

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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CONTRACTING PARTIES  
Thirty-Ninth Session

## SUMMARY RECORD OF THE FIRST MEETING

Held at the International Labour Office,  
on Monday, 21 November 1983, at 3 p.m.

Chairman: Mr. B. L. DAS (India)

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### 1. Chairman's opening address<sup>1</sup>

The CHAIRMAN, in opening the thirty-ninth session, said that the decisions taken at the 1982 Ministerial meeting had permeated and influenced virtually every aspect of GATT activities since then. Many assessments had been made of the results of the Ministerial meeting, some more favourable than others, but this session provided the CONTRACTING PARTIES with their first opportunity to examine in a systematic way how far they had gone in meeting the decisions and undertakings in the Ministerial Declaration (BISD 29S/9).

He recalled that the purpose of the Ministerial meeting had been "to examine the functioning of the multilateral trading system, and to reinforce the common efforts of the contracting parties to support and improve the system for the benefit of all nations." The need for such an exercise had derived from a growing realization that all was not well with the trading system. The steady movement over more than thirty years towards open trade seemed to be faltering; there had been a growing number of sectoral derogations from basic GATT principles, exacerbating the difficulties already created by the sectors which had never been brought under adequate GATT disciplines; certain GATT rules were being circumvented or ignored; economies were changing in ways which created

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<sup>1</sup>The full text of the Chairman's address is contained in GATT/1348.

the need for new understandings; developing countries were finding their economic situation and external trading environment extremely adverse. There had been deep concern that the three basic principles of the GATT trading system, namely multilateralism, non-discrimination and transparency, were under severe strain. The principle of differential and more favourable treatment for developing countries, as provided for in the GATT system, was not being practised in any substantial way, leaving the developing countries dissatisfied.

The feeling that the CONTRACTING PARTIES should meet at a high political level in 1982 to take stock of the multilateral trading system, and to map out a work program for the 1980's, had been prompted by the desire to address these basic issues and to seek solutions which would establish confidence in the system.

He said that a major preoccupation of every statement of this nature made during the past three or four years had been the precarious state of the world economy. Many countries had registered historically low or negative growth rates; trade growth had also stagnated and had been negative in 1982; the inflation rate had been disturbingly high; balance-of-payments problems had mounted; and unemployment rates had risen to levels unprecedented for decades. Prices of commodities on which developing countries were highly dependent for their foreign exchange earnings had reached their lowest levels in 1982 since the Great Depression; the terms of trade of the non-oil developing countries had experienced a fast and systematic decline, their current account deficits had soared and the crushing burden of debt and debt-servicing had been increasing. Most of these features, whether in developed or developing countries, were not merely cyclical, but were also more basic in character, and showed fundamental deficiencies in the world economic system. The world economy as a whole had performed worse in the three years to the end of 1982 than in any other comparable period over the past thirty-five years. In GATT, it had always been the trade aspect of economic activity which was of primary concern, in particular the effects of national policies on trade flows. The enormous benefits of efficient specialization through trade had been amply proven by the statistics: in times of high growth, trade had consistently grown faster than overall production; but when production growth had fallen or been negative, trade growth had often diminished even faster.

This gloomy picture of the past three years had, in part, begun to change. There were signs of recovery in some major economies, where the inflation rate was now modest. However, the question remained of what implications such a recovery had for the acute difficulties faced by the rest of the world, particularly the developing countries, many of which faced continuing prospects of comparatively low growth in the next few years. Some of these countries faced the additional obstacle of heavy foreign debt burdens, and low or negative inflows of foreign exchange, which inhibited their development process.

When industrial economies were experiencing low growth and high inflation in the adjustment process made necessary by the 1973 oil price rise, continued growth and import demand in developing countries had cushioned the recessionary impact of that adjustment and had pulled countries out of recession more quickly than otherwise would have been possible. However, it was precisely during that period when many developing countries began to incur debts, and most of them faced the double impact of the increase in energy costs and the rising prices of their essential imports of capital and consumer goods. Shrinkage in markets for their goods and high interest rates were imposing a big strain on the foreign exchange position of these countries.

There had been a welcome growth in awareness lately of the nature of links between trade and finance. The commitments for the outflow of foreign exchange had to be met either by reducing imports or increasing exports. Unfortunately, import contraction had so far contributed more prominently to these commitments than export expansion. But the problem could not be solved satisfactorily in this manner. Not only did import scarcity fuel inflation, increase unemployment, and reduce capacity utilization rates, but it also made it increasingly difficult to export competitively; for the developing countries, reduced imports seriously impeded the very process of development. The effects of the slow-down of development and contraction of the export opportunities of countries in serious foreign exchange difficulties were not limited to these countries; through the inevitable linkage of economies they were transmitted to the world in general. The basic issue was whether governments were sufficiently committed to adopt corrective policies and measures, and whether they would show enough boldness to resist pressures which dictated otherwise. The time had come for governments to resolve courageously the conflict between short-term expediencies and the long-term interest of their economies.

