group on services serviced by a joint UNCTAD/GATT secretariat under the direction of the heads of these two organizations and chaired by appropriate officers of UNCTAD and GATT.

REVIEW OF CERTAIN PROVISIONS OF THE GENERAL AGREEMENT

193. In the view of some delegations, the proposed new round of trade negotiations offered the opportunity to review the operation of major Articles of the General Agreement. In this respect special reference was made to Articles XVII, XXIV and XXVIII of the General Agreement.

194. With regard to Article XVII, one delegation suggested that the provisions of this Article should be analyzed and improved, since in its view some activities of state-trading enterprises limited the export possibilities of developing countries. This delegation noted that Article XVII requires that state-trading enterprises in their imports and exports comply with the principle of non-discrimination, and also provides that such enterprises import and export, buy and sell, solely on the basis of commercial considerations. Such enterprises should offer to the enterprises of other contracting parties adequate opportunity to compete for participation in those purchases or sales. In the view of this delegation these provisions were not fully respected: not all contracting parties complied with the notification requirements; the notifications submitted were not examined as to the evolution, justification and possible liberalization of their activities; and there was no competent organ to monitor their activities. The analysis of Article XVII should cover the activities of state-trading enterprises in the centrally-planned economy countries with a view to ensuring adequate conditions of market access for the products of developing countries. The analysis should also consider the situation of those enterprises in market economy countries which had discriminatory trading agreements with centrally-planned economy countries as well as the activities of monopolistic marketing boards.

195. Some other delegations stated their opposition to the use in GATT of general denominations such as centrally-planned economies. The General Agreement had been conceived for trade relations between individual contracting parties with specific foreign trade régimes. In the context of international trade the ownership of the factors of production was

irrelevant and what appeared to be relevant was the rôle played by the various trade policy instruments and the capability to implement trade policy commitments. Some of these delegations pointed out that state trading enterprises which had juridical, administration and budgetary autonomy promoted trade cooperation on the basis of equality and non-discrimination and operated on the basis of economic considerations. It was asserted that Article XVII should not be included in the activities of the Preparatory Committee.

196. The representative of a group of countries which reserved its position stated that, if contracting parties were not satisfied with the application of Articles XVII and XXIV, there were procedures in GATT to deal with problems on a case-by-case basis. If, however, the purpose of the suggested review was to renegotiate the General Agreement and reopen the definition of the balance of rights and obligations among contracting parties, the possible losses were known, while nobody could know what might be won.

197. With regard to Article XXIV, one delegation said that, in its view, multilateralism as conceived by Article I of the General Agreement had been distorted by exceptions and the anomalous application of Article XXIV's provisions. Countries were evading the provisions of Article I by entering into economic integration agreements that did not meet the requirements of Article XXIV, but which other contracting parties had little option but to accept. This situation was prejudicial to the interests of developing countries who found that the value of concessions to them was impaired and that margins of preference they enjoyed were eroded or nullified by benefits exchanged between parties to such agreements. The adaptation of the international trading system to the future required that the provisions of Article XXIV be interpreted in such a way that it could not be used to provide cover to agreements which did not comply with all its requirements.

198. Some delegations noted a tendency towards the proliferation of Article XXIV arrangements which might lead to increasing regionalization. These delegations supported a review of the operation and impact of Article XXIV. The representative of a group of countries already referred to took exception to this proposal and reserved the group's position on it.

199. Regarding Article XXVIII, one member of the Group said that the procedures for the modification of tariff concessions established in this Article were generally adequate. However, in his view, the stability of the tariff concessions was being put into question through a misuse of the provisions of that Article's paragraph 5 because some contracting parties now reserved the right to modify their schedule in every three-year period as a matter of course. In his opinion, this situation made the provisions of paragraph 4 unnecessary. Any reservations under Article XXVIII:5 should refer to specific products, the reservation should have a time-limit, the reasons for the reservations should be specified and the value of concessions subject to reservation should not exceed a fixed percentage, for example 5 per cent, of the value of total imports during a representative period.

