

COMMITTEE ON TARIFF CONCESSIONS

Draft Minutes of the Meeting held in the
Centre William Rappard on 11 May 1981

Chairman: Mr. T. Kawamura (Japan)

	<u>Page</u>
1. Nomination of officers	1
2. Adoption of the agenda	2
3. Status of acceptances of the Geneva (1979) Protocol and the Supplementary Protocol	2
4. Implementation of MTN concessions	3
5. Submission of loose-leaf schedules	4
6. Tariff escalation	7
7. Tariff reclassification	10
8. Tariff study	14
9. Date of next meeting	16

1. Nomination of officers

1.1 Mr. Lindén (secretariat) opened the meeting and drew the attention of the Committee members to document C/117 which had been circulated to all contracting parties at the request of the Chairman of the Council and which informed them of the nominations of Mr. Tomoya Kawamura (Japan) as Chairman and Mrs. N'Dri Yvonne M'Bahia Kouadio (Ivory Coast) as Vice-Chairman of the Committee on Tariff Concessions. He then invited Mr. Kawamura to take the Chair.

1.2 Before pursuing the meeting the new Chairman expressed his gratitude, on behalf of the Committee, to Mr. J. Dugimont (European Communities), who had been Chairman of the Committee on Tariff Concessions since its establishment, for his excellent work in the Committee. He also thanked Mr. Arif Hussain, Vice-Chairman, for his contribution to the work of the Committee.

2. Adoption of the agenda

2.1 The Chairman referred to document GATT/AIR/1719 which contained the agenda for the present meeting and asked whether it could be accepted.

2.2 The representative of the United States said that he had some remarks and comments to make regarding the Harmonized System and assumed that he could do so under the agenda item "Tariff reclassification".

2.3 The Chairman confirmed that any remarks concerning the Harmonized System could be made under the agenda item "Tariff reclassification" at least as far as the present meeting was concerned.

2.4 The agenda was adopted.

3. Status of acceptances of the Geneva (1979) Protocol and the Supplementary Protocol

3.1 The Chairman referred to the secretariat note on the subject contained in document TAR/W/2/Rev.3 + Add.1 and asked Mr. Linden to give an account of the actual situation.

3.2 Mr. Linden (secretariat) pointed out that although several countries had signed the Geneva Protocol or the Supplementary Protocol since the last meeting of the Committee, there were still a few countries which had not done so. As could be seen from document TAR/W/2/Rev.3, as far as the Geneva Protocol was concerned, there were three countries which had signed but not yet accepted the Protocol. Those were Canada, Spain¹ and Yugoslavia.¹ Belgium was also mentioned in that category but it had since ratified the Geneva Protocol on 7 May 1981, as indicated in document TAR/W/2/Rev.3/Add.1. He added that Belgium had also accepted and signed the Supplementary Protocol. As far as the Supplementary Protocol was concerned there were altogether eight countries which had not accepted it finally, i.e. Brazil², Canada, Pakistan² Haiti, Israel, Ivory Coast, Spain² and Zaire. Of those eight countries, six had signed the Supplementary Protocol subject to ratification, whereas two countries, Pakistan² and Haiti, had not yet signed it. He further drew the attention of the Committee members to the fact that the time-limit for the acceptance of the Protocols would expire on 30 June 1981 and, unless all the countries mentioned would be able to accept them before that date, it would be necessary to extend again the period for acceptance of the Protocols, presumably until the end of the year. Such action would have to be taken by the Council which was likely to have a meeting in the first half of June and it would be very helpful if delegations concerned could inform the secretariat already now of the likelihood that they would accept the protocols before the end of June.

3.3 The Chairman invited the delegations concerned to give an indication regarding their situation as to the prospects for accepting the Protocols.

¹Yugoslavia accepted the Protocol on 2 June 1981 and Spain on 19 June 1981 (TAR/W/2/Rev.3/Add.3 and 4).

²Pakistan accepted the Supplementary Protocol on 21 May 1981, Spain on 19 June 1981 and Brazil on 23 June 1981 (TAR/W/2/Rev.3/Add.2, 3 and 4).

3.4 The representative of Canada said that since the previous meeting of the Committee the relevant legislation had been approved by the House of Commons and had been referred to the Senate for examination. He was hoping that the legislation would be enacted by 30 June 1981 but he could not guarantee it.

3.5 The representative of Brazil mentioned that the legislation which needed to be passed in order to accept the Supplementary Protocol had been approved by the Brazilian Congress. The final step consisted in the signature of the decree by the President, which her mission expected to obtain before the end of June.¹

3.6 The representative of the Ivory Coast said, with respect to her country's acceptance of the Supplementary Protocol, that the final ratification procedure was to be undertaken within the next few days before the National Assembly. The ratification instruments would probably be deposited with the secretariat very shortly.