The GATT had a rôle to play in this process. The General Agreement was a contract between countries with a shared view of the necessity for an open and equitable trading system. But decisions could only be carried out if the political will existed to do so. The need for collective consciousness and the realisation of collective responsibility were vital. The essence of the expression of political intent in the Ministerial Declaration had been an undertaking to fulfil GATT's basic objectives, by making determined efforts to resist protectionist pressures, and by refraining from taking or maintaining measures which were inconsistent with GATT. Although some of the important elements of the work program set by the Ministers were scarcely past their preliminary stages, it was important to remember those undertakings.

He said that a brief look at some of GATT's wide range of activities showed that the most difficult issues were undoubtedly the ones which had remained unresolved the longest, and that GATT was now faced by one of its busiest ever work programs. It was in sectors such as agriculture and textiles, and issues such as safeguards, where the conflict between international obligations and domestic, sectoral interest group pressure was the strongest.

A fresh approach to problems had been taken in both agriculture and textiles. The Committee on Trade in Agriculture had begun a detailed examination of measures taken to protect or support domestic agricultural production. While it was significant in itself that problems in agricultural trade were being examined and discussed in a frank and open way, the outcome of those deliberations would test the durability of the 1982 Ministerial undertakings. The same would be true for textiles when consideration was given to the study presently being prepared by the Secretariat; in that important sector, normal GATT rules had been set aside for nearly two decades.

Intense efforts had been made during 1983 to develop a comprehensive understanding on safeguards, as called for by Ministers in recognition of the vital part that the safeguard system played in international trade relations, and in guarding against whimsical or unilateral actions contrary to multilateral commitments. Despite these efforts, it had not proved possible to reach a comprehensive understanding in time for this session. These efforts should be intensified and the political will should be found to reach a solution in this difficult area.

He said that the Council had continued the practice, established in 1980, of reviewing developments in the trading system (special meetings on Notification, Consultation, Dispute Settlement and Surveillance). These special Council meetings had provided a useful forum for discussing the directions in which trade policy had been moving and for appraising the extent to which contracting parties were living up to their GATT commitments. An important new innovation in the special meetings during 1983 had been the inclusion in the review exercise, on the recommendation of the Consultative Group of Eighteen, of systematic monitoring of the undertakings in paragraph 7(i) of the Ministerial Declaration. It had also been agreed that the Secretariat should supply, for these reviews, information on trade policy developments which did not derive from GATT sources. Such information was provided on the secretariat's own responsibility and was without prejudice to the question whether the measures identified were legal under the GATT. Both these developments were welcome since they contributed to a fuller and more informed review of developments in the trading system.

He noted that the CONTRACTING PARTIES had before them the reports on the MTN Agreements and Arrangements. The consideration of these reports took on particular significance in the light of the Ministerial decision to review the Agreements and Arrangements in terms of their adequacy and effectiveness, and the obstacles to their acceptance by interested parties. Many Agreements and Arrangements had been signed by comparatively few developing countries, and the reasons for this should be examined. The present state of affairs was leading to a fragmentary application of GATT rules and principles, and called into question the consistency and integrity of the GATT system as a whole.

Referring to work in the Committee on Trade and Development following decisions taken by Ministers in 1982, the Chairman noted that a first round of consultations on possibilities for trade liberalization in tropical products had already taken place, and this would be followed in 1984 by further consultations and appropriate negotiations. The Committee had also embarked on a program of consultations to examine how individual contracting parties had responded to the requirements of Part IV of the General Agreement. These consultations represented a new, and it was hoped, more effective way of monitoring the implementation of Part IV. In the light of the Ministerial decisions relating to the least-developed countries, the Sub-Committee on Trade of Least-Developed Countries had established procedures for consultations between individual least-developed countries and their trading partners; the first such consultation had been held in 1983.

Finally, he mentioned the work undertaken since 1981 on the relevance of structural adjustment to the GATT. The Working Party on Structural Adjustment and Trade Policy, as instructed, had completed its work for review by the CONTRACTING PARTIES at this session, and it remained to be decided how further work should be undertaken in this area. The Working Party had concluded that the exchange of information and examination of national experience in regard to structural adjustment had been particularly valuable in providing insights into the nature of the adjustment process and the factors affecting it. In its agreed conclusions, the Working Party had expressed the view "that the GATT provides a framework for dealing with trade difficulties arising from the trade effects of measures bearing on adjustment as these relate to GATT rights and obligations, but noted the widespread view that its effectiveness in doing so was diminished because certain GATT provisions were not being fully implemented and because of the limitations of GATT rules and procedures in certain areas." The Chairman noted that the conclusion was couched in careful language, but in his view it summed up the challenge now facing the CONTRACTING PARTIES.