200. Another delegation believed that the right to renegotiate tariff concessions, as defined in Article XXVIII, might require some elaboration in order to reestablish symmetry in this area. It might be useful to give some direct rights for the purpose of renegotiating tariff concessions to those contracting parties for which the product in question constitutes the most important export for its economy.

201. Another delegation also expressed interest in the operation of Article XXVIII. In its view, the current structure of this Article favoured the countries among whom the concessions had originally been negotiated and the big trading contracting parties, while new trading countries found it difficult to be able to claim a substantial interest in the case of withdrawal or modification of concessions.

FUNCTIONING OF THE GATT SYSTEM

202. Several delegations saw a need to improve and strengthen the functioning of the GATT system. They noted that concrete suggestions aimed at providing the system with greater flexibility to adapt to new developments and changing circumstances, and to helping governments to resist protectionist pressures, had been made in some of the written submissions of contracting parties and at the special Session of the CONTRACTING PARTIES.

203 Several delegations, citing certain recommendations of the report "Trade Policies for a Better Future", suggested that in order to increase political commitment to the multilateral trading system, ministers might be more often and directly associated with the work of GATT, perhaps through periodic ministerial-level meetings of the CONTRACTING PARTIES.

204. Some delegations agreed in principle that political involvement was useful and necessary. They cautioned, however, against establishing periodic ministerial meetings which might not be justified in terms of subjects and the need for political decisions. Some members said, moreover, that formalistic approaches such as holding routine ministerial meetings could be no substitute for addressing and solving the problems of substance.

205. A number of delegations proposed the establishment of a process of surveillance in GATT through the creation of a formal Trade Policy Committee that would specify the cost of protection in a particular instance and help to resist demands for protection. A Trade Policy Committee would subject national policies to regular scrutiny for their trade impact, provide discipline through exposure of trade restrictive measures, and make contracting parties accountable for any measures which have an impact on the international trading environment. One delegation noted that the policies and measures adopted by developing countries for balance-of-payments reasons were examined in GATT periodically, but that the "grey area" measures applied by developed countries were not subject to scrutiny and control anywhere in GATT and sometimes were not even notified. The only way to remedy this asymmetry would be to establish a surveillance body to examine

on a regular basis the trade measures adopted by developed countries. Some delegations said that a first though limited step in this direction had been taken with the process began in the Part IV consultations under the Committee on Trade and Development, and in the special meetings of the Council.

206. A number of delegations noted that these were sensitive issues which would imply that contracting parties would be willing to discipline themselves in the future more strictly than they had done in the past. Such issues would have to be studied and resolved in the context of the new round of trade negotiations.

207. One delegation questioned the justification of maintaining in existence the Consultative Group of Eighteen which lacked transparency and had not been able to ensure that important trade issues be considered in GATT. Another delegation recalled that UNCTAD also played an important rôle in questions of trade and development and suggested that the establishment of a regular mechanism for consultation and contact between GATT and UNCTAD would save time, energy and resources.

208. One delegation called for a comprehensive review of the functioning of the GATT trading system, including such issues as non-discrimination, most-favoured-nation treatment, reciprocity, the notion of principal and major suppliers, and the MTN Codes.

COMPENSATORY TRADE

209. One delegation proposed that the new round of trade negotiations should examine the form and effects of countertrade, in particular with regard to Articles I, II and XVI, so as to ensure transparency in this area and to establish an adequate procedure to safeguard the rights of other contracting parties.

TRADE IN HIGH-TECHNOLOGY GOODS

210. Some delegations believed that the issue of trade in high-technology goods needed to be addressed. Such trade was particularly subject to distortive practices. In their view, it seemed appropriate to explore, under the auspices of GATT, how existing GATT rules could be applied to issues such as trade in high-technology products, and if additional multilateral disciplines should be developed.

211. One delegation, while recognizing the importance of the subject, cautioned that before entering the negotiation stage, further intensive study would be necessary. Other members of the group said that a step-by-step approach should be considered for "new" issues such as trade in high-technology goods, which should not be allowed to frustrate or slow negotiations on hard-core issues.