3.7 The representative of Israel expressed the hope that the ratification procedures in course in his capital could be completed before 30 June 1981.

3.8 The representative of Zaire said that his mission was in continuing contact with the appropriate services in his capital in order to obtain the necessary presidential ordinance so that ratification could be published in the official gazette and transmitted to the secretariat.

3.9 The representative of Yugoslavia informed the Committee that on 25 December 1980 the Federal Assembly of his country had ratified the Geneva Protocol and the Yugoslavia schedule of concessions had become effective on that date. He hoped that the ratification would be deposited with the secretariat very shortly.¹

3.10 The representative of Spain told the Committee that Parliament had recently ratified several agreements and, among them, the Geneva (1979) Protocol and the Supplementary Protocol. He was expecting to receive very soon in Geneva the necessary instruments for the final acceptance of the Protocols by Spain. He was confident that it would be before 30 June 1981.¹ He also stressed that the tariff concessions granted by Spain had entered into force at the dates which had been foreseen.

3.11 The Chairman took note of the statements made by delegations on progress made towards final acceptance of the Protocols before 30 June 1981. Certain countries, however, had mentioned that they were not certain to be able to meet that deadline. He therefore invited the interested delegations to further expedite the necessary procedures but pointed out that it might nevertheless be necessary to extend once more the date for final acceptance of the Protocols. In that case, it would mean that the necessary decision would need to be taken by the Council at its meeting in June.

4. Implementation of MTN concessions

4.1 The Chairman referred to document TAR/W/8/Rev.2 and pointed out that the updating of the secretariat note on the implementation of the Tokyo Round

¹See note on page 2.

concessions depended to a large extent on the acceptance of the Protocols. He requested countries to inform the secretariat of any change concerning the staging of the reductions, in case the stagings differed from those spelled out in the respective schedules.

4.2 The representative of the European Communities asked whether the Canadian concessions on certain special steels, which were conditional on the implementation by the United States of certain concessions, had been implemented.

4.3 The representative of Canada recalled that, in the course of the MTN, Canada had made it clear to its negotiating partners that a number of Canadian offers were subject to certain conditions, as clearly indicated in the Canadian offers as well as in its final schedule. Unfortunately, those conditions had not been met during the MTN but Canada, instead of withdrawing the conditional offers, had decided to incorporate them in its tariff schedule, subject to the same conditions. He added that, so far, none of those conditions had been met and, consequently, the concessions had not been implemented.

5. Submission of loose-leaf schedules

5.1 The Chairman requested Mr. Linden to give the status of the situation concerning the submission of schedules in loose-leaf form.

5.2 Mr. Lindén (secretariat) explained that, to date, the secretariat had circulated six schedules prepared in accordance with the requirements of the loose-leaf system. Those were:

- New Zealand, circulated on 16 December 1980; requests for extension of the three month approval period had been received from the European Communities, Japan and the United States. The New Zealand schedule was therefore still being examined in capitals.
- Norway, circulated on 29 January 1981. Questions regarding that schedule had been raised by Canada and requests for extension of the examination period had been made by Japan, Sweden and the United States. In addition, some replacement pages containing amendments resulting from discussions with South Africa were being distributed.
- Burma, circulated on 30 March 1981. No comments had been received so far; if no problem arose in the weeks to come, the Burmese schedule would be certified on 30 June 1981.
- Sweden, circulated on 3 April 1981.

Very recently the schedules of Turkey and Korea had also been circulated.

Mr. Lindén added that, at the request of Brazil and Egypt, the secretariat had prepared their schedules in loose-leaf forms. He recalled that it had been agreed that, in co-operation with the Technical Co-operation Division, the Tariff Division would be helping developing countries in the preparation of their loose-leaf schedules. However, he stressed that the

secretariat would not initiate such work unless it received a specific request from a developing country. He invited developing countries to inform the secretariat whether they needed any assistance.

5.3 The representative of Austria said that his authorities had temporary difficulties regarding the preparation of the loose-leaf schedule but he hoped to forward it to the secretariat in the near future.

5.4 The representative of Hungary informed the Committee that her delegation had some technical problems concerning the preparation of the loose-leaf schedule and, consequently the submission of the Hungarian schedule had been delayed. She hoped, however, that the delay would not be more than two or three months.

5.5 The representative of Yugoslavia said that his delegation had contacted the secretariat for some additional information and had requested some technical assistance. Work in the capital was progressing and his delegation would shortly be able to submit the Yugoslav loose-leaf schedule to the secretariat.