## 2. Adoption of the Agenda

The CHAIRMAN said that the Provisional Agenda was contained in document L/5556.

The Agenda was adopted.

## 3. Order of Business

The CHAIRMAN drew attention to the Proposed Order of Business circulated in document W.39/1. He said that introductory statements would be made by the Chairmen of the Council and of the Committee on Trade and Development, in presenting their respective reports to the CONTRACTING PARTIES.

He also drew attention to the Reports of the Committees and Councils charged with implementation of the MTN Agreements and Arrangements.

The CONTRACTING PARTIES approved the Order of Business as proposed in document W.39/1.

4. Presentation of reports

Mr. EWERLÖF (Sweden), Chairman of the Council, introduced the Council's report (L/5582). He noted that the Council had met nine times since the 38th session of the CONTRACTING PARTIES, including two special meetings to review developments in the trading system. As usual, the report contained a number of routine points, some others which were the subject of long-standing controversy, and still others which reflected complex trade policy problems that had only recently been brought to the Council's attention.

He drew attention to one aspect of the Council Chairman's rôle as it had developed over the past few years. During 1983, the Council had on several occasions referred a particular matter to its Chairman for consultations. In some cases this had involved designation of a Chairman of a working party or of the Chairman and members of panels. In other cases, the Council had authorized the Chairman to draw up terms of reference for panels in consultation with delegations. On one occasion, the case involving US imports of certain automotive spring assemblies, the Chairman had been charged with helping delegations to arrive at an understanding which had enabled the Council to adopt the Panel's report.

He noted that over the past year, the Chairman of the Council had also been engaged in consultations aimed at securing consensus for action that might be taken towards implementing certain points of the Work Program adopted by Ministers in November 1982, including terms of reference for groups or working parties, and procedures to be followed. He was thinking particularly of such difficult issues as Safeguards, Trade in Counterfeit Goods and Problems of Trade in Certain Natural Resource Products. Consultations on these and other issues mentioned in Point 1 of the Council's report would need to be pursued between this and the next session of the CONTRACTING PARTIES, so as to achieve solutions which could result in action on those areas. He noted that during the consideration of Point 1, he would be making a report to the CONTRACTING PARTIES on Safeguards.

He said he thought that the procedure of referring matters to the Council Chairman for consultations had enabled the Council to solve problems and to perform tasks that would not have been possible otherwise, or at least not as speedily. But, in his view, it was a procedure that should not be overdone.

Finally, he pointed out that the Council's rôle had been expanded by virtue of the 1982 Ministerial Declaration. Following the suggestion made by the Consultative Group of Eighteen, the Council had agreed that its twice-yearly special meetings to review developments in the trading system would serve to monitor paragraph 7(1) of the Declaration. This task might mean that the Council Chairman would have additional duties as time went on.

Mr. VIDAS (Yugoslavia), Chairman of the Committee on Trade and Development, presented the Committee's report (L/5580). He said that in addition to the Committee's regular activities under its mandate and the

1979 GATT work program, it had been concerned during 1983 with implementation of the 1982 Ministerial decisions regarding Tropical Products and GATT Rules and Activities Relating to Developing Countries.

The Committee had adopted a program of consultations with contracting parties individually or collectively, as appropriate, to examine how individual contracting parties had responded to the requirements of Part IV. It had held the first round of such consultations in October 1983 with Finland, Norway, Sweden, Austria and Hungary. A note on these proceedings was contained in document COM.TD/115. The first experience of these consultations had been worthwhile; they had provided an opportunity for full discussion of the trade policies and measures of the consulting countries in relation to the provisions and objectives of Part IV, and of possibilities for further positive action. The consultations should be considered as a dynamic process, which would enable contracting parties to focus on specific trade measures and products, and to explore future policy action for securing more effective implementation of the objectives and provisions of Part IV. The Committee had agreed that the European Communities, the United States<sup>1</sup>, Japan and a group of Latin American developing countries, members of the Latin American Integration Association (ALADI), would consult during 1984.

He said that the Committee's work on tropical products had been carried a stage further in 1983 in the context of the Ministerial decision calling for consultations and appropriate negotiations aimed at further liberalization of trade in these products, including in their processed and semi-processed forms. A first round of consultations had been held in November 1983, during which work proceeded on identification of measures affecting trade in tropical products, and consideration of suggestions for action on some of these measures. A report on these consultations was contained in document COM.TD/116. The Committee would establish a timetable early in 1984 for further consultations and appropriate negotiations, and would report to the CONTRACTING PARTIES at their 1984 session on progress achieved in eliminating or reducing existing obstacles to trade in tropical products.