TRADE-RELATED INVESTMENT MEASURES

212. A delegation proposed that the subject of trade-related investment measures should be considered in the new round of trade negotiations. This delegation noted that in many countries, investment policies served a number of policy objectives such as economic, political and social aims. Increased foreign direct investment and other financial flows could in particular play a rôle in reducing the debt burden of developing countries. Noting that if restrictions were placed on investment flows they tended to diminish, this delegation said that in order to design an improved trading system, it appeared necessary to examine the relationship between investment and trade and to attempt to remove distortions hindering the overall objective of increasing trade. Certain investment requirements and conditions could indeed be seen as a type of non-tariff barrier. This delegation therefore proposed that, in the context of a new round of trade negotiations, GATT initiate a work programme on trade-related investment measures with the objective of establishing a framework of principles and rules to govern them. This work programme would address the matter of trade-related performance requirements, and also examine broader foreign direct investment measures such as barriers to investment, and discriminatory measures.

213. Several delegations expressed reservations on this proposal. This issue was, in the view of a number of them, outside the jurisdiction and competence of GATT. The representative of a group of countries accepted that determined and concerted action was necessary to improve the financial and monetary system in parallel with work being pursued in the trade area, but did not believe that this issue should be taken up in negotiations in GATT. Other delegations said that this issue had not been included in the 1982 Work Programme. One delegation stated that capital flows were not neutral from the standpoint of the balance of payments situation of the receiving countries as capital and profits were eventually remitted abroad, and that complete freedom for foreign direct investment might have the effect of discouraging capital formation in developing countries. Another

member referred to the conceptual approach for the negotiations put forward by his delegation in document Spec(85)52^{1/} which suggested how certain macroeconomic problems might be taken up, and stated its willingness to discuss these issues. Other delegations said that it was not possible or desirable to bring too many issues into the trade negotiations simply because they could be related to trade. A question such as budgetary deficits was trade-related but should not be included in the new round. One delegation said that while the issue of trade-related investment measures might be studied and trade effects examined, its inclusion in the new round of trade negotiations was not acceptable.

214. The delegation which had raised this issue expressed disappointment at its reception by members of the Senior Officials' Group. This issue had an important development aspect. Regarding the argument that trade-related investment requirements were outside the competence of the General Agreement, he pointed out that a recent dispute settlement panel had found certain such requirements of one contracting party to be inconsistent with the General Agreement. The representative of the contracting party concerned noted in reply that the panel's findings had had certain nuances, and that only one type of undertaking regarding foreign investment had been found inconsistent with the GATT.

^{1/} Reissued as L/5883

RELATIONSHIP WITH THE MONETARY AND FINANCIAL AREA

215. The overall linkages among problems of development, trade, money and finance were acknowledged by many members. In this context, there was wide agreement in the Group that the problem of external indebtedness required urgent attention through concerted policies.

216. Members agreed that further trade liberalization and a substantial expansion of market access, in particular to enable developing countries to generate export earnings necessary for servicing their external debt, should be a key objective of any new round of trade negotiations.

217. Many members took the view that since the solutions to present imbalances lay in the monetary and financial spheres, interested contracting parties should also agree to initiate a parallel process in the appropriate fora to review and reform the international financial and monetary system with a view to dealing with such problems as declining flows of financial resources to developing countries, the debt situation, high interest rates and the stringency of liquidity.

218. Many members felt that a symmetry in obligations between the creditor and debtor nations was essential and should be sought as a matter of fairness and common interest. They further stressed the need for governments to pursue convergent macro-economic policies conducive to non-inflationary growth and based on a strict fiscal discipline.

219. Some members stated that the developed contracting parties should undertake firm and credible individual commitments at the highest political level in these areas prior to the launching of the proposed new round of trade negotiations. Some other members stated that while the issues raised were important, they should not be linked with the launching of trade negotiations in the GATT. In this context, some members noted that an exchange of views on the reform of the international monetary system was already in progress in the International Monetary Fund and that GATT should complement this work by initiating a new round of trade negotiations as soon as possible.