5.6 The representative of Australia raised a number of points of a technical nature, including the question of additional pages to take account of additional concessions and the accessibility of page numbering. He further commented that the role of a schedule as a separate legal entity requires that the material in that schedule be purposeful and unambiguous, and to this end, product descriptions should, as far as possible, be capable of standing alone. In this context the Swedish schedule deserved commendation, as it described part CCCN concessions on a stand-alone basis. He added that there was no transparency or precision in a case where a concession on a part CCCN item read simply "other". It was the view of his delegation that schedules should be fully self-explanatory.

5.7 The representative of Romania informed the Committee that the Romanian schedule was under preparation in his capital. A draft would be submitted to the secretariat in the very near future.

5.8 The representative of Switzerland said that the competent services in his country had also encountered technical and practical difficulties, some of which had been overcome, but completion of the work would be delayed by about two to three months. He would be contacting the secretariat regarding a few questions that were still outstanding.

5.9 The representative of the Ivory Coast said that preparation of her country's loose-leaf schedule was well advanced and, although a few difficulties had been encountered, she expected to be able to submit that schedule in a few months' time.

5.10 The representative of Spain stated that the work of preparing the Spanish schedule was well advanced and his delegation would be submitting the Spanish version to the secretariat at the end of the month. Some difficulties had arisen in connexion with the French version, and his delegation would be contacting the secretariat with a view to solving those various technical problems.

5.11 The representative of Israel said that his authorities were also encountering difficulties in the preparation of his country's schedule, and

his delegation would shortly be consulting the secretariat with a view to solving them.

5.12 The representative of Japan regretted to state that although domestic preparatory work had advanced substantially and had almost reached the stage of completion, it might take some more time before his country would be in a position to submit the Japanese draft schedule in loose-leaf form to the secretariat. However, his delegation hoped that it would be able to fulfill its obligations in the not too distant future.

5.13 The representative of Finland reported that the Finnish loose-leaf schedule was practically ready but that some inaccuracies had been noted by both the secretariat and his authorities. The submission of the corrected version of the Finnish schedule would depend on the workload of the services concerned and the way to handle the corrections but he assumed that the maximum time needed would be one to two months.

5.14 The representative of the European Communities said that his delegation had a draft schedule ready in one of the two languages envisaged. A few points were still under discussion with other delegations however, so that submission of the schedule to the secretariat was being held up. It would be useful if the secretariat could indicate how the information in schedules would be processed and co-ordinated with statistical or other data.

5.15 The representative of Canada stated that his authorities had run into a variety of problems in preparing the loose-leaf schedule. The latest target date he had for the completion of the work in French and English was some time towards the end of June.

5.16 The representative of the United States said that preparations of the loose-leaf schedule were continuing but the incorporation of annotations proved more difficult and time-consuming than had been expected. He was not in a position to give an exact date for its submission.

5.17 The representative of India indicated that considerable thought had been given in New Delhi to this issue and his authorities had got into the task of compiling the schedule. They had, however, a couple of very precise questions in terms of their own particular situation on which he would consult the secretariat. He was hoping that India would be able to submit its loose-leaf schedule before long.

5.18 Replying to the question put by the representative of the European Communities on the processing of schedule information and the co-ordination with trade statistics, Mr. Linden (secretariat) said that the matter had been discussed in the secretariat but there was a problem because it had just been decided to change text processing machines. The question would have to be studied further and taken up at another meeting of the Committee.

5.19 In summarizing the discussion, the Chairman took note of the interventions made by a number of delegations. Concerning the status of preparation for the submission of loose-leaf schedules, he noted that several delegations were still facing technical problems which delayed the submission of their schedules. Some of those problems would have to be taken up with the secretariat while others would have to be dealt with bilaterally between the delegations concerned. The Committee would wish to see the process of preparation and submission of the various schedules further expedited and, in

that connexion, the Chairman recalled that the deadline originally set for the submission of loose-leaf schedules was 30 September 1980.

6. Tariff escalation

6.1 The Chairman recalled that the secretariat had been requested at the last meeting to prepare a background paper on tariff escalation, which had been circulated as TAR/W/18, and that the paper had been briefly discussed in the Trade and Development Committee in March. A number of delegations had offered preliminary comments on that occasion but decided to defer a wider examination of the document to the meeting of the Committee on Tariff Concessions. Referring to the paper, the Chairman pointed out that it set out a number of technical questions which would have to be taken into account in undertaking any study on tariff escalation. He also noted that the paper described in paragraph 11 a number of possible approaches that could be followed in advancing work on tariff escalation.

6.2 The representative of Japan declared that his delegation had no objection to the Committee on Tariff Concessions pursuing the study on tariff escalation as long as that study would consist in analytical work of an objective nature in order to reflect the actual situation. Regarding the methodological approaches suggested in paragraph 11, he believed that the Committee would need more time to consider the matter further taking into account the relationship with the tariff study which was to be carried out separately.