In addition to its regular responsibilities in monitoring the operation of the Enabling Clause (BISD 26S/203), the Committee had started the review called for by Ministers, provided for in paragraph 9 of that clause. A number of submissions had been made by contracting parties in connection with the review, and the Committee had held a preliminary discussion of this subject which was reflected in the Committee's report. This exercise would be completed in 1984.

He noted that paragraph 5 of the Ministerial decision on GATT Rules and Activities Relating to Developing Countries called for an examination of the prospects for increasing trade between developed and developing countries and the possibilities in GATT for facilitating this objective.

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<sup>1</sup> Argentina, Brazil, Chile, Colombia, Peru and Uruguay.

Following a preliminary discussion on this matter, it had been agreed that the secretariat would present a paper which would form the basis for further discussion in the Committee in 1984.

In accordance with the decision by Ministers inviting contracting parties to work towards further improvement of GSP or MFN treatment for products of interest to least-developed countries, and the elimination or reduction of non-tariff measures affecting such products, the Committee had charged the Sub-Committee on Trade of Least-Developed Countries with the responsibility of monitoring the implementation of measures taken in pursuance of the Ministerial decision, and of holding consultations between interested least-developed contracting parties and their respective trading partners on issues relating to their development and trade interests. The first such consultations had been held with Bangladesh in November 1983 and had proved to be a useful way of focusing on the particular trade and market access problems of a least-developed country. In the light of this experience, the Sub-Committee would consider the possibility of further consultations in 1984. A note by the Chairman on the most recent session of the Sub-Committee, including the Bangladesh consultations, was contained in document COM.TD/LLDC/5.

The Committee had continued to keep under review on a regular basis the implementation of Part IV and the operation of the Enabling Clause. The review had taken into account the individual country consultations on the implementation of Part IV mentioned earlier, as well as the discussions in the Sub-Committee on Protective Measures and in the Committee itself, which were based on submissions made by contracting parties and material prepared by the secretariat.

In connection with the expansion of trade among developing countries, the Committee had taken note of the tenth Annual Report (L/5540 and Addenda) of the Committee of Participating Countries on the operation of the Protocol Relating to Trade Negotiations Among Developing Countries (BISD 18S/11).

Finally, he said that the Committee had taken note of the report of the Working Party on Structural Adjustment and Trade Policy (L/5568), and of the points made in the discussion of this report in the Council.

The CHAIRMAN then recalled that at the 1982 Ministerial meeting, the CONTRACTING PARTIES had decided (BISD 29S/18) to review the operation of the MTN Agreements and Arrangements, taking into account reports from the Committees or Councils concerned, with a view to determining what action if any was called for, in terms of their decision of November 1979 (BISD 26S/201). The CONTRACTING PARTIES had further agreed that this review should focus on the adequacy and effectiveness of these Agreements and Arrangements, and on the obstacles to the acceptance of them by interested parties.



He recalled that at its meeting in April 1983, the Council had invited the MTN Committees and Councils to take account of the Ministerial decision in their annual reports, and to transmit these reports to the Council, so that the Council could assist the CONTRACTING PARTIES in the review called for in that decision, in the light of these reports and of observations by delegations. At its meeting in November, the Council had considered these reports. The Minutes of that meeting (C/M/173) and the Council's Report to the CONTRACTING PARTIES (L/5582) reflected the Council discussion on this matter.

The following reports of the MTN Committees and Councils were now before the CONTRACTING PARTIES for consideration:

Committee on Technical Barriers to Trade	..	L/5548
Committee on Government Procurement	.. ..	L/5503 and L/5578
Committee on Subsidies and Countervailing Measures	.. .. .	L/5496 and Add.1
International Meat Council	.. .. .	L/5545
International Dairy Products Council	.. .. .	L/5546
Committee on Customs Valuation	.. .. .	L/5491 and L/5583
Committee on Import Licencing	.. .. .	L/5553
Committee on Trade in Civil Aircraft	.. .. .	L/5554
Committee on Anti-Dumping Practices	.. .. .	L/5486

He noted that contracting parties would have the opportunity to discuss any matters related to these Reports under Item 2 (Activities of GATT).

5. Report of the Council (L/5582)

The CHAIRMAN referred to the report of the Council of Representatives on its work since the thirty-eighth session of the CONTRACTING PARTIES. He suggested that the CONTRACTING PARTIES first take up those items where action by the CONTRACTING PARTIES was needed.