220. During the discussions, many members reiterated their concerns in regard to the effects of exchange rate fluctuations on international trade and the need for an in-depth examination of this issue in the GATT (see section on Exchange Rate Fluctuations on page 48).

C. MODALITIES OF THE PROPOSED NEGOTIATIONS

General

221. Several delegations said that the modalities for the proposed negotiations should be so defined as to ensure achievement of the objectives of the negotiations. To this end, it would be necessary that decisions on the issues to be addressed were such that each contracting party received assurances that they would benefit from the negotiations. Some delegations said that it would be necessary that the negotiations address all questions of interest to participants.

222. Some countries suggested that the Group's discussions on the various subjects put forward for inclusion in the proposed new round of negotiations had shown that it would be important, in carrying forward the preparatory process, to clearly define the relationship between the Ministerial Work Programme of 1982, keeping in view the priorities indicated by contracting parties, and the proposed negotiations.

223. Several delegations said that, in order not to prejudice the position of small suppliers, a negotiating process should be established that did not limit negotiations to an exchange of concessions between the major suppliers.

224. With regard to the organization of the negotiations, some delegations expressed a preference for "a round of negotiations", subject to one common undertaking by contracting parties, in which there would be parallel treatment of all subjects, and the results of which would be implemented simultaneously. Other delegations felt a need for greater flexibility in procedures and modalities, as in their view, too integrated an approach ran the risk of linking progress in subject areas more amenable to a solution

with developments in the more intractable ones, thereby causing delays overall. It was widely felt that these matters required further discussion and elaboration.

225. One delegation said that the question of structure and modalities of the new round of negotiations was basically an issue to be considered in the Preparatory Committee and should be related to the resolution of the problems that had been defined, in such a way as to increase to a maximum the possibilities of success. An essential factor to be taken into account was the changing economic, political and trading environment.

Participation

226. It was noted that the negotiations should be open to all contracting parties.

227. Many members favoured maximum possible participation in the proposed new round of negotiations, by developed and developing countries alike. Some members stressed, in this context, that in order to encourage participation, the negotiations should take up subjects which were of interest to all contracting parties. It was also suggested that it was up to each contracting party to decide whether or not it wanted to participate in the negotiations, and that such a decision would inevitably be based on its assessment of the advantages that were likely to result from them.

228. As regards the participation of countries that are not contracting parties to the GATT, some countries suggested that clear criteria should be devised, taking into consideration the concrete interests that countries had in the international trading system and the benefits that their participation could be expected to have for the GATT as a whole. Other members felt that the participation of non-contracting parties should be decided on a case-by-case basis. Some members argued that non-contracting parties should be allowed to participate if they were prepared to contribute to the

achievement of the overall objectives of the proposed negotiations. Some other members said that the question of participation by non-contracting parties was a matter for decision by the Preparatory Committee.

Standstill and Rollback

229. It was noted that standstill and rollback featured as important issues in the context of discussions on the subject matter for the proposed new round of negotiations (see pages 5-7).

230. In discussing modalities, some delegations took the view that firm and credible individual commitments on standstill and rollback, undertaken at the highest executive level and supported by appropriate legislative sanction where necessary, were a prerequisite for broadening support for the proposed new round of negotiations. Noting that observance of previous standstill and rollback commitments had been unsatisfactory, these delegations stressed that this time the commitments should be clear and precise with their implementation subject to regular multilateral surveillance and review by an appropriate body to be established in the GATT. Some of these delegations said that the commitments being sought were, in effect, no more or less than an undertaking by contracting parties to apply the General Agreement and to respect obligations already assumed by them in the past.

231. Some delegations said that individual commitments by all contracting parties should apply to all sectors of trade including textiles and clothing and to all restrictive import measures of a tariff and non-tariff nature that were not in strict conformity with the General Agreement, in particular its Articles VI, XII, XVIII and XIX. The commitments, in the view of certain delegations, should be notified to GATT before a decision on the establishment of a Preparatory Committee.