6.3 The representative of the European Communities expressed his satisfaction with the secretariat note. If such a study were to be undertaken, two fundamental aspects should be identified: on the one hand, the chain concept, i.e. identification of the various stages of the manufacturing process, and on the other hand the tariffs corresponding to those various stages and the values added. In his view, a study on tariff escalation should be envisaged in that perspective, it being important to underline the chain concept, as apart from the sector concept which, taken as a whole, covered several products and processing stages. In addition, the geographical coverage should be sufficiently broad for the markets covered by the study not to be too limited. In that perspective, the Committee could make concrete progress on the tariff escalation study.

6.4 The representative of Norway found the document under consideration useful. He wondered, however, what further work should be done in the Committee on Tariff Concessions. It was not clear to him whether the Committee was really interested in such a study. He had the impression that the matter was mainly of interest to the Committee on Trade and Development. He wished to stop the subject being transferred from one Committee to another and suggested that the Committee on Tariff Concessions could give the necessary assistance to the Committee on Trade and Development as far as the technical aspects were concerned.

6.5 The representative of Canada, referring to the comments made by the representative of Norway, said that he personally thought that any further work should be done in the Tariff Committee, since problems in the field of tariff escalation were faced by developed countries as well as developing countries. Given the general nature of those problems, it seemed to his delegation that the Tariff Committee was the most appropriate forum.

6.6 The representative of the United States thanked the secretariat for its paper which clearly indicated the problems associated with the proposed analysis. His impression was that, in view of those difficulties, further work in that area would really not be worth the time and efforts. Concerning the suggestions made by the secretariat in paragraph 11, his authorities had not had time to reflect on those possibilities. However, he would share the views of the representative of Japan that, if further work were to be envisaged in that area, more time should be dedicated to reflect on the suggestions that had been made.

6.7 The representative of Switzerland said that notwithstanding the quality of document TAR/W/18 his delegation was not very enthusiastic about undertaking a study of that kind and shared the hesitation that had been expressed by the Japanese and United States representatives. He would prefer to study the problem in greater depth before encouraging such analytical studies.

6.8 The representative of Argentina made special reference to the possibility of carrying out a study in accordance with the criteria expressed by earlier speakers; the problem faced by his country might also concern others, namely the difficulty of determining effective protection in an empirical way. If, as stated in document TAR/W/18, paragraph 11 "nominal duty rates applicable ... could be identified", so far as certain countries were concerned, the nominal duty rates applicable on many products were not relevant because there were all sorts of other restrictions. In his view, therefore, a study based on nominal duty rates would only be of very relative value. In addition to that limitation which he considered serious, any studies undertaken would have to cover cases previously identified by delegations. Lastly, given that the studies would refer to products in selected markets, he asked what the representative of the European Community had meant when speaking of broader geographical coverage.

6.9 The representative of Spain stated that the paper prepared by the secretariat gave rise to a series of technical problems which his delegation wished to analyse in more detail. He specified three types of problems. Firstly, the definition of industry. From the point of view of the Spanish language, it was rather a complex of words and, even in the General Agreement itself, one found the words "branch", "industry", "production", "firm", for various aspects of the same thing. Secondly, he wished to know what was meant when there was a reference to the dynamic aspect of the problem. Thirdly, his delegation also wanted to know, on a much more clear-cut basis, the quality of the analytical instruments which were being used by the various countries in order to measure the effective protection. He also questioned how the added value would be calculated, through the input/output technique or other techniques. He supported the views expressed by the Japanese delegation concerning the additional time needed to study the possibilities for further analytical work.

6.10 The representative of the Ivory Coast said that in regard to its technical content the secretariat document was a complex one. After noting the suggestions made by the secretariat in paragraph 11, she agreed with other delegations that the document had been circulated very recently and would have to be examined in greater detail. Nevertheless, with reference to paragraph 11(iii), the secretariat would have to identify the products concerned and to that end secretariat assistance was essential for her delegation.

6.11 The Chairman pointed out that among the various points raised by delegations he had noted the pertinent comments made by the representative of Norway and admitted that he had been somewhat baffled in view of his participation in the discussion of that issue in the Committee on Trade and Development. He recalled that the origin of the issue was linked to the discussion held in that committee when taking up the question of trade liberalization in relation to trade of developing countries; tariff escalation was one of the four items chosen as priority issues for consideration. Since the subject of tariff escalation involved questions of a very technical nature, the general feeling then had been that the Committee on Tariff Concessions should have a role to play in advancing any study. Those were the reasons for putting the matter before the present meeting. He expected the Tariff Committee to have a full exchange of views at this session. A number of delegations had indicated that, regarding the kind of approaches suggested in the secretariat note, they would need some more time for reflection before they could adopt a specific stand as to whether the Committee on Tariff Concessions should undertake the kind of study suggested in paragraph 11 of TAR/W/18. He had also taken note of some more specific questions to be looked at by the Committee at a future session. He stressed that it should be ascertained whether the Committee would be prepared to take up the question and, if so, concrete ways for carrying out the study should be found. A decision should be taken in the not too distant future.