The following action was taken and statements were made on points dealt with in the report:

Point 3 Consultative Group of Eighteen<sup>1</sup>

Mr. DUNKEL (Director-General) recalled that it was the normal practice to announce to the CONTRACTING PARTIES the Group's composition for the coming year. He said that he understood that consultations on this matter were still proceeding among certain delegations.

Point 16(c) Turkey - Stamp duty

The CHAIRMAN drew attention to the recommendation of the Council that the draft decision reproduced in Annex III of the Council's report be adopted by the CONTRACTING PARTIES by a vote.

The decision (L/5587) was adopted by 60 votes in favour and one against.

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<sup>1</sup>See also SR.39/2 and SR.39/4.

Point 16(d) Uruguay - Import surcharges

The CHAIRMAN drew attention to the recommendation of the Council that the draft decision reproduced in Annex II of the Council's report be adopted by the CONTRACTING PARTIES by a vote.

The decision (L/5586) was adopted by 60 votes in favour and none against.

Point 18(b) Provisional Accession of Tunisia

The CHAIRMAN drew attention to the recommendation of the Council that the draft decision in Annex I of the Council's report be adopted by the CONTRACTING PARTIES.

The CONTRACTING PARTIES adopted the decision (L/5585).

Point 24 United States - Caribbean Basin Economic Recovery Act

The CHAIRMAN recalled that this matter had been raised by the United States at the Council meeting in October 1983 and again at the meeting in November, at which the Council had taken note of the statements by representatives, and had agreed to refer this matter to the CONTRACTING PARTIES for action at this session, on the understanding that consultations would take place in the meantime. Those consultations had taken place, and, as indicated in document W.39/3, it had been proposed that the CONTRACTING PARTIES set up a working party to examine this matter, and that such a working party could have the following terms of reference:

Terms of Reference

"To examine, in the light of the provisions of the General Agreement and relevant Decisions of the CONTRACTING PARTIES, the request by the United States in document L/5573 for a waiver under Article XXV:5, and to report to the Council."

Membership

Membership would be open to all contracting parties indicating their wish to serve on the working party.

Chairman

To be designated by the Chairman of the Council in consultation with delegations.

Mr. NOGUEIRA BATISTA (Brazil) reiterated that his Government believed that Brazil's sugar trading interests might be adversely affected by the Act, and therefore reserved its rights under the General Agreement. Brazil supported setting up a working party as proposed, which should examine the Act thoroughly before deciding on the US waiver request. Brazil hoped that the Act would not take effect before contracting parties had had enough time to appreciate fully all its

implications, including for third parties, so as to be able to reach a decision on the request. Should the US authorities decide to proceed with implementation of this legislation as of 1 January 1984, they should be aware of the consequences of such action for their GATT obligations.

Mr. MARTINEZ (Argentina) expressed his authorities' close interest in this matter and in the effects it could have for future treatment of similar cases in GATT. The matter should be examined in depth before any decision was taken. Argentina reserved all its rights under the General Agreement in respect of this matter and would be interested in participating in the Working Party.

Mr. JARAMILLO (Colombia) supported the US initiative with respect to the Caribbean Basin and said that Colombia wanted to participate in the Working Party.

Mr. VARGAS (Nicaragua) said that his country, as one of the potential beneficiary countries listed in the Annex of the Act, considered the information submitted by the United States at this stage to be insufficient. He said that Nicaragua favoured setting up a working party as proposed, and reserved the right to inform the Working Party of Nicaragua's position.

Mrs. GARCIA DE GONZALES (Cuba) referred to her statement at the Council meeting in November and said that her Government considered it necessary for this matter to be fully discussed in a working party. The so-called beneficiary countries of the Act had not received enough information, it was not possible to take a decision at this stage that would enable the United States to implement the legislation. Cuba supported establishment of a working party as proposed.

Mr. VILLARAN-KOECGLIN (Peru) supported setting up a working party as proposed and reserved the Peru's rights under the General Agreement.

Mr. ABBOTT (European Communities) said that the Community had noted with interest the approach followed by the United States in this matter, and supported establishment of a working party as proposed.

The CONTRACTING PARTIES took note of the statements and agreed to establish the Working Party with the terms of reference and membership proposed, and agreed that the Chairman of the Council should designate the Chairman of the Working Party in consultation with delegations.

The CHAIRMAN proposed that contracting parties wishing to submit questions in writing to the United States would be invited to submit such questions to the secretariat not later than 6 weeks from 21 November 1983. The United States would be requested to submit replies to these questions within thirty days after receipt thereof. The Working Party would meet to examine this matter as soon as possible thereafter, and would be convened by airgram in the usual manner.

The CHAIRMAN then drew attention to the other items in the Council's report.

The following action was taken and statements were made:

Point 1 - Action Program resulting from the Ministerial Meeting

(a) Safeguards

Mr. EWERLOF (Sweden), Chairman of the Council, introduced his report<sup>1</sup> on safeguards.