232. A number of delegations believed that a commitment on standstill was a technical necessity for the conduct and successful conclusion of any negotiations. It was further proposed that the undertakings on standstill should remain in effect till the conclusion of the proposed new round of negotiations, starting from 2 October 1985, the date of the decision by the CONTRACTING PARTIES to initiate the preparatory process.

233. One delegation suggested that standstill might be adopted as a provisional measure, rather than as a precondition, at the same time as a Preparatory Committee was established, leaving formalization of the standstill commitments to a later stage.

234. On rollback, many delegations stated that firm and credible individual commitments should be made by developed contracting parties in favour of developing contracting parties and notified to the GATT before a decision on the launching of the proposed new round of negotiations. By these commitments, the developed contracting parties should undertake a phased elimination of all existing measures inconsistent with the General Agreement.

235. Some of these delegations added that the rollback should cover all tariff and non-tariff measures inconsistent with the GATT or with waivers and other exceptions, and should be unilateral and autonomous, not requiring counterparts or concessions from others. They said that action in this area should take full account of the agreed principles of special and differential treatment for developing countries, including the Decision of the CONTRACTING PARTIES of November 1979 in regard to Safeguard Action for Development Purposes. It was suggested that there should be a time-bound scheme for rollback not exceeding three years which should be completed before the conclusion of the proposed new round.

236. Several delegations said that they were not prepared to accept preconditions for negotiations. In particular, attempts to establish preconditions applicable only to some countries would undermine prospects for negotiations.

237. While expressing an understanding of the concerns voiced in regard to the issues of standstill and rollback, it was suggested by delegations that the immediate first step would be the establishment of a consensus on the subject matter and modalities of the proposed negotiations themselves. They believed that the various stages of the negotiations, from preparation to conclusion, should go forward in a balanced way with an effort by all participants to avoid undue rigidity or preconditions. These delegations expressed readiness to further discuss the issues of standstill and rollback, and believed that these and other matters of concern to contracting parties should be taken up as soon as possible in the more formal framework of the Preparatory Committee. Some delegations suggested that such an approach would also ensure that questions of such priority concern to developing countries were not forgotten or ignored in the proposed new round of negotiations.

Safeguards

238. Members of the Group recalled that safeguards had featured as a priority item in the context of discussions on the subject matter for the proposed new round of negotiations (see pages 18-21).

239. In discussing modalities, some delegations stated that for a decision to be possible on the establishment of a Preparatory Committee it would be necessary for all contracting parties to make firm and credible individual commitments to engage in the negotiation of a comprehensive understanding on safeguards, with a view to finding a solution in the area as a first stage of the proposed new round of negotiations. Some delegations felt that such commitments, and those to be undertaken by contracting parties on standstill and rollback, were mutually reinforcing.

240. Some delegations said that the Preparatory Committee should work out a clearly defined time-table for the conduct and conclusion of negotiations on safeguards, and made suggestions in this respect.

Differential and More Favourable Treatment for Developing Countries

241. Delegations recalled that differential and more favourable treatment for developing countries featured as an important item in the context of discussions on the subject matter for the proposed new round of discussions.

242. Many developing-country delegations stated that modalities should be devised to quantify, to the extent possible, the application of the GATT provisions on special and differential treatment for developing countries with respect to such matters as trade coverage, negotiating rights, the type of concessions exchanged, the timing of the implementation of concessions, etc. Such formulae should take account of the special trade interests of the least-developed countries.

243. Some delegations suggested that special and differential treatment for developing countries should also be ensured through improvements in GSP schemes and the adaptation, where necessary, of MTN Agreements and Arrangements such as those on Subsidies, Anti-Dumping, Technical Barriers to Trade, and Government Procurement to better accommodate their special trade, development and financial needs.

244. Some developing-country delegations suggested that the implementation of the principle of differential and more favourable treatment in the actual negotiating process should be monitored throughout the period of the proposed new round.