6.12 Replying to the Argentine representative, the representative of the European Communities said that in relation to the traditional markets usually covered by studies, it would be interesting to take other markets into consideration. Furthermore, as to the substance, he supported the approach outlined by the Chairman; although his delegation had already expressed its view on that point, if other delegations were not in a position to state their position for the moment, they could revert to the matter in the near future.

6.13 The Chairman added that when trying to deal with the kind of approaches suggested in the secretariat note, he had left out the point concerning the identification of a particular manufacturing process. The secretariat could render valuable assistance from the technical point of view. The approach suggested in point iii) of paragraph 11 (document TAR/W/18) was to follow the lines which had been given in the discussion in the Committee on Trade and Development. If interested countries should come forward with so-called problem areas, such areas would have to be defined quite clearly in terms of not only the products involved but also as to the particular and different stages of production. Only on that basis, the kind of study envisaged would be possible. Therefore, if the Committee was to proceed to a study of that kind, the participation of the countries, particularly those which had identified problem areas, would be indispensable. Considering the exhaustive discussion which had taken place on the subject, the Chairman regretted that it had not been possible to arrive at a conclusion regarding the suggestions contained in the secretariat note and he suggested to keep the item on the agenda of the next meeting in order to take a more definitive stand.

6.14 The representative of India declared that he was particularly interested in the debate since he had participated in the discussion on earlier occasions in both the Tariff Committee and the Committee on Trade and Development. He recalled that the question of tariff escalation had been designated by the developing countries as an area of priority. This had been agreed by the CONTRACTING PARTIES at their 35th session and the matter had later been taken up in the Committee on Trade and Development. At that time, it had been

argued that whereas this was a priority for developing countries, it was also an area where several developed countries had concerns and the problem should be looked at in a global manner. This was a point that was made again today by the Canadian Delegation. It had then been felt in the Trade and Development Committee that the Committee on Tariff Concessions, which was a technical body in charge of the whole area of tariffs, should have a look at this matter with a view to evolving a methodology in which work relating to tariff escalation could be meaningfully attempted in the GATT system. His delegation had suggested certain immediate problems in the area of tariff escalation. He thought that the substance of the problems related to the specific product chains and product areas should be dealt with in the Committee on Trade and Development and the work that the Tariff Committee could meaningfully carry out was to evolve a simple, effective, meaningful methodology for the work to be done by the Committee on Trade and Development. The work he envisaged being done by the Tariff Committee was to pursue the goal of methodology which would have to be very simple and he expected that the Committee would come up with concrete suggestions as to what this methodology could be. Then the proposed methodology should be fitted into the substantive work being undertaken in the Committee on Trade and Development.

6.15 The Chairman said that the Committee took note of the various statements made by the delegations and particularly of their substantive comments regarding the specific approaches suggested. It seemed to him that the general sense in the Committee was that it did have a role to play in the question of tariff escalation, at least as far as its technical aspects were concerned. A number of delegations felt that more time was needed to reflect upon the suggestions made and the appropriate approaches to be taken, before they could reach a more definitive stand. Other delegations were ready to see the study envisaged in the secretariat note being undertaken already now. In view of the various comments made, the Chairman suggested keeping this item on the agenda of future meetings. It was so agreed.

7. Tariff reclassification

7.1 The Chairman reminded the members of the Committee that at the last meeting of the Committee the secretariat had been requested to prepare a new document which would go into wider aspects of reclassifications than those described in document TAR/W/14. The new document had been circulated as TAR/W/19.

7.2 Mr. Lindén (secretariat) understood that some delegations wished to raise a number of rather detailed technical issues in connexion with the document and suggested that those delegations could take up such questions directly with the secretariat which would prepare a revision of the TAR/W/19, taking into account the remarks it had received. He felt that the discussion in the Committee should concentrate on the more general aspects of the document. The interested delegations and the secretariat could have an informal meeting very soon in order to discuss those purely technical aspects.

7.3 The Chairman recalled that the question of the adoption of the Harmonized System could be discussed at the same time as the tariff reclassification problems.