He recalled that in November 1982, Ministers had called for a comprehensive understanding on safeguards to be presented to the CONTRACTING PARTIES at their forthcoming session (BISD 29S/12). He recalled that he had made an interim report (Spec(83)27) to the Council on his own responsibility in July 1983, as requested by the Chairman of the Ministerial meeting (SR.38/9). He had made a further report (Spec(83)47) to the Council at its meeting in November, making clear that consultations would have to continue. The present report, which gave contracting parties information on the present situation, was made once again on his own responsibility.

He said that all contracting parties were aware of the vital importance of an improved and more efficient safeguard system for the maintenance and strengthening of an open trading system, especially in present economic conditions. But they were also aware of the great problems attached to the safeguards question, and that all efforts made in the past had failed to yield any concrete results. It had therefore been considered useful to use a different method of work, and to examine measures of a safeguard nature that had actually been taken, in order, inter alia, to understand better the underlying reasons for them, to arrive at a common analysis and to seek to draw conclusions therefrom, and to use this examination as a basis for deciding on how to proceed further. This examination of measures had been conducted informally but intensively over the past nine months. It had been clearly understood by everyone that the examination which took place did not prejudice the legal status of the measures discussed, nor the final position of governments as to the results, nor the rights and obligations of the contracting parties under the GATT.

After detailing the content of the informal discussions, he drew attention to paragraphs 17-21 of the report (W.39/4), noting that some progress had been made in further preparing the ground for the comprehensive understanding called for by Ministers. The work had shed additional light on the safeguards issue and had revealed new dimensions and facets of this complex problem. Developments since the Ministerial meeting had continued to be a matter of concern, and in the present economic environment it was particularly important to achieve the comprehensive understanding. It had been confirmed that there remained an imperative need to draw up such an understanding, which could ensure predictable, stable and equitable conditions for both importers and exporters.

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<sup>1</sup>The full text of the report is contained in document W.39/4.

More time would be needed, however, to achieve this goal and a positive political will would be even more indispensable if continued progress on a comprehensive understanding were to be made. He had hoped to be able to put forward at this session a text containing certain proposals for immediate action to be taken by contracting parties, which would act as a signal while efforts towards reaching a comprehensive understanding continued. In spite of the progress made, this had not proved possible at this stage. In these circumstances, he suggested that contracting parties should continue to work with a view to drawing up a comprehensive understanding for adoption by the CONTRACTING PARTIES at their 1984 session.

Furthermore, he suggested that all contracting parties might reaffirm their intention to give effect to such a comprehensive understanding on safeguards based on the principles of the General Agreement which would contain, inter alia, the elements contained in the Ministerial decision on safeguards. The contracting parties might also note that such an understanding should also encompass the problem of so-called "grey area" actions. It might also be agreed that the Council would keep under regular review the progress made in the negotiation of the understanding.

He added that, in his view, it was important that this work should not be jeopardized by uncontrolled developments in the trading system, and that while the work continued all contracting parties should exercise the utmost restraint with regard to behaviour that might weaken the trading system.

Mr. PURI (India) said his delegation recommended that the Council be directed to draw up a comprehensive understanding on safeguards by the 1984 session of the CONTRACTING PARTIES. Such an understanding, based on the elements outlined in the Ministerial decision, could reduce the uncertainties presently prevailing in the multilateral trading system, lessen the strain to which it had been subjected, and provide for an improved and more efficient safeguard system leading to greater predictability, clarity and greater security and equity for both importing and exporting countries. Such a solution must be found on the basis of existing provisions of Article XIX seen in conjunction with the principles enshrined in the General Agreement. Any short-cut solution dealing with only one aspect such as transparency, or a limited focus on only the "grey area", could not but result in a further deterioration of the existing safeguard system and would lead to greater uncertainty and strain in the multilateral trading system.

Mr. MARTINEZ (Argentina) said that the informal examination of safeguard measures, particularly of "grey area" measures, had enabled certain delegations to explain the constraints which had led them to take or accept such actions. The exercise had to a certain extent improved transparency in this field, but his delegation regretted that the contracting parties had been unable to reach a comprehensive understanding covering all six points in the Ministerial decision on

safeguards. The lack of solution showed the difficulties for certain contracting parties in putting a break on restrictive measures, especially on those which were incompatible with the General Agreement. His delegation reaffirmed the need to reach a comprehensive understanding as soon as possible, which would be adopted by consensus, and which would be based on the principles and provisions of the General Agreement. Argentina stood ready to give the fullest cooperation in this endeavour.