7.4 The representative of Japan expressed his appreciation for the paper which in his view covered a number of points that his delegation had put

forward in the past. It constituted a serious attempt to establish clear GATT procedures related to tariff reclassifications. He believed that the paper could serve as a good basis for further work of the Committee with a view to formulating a procedure for tariff reclassifications in the future. However, he pointed out that, as he had said at the last meeting of the Committee, his delegation believed that in the event of a reclassification the concession rate concerned must be transferred as a matter of principle together with the tariff item itself and, therefore, it should not be permissible to raise the level of a concession. If such an increase were unavoidable, it should be strictly limited to a minimum. He regretted that those points did not seem to be properly reflected in the paper and he hoped that they would be clearly stated in any revision of the document to be submitted for approval by the Committee. His second comment related to paragraph 5 of the paper where it was stated that "it was the product description and not the item number which was the essential element for delimiting the coverage of the concession". His delegation did not share that view. Moreover, it held the view that a GATT concession was granted in relation to the totality of three elements: namely, a tariff item number, a product description and a tariff rate. He thought it was also an important point with regard to paragraph 7 and hoped that modifications to that effect would be made in the relevant passages of the document. His third comment related to paragraph 14, the conclusion part of the document. His delegation was of the view that the Committee would have to consider concrete procedures for action under Article XXVIII and Article II.5, as well as a clear system of prior notification related to tariff reclassification in general.

7.5 The representative of the European Communities presented the following considerations regarding document TAR/W/19:*

- (1) The Community had felt some concern over the fact that that document contained no reference to the problem of negotiations that would follow adoption of the Harmonized System by a number of contracting parties. The Community had learned subsequently that the secretariat intended to take up that problem in a separate document, and was in full agreement that in future the problem of the Harmonized System should be dissociated from that of tariff reclassification. The Community was also suggesting that when preparing its document the secretariat should also examine the problem of the documentation, and more particularly the statistics, to be submitted with a view to those negotiations.
- (2) With respect to document TAR/W/19, the Community could follow the secretariat's suggestion and take up with it directly any factual and technical aspects, commenting only on substantive matters in the meeting room. It would be helpful if at least those contracting parties which had made comments were to meet to draw up a document reflecting the various views expressed that could serve as a basis for a thorough discussion of GATT procedures for tariff reclassification.
- (3) As to substantive matters, the Community wished to refer first to the conclusions set forth in paragraph 14. The order of application of the relevant articles of the General Agreement should take account of a major concern - that concessions granted or other commitments entered into by contracting parties should be maintained as negotiated; in that connexion the Committee might bear in mind the remarks made on behalf of

the Community at the meeting on 7 July 1980.¹ In respect of any reclassification which impaired the scope of a concession or any other GATT commitment, the Committee had suggested a very simple solution, that of transferring the product to the new sub-heading with its bound rate. In such case there would be no infringement and hence no need for renegotiation. The procedure applicable would then be that of rectification and modification of schedules. If that procedure was not followed, there would be two possibilities - either the reclassification had been notified, or it had not. In both cases, once the party adversely affected had cognizance of the change, bilateral discussions could take place between the party making the change and the party which considered itself adversely affected. If those discussions failed to yield satisfactory results, they would be followed by consultations under Articles XXII and XXIII. At the meeting of 7 July the Community had underlined that notifications should be made sufficiently in advance of any changes so that interested contracting parties could make a detailed verification and correct any transposition errors such as sometimes occurred when changes were very complex.

- (4) If, exceptionally, for any reason it was impossible to avoid a tariff increase in the context of reclassification, the normal procedure for withdrawal would be preferable, i.e. that of Article XXVIII. In such case, implementation of the reclassification would have to be postponed until that procedure had been completed. Article XXVIII provided for negotiations before the tariff change, and for compensation to be sought.
- (5) Lastly, in cases which should be very rare where it was not possible to postpone reclassification and the corresponding tariff increase, there would remain the solution of GATT Article II, paragraph 5, which had the disadvantage of intervening ex post facto and implied negotiation after the event. Furthermore, that Article did not provide for the maintenance of existing concessions, but for seeking compensatory adjustments.
- (6) Contrary to what had been stated in the document, countries that were signatories of the CCC Nomenclature Convention had responsibility for interpreting the CCC Nomenclature on the basis of the text thereof, the relevant explanatory notes and classification opinions given by the Nomenclature Committee. The latter gave classification opinions only when classification problems were brought before it by a State party to the Convention.

In addition, a tariff concession sometimes concerned one specific product but more often a group or category of products. In most cases classification problems arose when customs authorities or the courts made a determination as to the coverage of those groups or categories.

7.6 The representative of New Zealand did not entirely agree with one of the points made by the Japanese delegation; as far as his delegation was concerned, it could accept paragraph 5 of the document as it stood, i.e. that the crucial element in the determination of a concession was not the tariff item number but the product description. Concessions were negotiated to cover categories, or specific items at the time the concessions were granted. The

¹TAR/M/2, page 9.

particular numerical designation assigned to a concession was of assistance but, in his view, not crucial to determine the scope of the concession.

7.7 The representative of Australia said that most of the comments he had intended to make were of a technical character and would be handed over to the secretariat. He added, however, that he agreed with the comments made by the representative of New Zealand in respect of the Japanese interpretation of paragraph 5 and recalled that, as far as his delegation was concerned, it considered the product description to be the determining factor. It regarded the tariff item number as being of assistance on occasions but by no means indispensable.

7.8 The representative of Canada pointed out that he was in a difficult position since the full text of the document before the Committee had not been examined by his authorities. He therefore preferred to revert to it at the next meeting of the Committee. However, as a very preliminary comment, he was wondering whether the creation of new items was strictly a matter of reclassification. Moreover, he would welcome a secretariat paper on the Harmonized System since it was a subject of some concern and interest to his authorities.

7.9 The representative of the United States considered the paper useful as it described what the present situation was. With regard to the suggestions made by the representatives of Japan and the EEC, he referred to what he said at previous meetings that while his delegation agreed that tariff concessions if at all possible should be maintained, the General Agreement did recognize that it was not always possible and thus provided for changes when they were necessary. The specific suggestions made by those two delegations would cause his authorities considerable difficulties since their reclassification actions were required by Court decisions; Article II.5 was the proper way to handle such cases. He then referred to the introduction of the Harmonized System. He agreed that the Tariff Committee should look at this matter in detail; the Committee should begin considering the GATT implications of the adoption of the Harmonized System and it would then need to establish procedures for reviewing the conversion of contracting parties' schedules of concessions into the new nomenclature. This exercise would require both extensive rectifications and series of Article XXVIII negotiations. He seconded the suggestion made by the EEC and agreed that a secretariat paper on the Harmonized System would be very useful. Such a paper might help identify the problems that would be involved, perhaps analyze them in relation to past experience and advance suggestions as to how the adoption of the Harmonized System could be handled.

7.10 The representative of Sweden associated himself to what was said by the representatives of New Zealand and Australia to the effect that the product description was the important factor. He found unfortunate the reference made in the document to the schedule of Sweden where only product numbers were set out. Concerning paragraph 2 he wished to be sure that, where it said "Changes in the national tariff which do not affect bound duties would obviously not require a change in the corresponding GATT schedule", changes of a statistical nature done within a bound item had to be notified.

7.11 The representative of Norway said that his authorities would find a paper on the Harmonized System very useful and he asked whether the secretariat could indicate when such a paper could be ready.

7.12 Mr. Lindén (secretariat) confirmed that the secretariat would prepare a document on the consequences for the GATT schedules of the adoption of the Harmonized System but, before embarking on such a work, the secretariat needed to have a precise idea about the results of the work which was being carried out in Brussels. He understood that the preparations in Brussels had advanced quite far and that it should be possible to start work on the GATT side very soon. Although it was difficult for him to give a precise date he hoped that the document could be ready in July.

7.13 The representative of the European Communities did not see any need to await completion of the work in Brussels before considering how to proceed and on what basis adoption of the Harmonized System by some signatory countries would have to be negotiated. The central idea to be developed should be maintenance of concessions already negotiated, except in some specific cases which would have to be negotiated between the parties concerned. Furthermore, Article II did not envisage that a contracting party modifying a concession was not required to notify it but could simply wait until the injured party reacted.

7.14 The Chairman said that the Committee had taken note of the secretariat paper TAR/W/19. A number of substantive observations had been offered, but as usual, there were convergencies and divergencies of views; one of the divergencies concerned paragraph 5 of the secretariat note and questioned the basis on which a GATT concession was given. Views had been expressed that GATT concessions should in principle be maintained in cases of reclassification. If this did not prove possible then the matter would be subject to negotiations under Article XXVIII. The Committee had also noted that some delegations had a number of technical questions which they would take up with the secretariat. The Committee agreed that interested delegations would meet with the secretariat and discuss those questions in an informal meeting. The Chairman requested other delegations interested in participating in such a meeting to contact the secretariat. Referring to the question of the implications for GATT of the adoption of the Harmonized System, he pointed out that a number of delegations had stressed its importance and that the hope had been expressed that the secretariat would be in a position to prepare a first note on the subject. The secretariat had confirmed that it would do so, and the Committee would revert to this question at a later session. The Committee would also revert to the question of tariff reclassification in order to decide what follow-up should be taken on the matters raised in document TAR/W/19. It would be useful if the Committee could agree on procedures applicable in cases of tariff reclassifications. It was agreed that this item would remain on the agenda of the next meeting of the Committee.