Mr. ABBOTT (European Communities) shared regrets that the informal consultations had not led to any action, even provisional, to facilitate further negotiations on safeguards. The time since the 1982 Ministerial meeting had been well used and progress had been made, even if the report in document W.39/4 did not contain a blue-print of a balanced solution. The Community remained ready to take an active part in future discussions and negotiations for a comprehensive understanding as called for by the Ministers, an understanding which, to be equitable, would have to take account of realities. The Community had no objection to fixing a deadline for this work, but there was a need to be realistic, given the difficulties already encountered in this field in working to any specific timetable.

Mr. CHAU (United Kingdom on behalf of Hong Kong) said that the failure to achieve a break-through in negotiations on safeguards reflected the entrenched and diametrically-opposed positions of principle held by delegations on this issue. His delegation regretted that the informal consultations had given unwarranted over-concentration to "grey area" measures. To put these measures in their proper perspective, he said that the estimated value of voluntary export restraints (VERs) and orderly marketing arrangements (OMAs) was less than one per cent of total world imports. He hoped that when the safeguards negotiations resumed in 1984, contracting parties would avoid being side-tracked again by these illegal measures; the only proper solution for those measures was to terminate them. The safeguards issue was not susceptible to partial or interim solutions. His delegation would participate actively in the negotiations, and was confident that, given the necessary political will on all sides to respect and uphold the GATT's basic principle of non-discrimination and most-favoured-nation treatment, a comprehensive understanding on safeguards based on Article XIX could be reached.

Mr. HAMZA (Egypt) said that the aim should be to arrive at an improved safeguards system subject to multilateral discipline and surveillance. His delegation was keen to co-operate in working out a comprehensive understanding; the new rules should reaffirm the principles embodied in the General Agreement that all emergency safeguard actions, whether they took the form of tariff increases, quantitative restrictions or "grey area" measures, should be taken on an MFN basis.

Mr. FIELD (Australia) said that his delegation was disappointed that the discussions had not, so far, produced progress towards meeting the objective of the Ministerial decision on safeguards. Australia attached great importance to reaching a comprehensive understanding, incorporating the elements contained in the Ministerial decision. His delegation remained willing to work constructively towards this objective within the shortest possible time.

Mr. BAJWA (Pakistan) said that his delegation remained willing to work towards reaching a comprehensive understanding on safeguards. This was a complex matter which would not permit hasty decisions. Several aspects of a safeguard understanding remained unexplored, including the implications of a new safeguard system for GATT itself and for other safeguard systems within or outside GATT. Also, the impact of legalized VERs on industries which were not horizontally or vertically linked with each other, but were autonomous of each other, would have to be carefully examined.

Mr. BEESLEY (Canada) said that his delegation was committed to seeking conclusion of a comprehensive understanding on safeguards as called for by the Ministerial Declaration. The discussions so far had been useful and had provided a better understanding of the problem.

Mr. BERGUNO (Chile) said that his delegation would participate in the effort to reach a comprehensive understanding that reflected all the elements and disciplines of Article XIX and all the elements in the Ministerial decision. The contracting parties should proceed carefully so as not to provoke further deterioration of the multilateral trading system.

Mr. PEREN (New Zealand) said that any comprehensive understanding on safeguards must be based on all the elements in the Ministerial decision.

Mr. NOGUEIRA BATISTA (Brazil) said that although his delegation was not disappointed with the results achieved in the informal consultations, it regretted that more progress had not been made. However, a great deal of information had been gathered which could be useful for consultations in 1984. His delegation hoped that contracting parties would enter a negotiating phase that would produce agreement on the comprehensive understanding called for by the Ministers.

Mr. JARAMILLO (Colombia) said that his delegation would co-operate actively in future work on safeguards, and hoped that it would be possible to reach agreement on a comprehensive understanding by the next session of the CONTRACTING PARTIES.

Mr. BLANKART (Switzerland) said it was regrettable that there was still no draft agreement on safeguards that could be accepted by all. But the informal consultations had led to a more precise perception of the various elements in this problem, and the conditions for a

satisfactory solution had somewhat improved. Article XIX enabled countries to extend over time the difficulties which could result from progress towards trade liberalization. In this respect it was one among the many necessary instruments for liberalizing trade and therefore had to be interpreted in this sense. In a period of recession, the needs for protection were very different, at least in the view of some people. The effects of efforts to displace competitors were felt with particular force in markets that were sluggish or at a standstill. This type of situation did not seem to be directly covered by the General Agreement. For a number of years, however, discussions on safeguards had sought to meet a new situation by extending the coverage of provisions designed for a factual situation of another kind. No doubt this was why those efforts had not yet succeeded. The recent informal discussions should therefore at least have made it clear that, by its very nature, this problem needed to be settled in an appropriate manner. The solution should be comprehensive, not interim or sectoral, and within the fundamental objectives of the General Agreement. This requirement was not identical with the concern to accommodate the "grey area" in one way or another by making it legal. Agreement was required -- implicit or better still, explicit -- on the form of competition and, where appropriate, on the limits of competition within the free-trade objective of the General Agreement.

The CHAIRMAN joined delegations in thanking Mr. Ewerlöf for his report and for his efforts on this subject as Chairman of the Council, not only during Council meetings in 1983, but also as Chairman of the informal consultations. He said that the different nuances of emphasis in the many statements reflected the complexity of this problem. The search for a solution was now particularly urgent because of certain emerging features in international trade. There was a feeling that the work carried out so far had been useful and that it had paved the way for smoother work next year.

He proposed that the CONTRACTING PARTIES agree that the Council should conclude the work of drawing up a comprehensive understanding as called for by the Ministers within such a time frame that it would be placed for adoption by the CONTRACTING PARTIES at their 1984 session.

It was so agreed.

(b) GATT Rules and Activities Related to Developing Countries

Mr. PURI (India) said that his delegation regarded the decision on this subject as one of the more important among those taken at the 1982 Ministerial meeting. The implementation of this decision, in the form of PART IV consultations intended to examine the extent to which developed contracting parties had responded to the requirements of Part IV in general, and to their commitments under Article XXXVII in



particular, had started well. India hoped that this work would continue in the Committee on Trade and Development with renewed vigour, and that the consultations on Part IV would ultimately create the basis for a more effective implementation of the provisions of Part IV in order to assist in the trade and development requirements of the less developed contracting parties.

Mr. HAMZA (Egypt) associated his delegation with the statement by the representative of India.

(c) Dispute Settlement Procedures

Mr. HAMZA (Egypt) said that the increasing number of disputes brought to GATT for settlement in recent years could pose a threat to the harmonious development of trade relations. One of the main features of GATT's dispute settlement procedures was the emphasis placed on conciliation among parties. The Ministerial Declaration had attempted to streamline those procedures, but differing attitudes regarding panels, rulings and recommendations posed problems for the dispute settlement machinery. The CONTRACTING PARTIES might find it appropriate to examine how the conciliatory process could be made more effective. Perhaps the Consultative Group of Eighteen might designate two or three of its members every year as being available for conciliation among parties. Another idea might be for the so-called "group of three" (the Chairman of the CONTRACTING PARTIES, the Chairman of the Council, and the Chairman of the Committee on Trade and Development) to be entrusted with this task. Or perhaps the Chairmen of the MTN Committees could take more initiatives in the area of conciliation. By raising these questions without answering them, the aim of his delegation was to emphasize the importance of conciliation procedures as preventive medicine, and to stress the urgent need for making GATT's multilateral conciliatory rôle more operational and effective.

Mr. PURI (India) said that the Minutes of the Council's special meetings on Notification, Consultation, Dispute Settlement and Surveillance (C/M/169,172) bore testimony to the importance that India had consistently attached to the objective and efficient functioning of the dispute settlement and surveillance mechanism and to the issues of notification and consultation. Undermining that mechanism would lead to the breakdown of the GATT. He recalled that the 1982 Ministerial decision on dispute settlement procedures (BISD 29S/13-16) stipulated that the Council, in furtherance of paragraph 22 of the 1979 Understanding (BISD 26S/210), should periodically review action taken pursuant to recommendations made by the CONTRACTING PARTIES. Follow-up by the Council on such recommendations was perhaps as necessary an element in the functioning of the dispute settlement procedures as the initial phase leading up to establishment of panels. The Chairman of the Council could hold consultations on whether such reviews should take place in the Council's regular or special meetings.

Mr. BLANKART (Switzerland) said that dispute settlement was one of GATT's most important tasks, but the machinery for this purpose had not always functioned satisfactorily in that it had sometimes not been possible to reach really practicable solutions. Some people had criticised the machinery itself and would like to improve it, for example by setting up a permanent professional panel. Such criticisms were, in his delegation's view, the consequence of a justified feeling that the provisions of the General Agreement were sometimes perhaps not too strict, but too rigid. If he understood such critics rightly, they would also like to promote a certain evolution of GATT law through case-law. But such an orientation would be contrary to GATT's nature. If the law had to evolve -- and Switzerland believed this was indeed necessary in certain cases -- such evolution could only be based on multilateral negotiations. The machinery for such negotiations could be improved; a more practicable and perhaps more equitable decision-making process might be found. But an attempt to promote this evolution through the dispute settlement procedures themselves could only lead to failure, and would prejudice both the authority of GATT's provisions and the good functioning of the dispute settlement procedures.

The meeting adjourned at 5.30 p.m.