8. Tariff Study

8.1 The Chairman recalled that a first paper on the Tariff Study had been prepared by the secretariat and circulated in document TAR/W/15. A new document (TAR/W/20) was before the Committee and, before opening the discussion, he enumerated the issues which had to be considered. Firstly, concerning the updating of the Tariff Study, he pointed out that there had been no understanding among the participants as to the regularity of its updating. It would be useful if the Committee could indicate the desirability and the periodicity of such updating. Secondly, there was the question of the coverage in terms of the countries participating in the Study. He recalled the general support expressed in the Committee for a wider coverage but again

it would be useful if the delegations could indicate which additional specific countries should be approached. The third issue concerned the use of the Tariff Study. The Committee might examine what use should be made of the existing data and decide whether an analysis of the post-Tokyo Round tariff situation should be envisaged at this stage. The last point to be studied by the Committee in this respect should be the contents of the Tariff Study. The question was whether the scope of the Study should be broadened and if further aspects apart from tariffs should be added.

8.2 The representative of Hungary referred to document TAR/M/3, paragraph 6.2 where his delegation expressed its interest in being included in the Tariff Study. He also recalled that, at that time, the representative of the European Communities had asked whether the information to be provided by Hungary would be on the same basis as that of the other participants, i.e. details of imports for each of the supplying countries. His delegation had already consulted the secretariat on this issue in order to know exactly which statistical requirements should be met in order to participate fully in the Tariff Study. He informed the Committee that his country would be able and willing to supply the necessary statistics and information. He requested the Chairman of the Committee to formally take note of the participation of Hungary in the Tariff Study.

8.3 The Chairman took note of the statement made by the representative of Hungary and welcomed Hungary as a new participant in the Tariff Study.

8.4 The representative of New Zealand said that his authorities, in view of the late distribution of document TAR/W/20, had had some difficulties in studying the important questions under consideration in time for this meeting. He suggested giving the participants more time for reflexion and coming back to this item at a future meeting of the Committee.

8.5 The representative of Canada stated that his delegation was in a similar situation. In reading the document, he noticed that there were a number of purely technical issues and he was wondering whether the secretariat had ideas as to how those issues could best be resolved.

8.6 The representative of Austria said that he found himself in the same situation as the two previous speakers. After a first glance at the document, he felt that the summary of the problems made by the Chairman was very accurate, but his authorities had not yet had the time to examine the paper. He would be grateful if some more time were given for the consideration of the paper and suggested coming back to this item at the next meeting of the Committee.

8.7 The representative of Norway asked what the fourth point mentioned by the Chairman, i.e. the question of broadening the study, meant in concrete terms?

8.8 The Chairman replied that what he had meant by broadening the Study was the possibility of introducing, for instance, other product categories in addition to the twenty-three already agreed upon at the inception of the Tariff Study. There might be other elements such as non-tariff measures which could be introduced in the study. But he wished to make it clear that if the Committee were not ready in the immediate future to undertake the kind of extensive analysis of the post-MTN situation as proposed - and as had been done in the case of the Kennedy Round - the study could continue on the present basis. Concerning the question of updating the data, he recalled that the

secretariat was about to complete the 1978 trade flow data. It would therefore be helpful if the Committee could indicate to the secretariat what should be done now in terms of further updating and whether 1980 or 1981 data should be taken into consideration. The Chairman considered that there was general agreement for keeping this item on the agenda.

9. Date of next meeting

9.1 The Chairman asked whether the Committee would wish to meet again before the summer holidays.

9.2 The representative of the European Communities said that his delegation would be in favour of the Committee meeting again before the summer holidays provided the secretariat could circulate in the near future the document on adoption of the Harmonized System. Regarding reclassifications in general, the Committee would have to determine a reclassification procedure. To date there had been no discussion of any proposal for such a procedure.

9.3 The representative of Argentina felt that, for his delegation, it would be difficult to attend a meeting of the Committee on Tariff Concessions before the holidays. If such a meeting should be necessary, the date should be carefully chosen, bearing in mind the meeting of the Textile Committee which was planned to meet for at least a week.

9.4 The representative of Norway said that in spite of the high priority his authorities attached to the question of the Harmonized System, they would not be in favour of a meeting in July and would prefer it to take place in the autumn.

9.5 The representative of the United States pointed out that in order to have a useful meeting, it should be planned in such a way as to give sufficient time for the proposed papers by the secretariat to be studied in the capitals.

9.6 From the interventions he had heard on the subject, the Chairman concluded that the possibility of holding a meeting of the Committee before the summer holidays should not be excluded but he suggested that, unless he received requests to the contrary, the next meeting of the Committee should take place in the autumn, tentatively on 19 October 1981. It was so agreed.