

COMMITTEE ON TARIFF CONCESSIONS

Minutes of the Meeting held in the
Centre William Rappard on 1 April 1982

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1. <u>Adoption of the Agenda</u> (GATT/AIR/1801)	
1.1 The <u>Chairman</u> welcomed the members to the sixth meeting of the Committee and called their attention to document GATT/AIR/1801 dated 16 March which contained the agenda and the list of documents for the meeting. He added that all the documents mentioned in the airgram had been distributed except for the document TAR/W/26 on tariff escalation.	
1.2 The representative of the <u>European Communities</u> said that his delegation would wish to make a declaration related to Article XXVIII negotiations under "other business".	
1.3 The agenda was <u>adopted</u> with the above addition.	

2. Status of acceptances of the Geneva (1979) Protocol and the Supplementary Protocol (TAR/W/2/Rev.4 and Add.1), and implementation of MTN concessions (TAR/W/8/Rev.4)

2.1 The Chairman noted that, with regard to the Geneva Protocol, all countries having a schedule annexed to the Protocol had already signed and accepted it. Concerning the Supplementary Protocol, he recalled that at the last meeting there had been two countries that had not accepted it, Haiti and Zaire. Since that date, Zaire had accepted the Supplementary Protocol on 11 November 1981, which left Haiti only. He also noted with satisfaction that all countries had given the necessary information regarding the implementation of their tariff concessions, as indicated in document TAR/W/8/Rev.4. He also drew the attention of the Committee members to a communication forwarded by the Government of Japan concerning advanced implementation of MTN concessions, which had been circulated in document TAR/52. This document did not contain details on the items concerned. Such detailed information would be contained in document COM/TD/109, to be circulated shortly.

2.2 The representative of Canada said that with respect to implementation by Canada of the MTN concessions, delegations might recall that his country had a number of tariff offers which had been conditional on the termination of safeguard action by the United States under Section 201 of the Trade Act of 1934. The safeguard action had now been terminated and the concessions, referring to Canadian tariff items 43000-1, 43010-1 and 43010-2 had started being implemented according to the staging rules, i.e. over a seven-year period.

2.3 The Chairman confirmed that the secretariat had received a communication from Canada to this effect and would circulate it shortly (TAR/55).

2.4 The representative of the United States referred to the fact that there was only Haiti left to sign the Supplementary Protocol. He asked whether the secretariat had any indication on when Haiti might be in a position to sign, since the deadline for signature was approaching.

2.5 Mr. Lindén (secretariat) replied that several letters had been sent to Port-au-Prince in order to enquire about the situation but so far there had been no reply. However, the concessions that Haiti had granted in the Tokyo Round were all concessions granted bilaterally to the United States and the bilateral agreement had been ratified by the Haitian Parliament. There should therefore be no problem of substance as the concessions already approved were the same as those contained in the Supplementary Protocol. If no reply were received from Haiti, the secretariat would examine whether it would be possible to consider that the ratification by Haiti of the bilateral agreement constituted acceptance of the Protocol.

2.6 The representative of Spain reported that, as indicated in document TAR/49, his Government had published a decree related to the implementation of MTN concessions. He specified that the document did not alter what was contained in the draft loose-leaf schedule of Spain, but aimed at facilitating the work of customs officials.

3. Submission of Loose-Leaf Schedules (TAR/W/23/Rev.2 and TAR/Spec/1 and 2)

3.1 The Chairman pointed out that in addition to the countries listed in document TAR/W/23/Rev.2 as having transmitted their loose-leaf schedules, Malaysia had also forwarded its schedule in loose-leaf form which had been circulated with document TAR/51. As indicated in the document, to date sixteen countries had prepared their loose-leaf schedules. He confirmed that the European Communities had recently submitted their schedules in French and in English which would be circulated with document TAR/50. He understood that delegations had run into a number of technical problems when checking schedules and noted that at present only two short schedules were ready for certification, Burma and Nigeria. In view of the importance of the loose-leaf schedules and the rôle that they would play in renegotiations related to the adoption of the Harmonized System, he urged delegations to speed up the preparations and checking of loose-leaf schedules. He then invited delegations to give an indication regarding the status of preparations of their schedules.

3.2 The Chairman mentioned that an additional item concerning the legal status of the loose-leaf schedules would also be covered under this agenda item. The question had been raised by the delegation of Japan at the last meeting and document TAR/Spec/1 had reproduced the Japanese communication. The only written views transmitted to the secretariat had been those of the Government of Australia which could be found in document TAR/Spec/2.

3.3 The representative of the European Communities confirmed that his delegation had submitted to the secretariat Schedules LXXII and LXXII bis prepared according to the requirements of the Loose-Leaf System. As was known to the contracting parties, the European Communities were having negotiations under Article XXIV:6 related to the enlargement of the Communities due to the accession of Greece. Consequently, the schedules presented for certification corresponded to the list of concessions of the Communities of Nine and they had been presented for reasons of transparency, as indicated in TAR/16 of 20 May 1981. The content of Schedules LXXII and LXXII bis would for the most part be valid also for the Communities of Ten. The modifications which would result from the negotiations under Article XXIV:6 would be notified at a later date according to the usual procedures of the General Agreement.

3.4 The representative of Israel informed the members of the Committee that his delegation had deposited with the secretariat a preliminary draft of the Israeli loose-leaf schedule and he hoped that within a few weeks' time, it would be possible to circulate a final version.

3.5 The representative of the Ivory Coast also informed the members of the Committee that Schedule LII of the Ivory Coast had been prepared and submitted to the secretariat for verification. She expressed the hope that this schedule could be finalized and distributed in the very near future.

3.6 The representative of Malaysia confirmed that his country had submitted its schedule in loose-leaf form.

3.7 The representative of Spain indicated that Schedule XLV of Spain had been transmitted to the secretariat two months ago and various contracting parties had submitted comments, but some of those comments had been transmitted orally or through informal notes. He urged countries that had comments on the Spanish schedule to forward them in written form to his delegation as soon as possible. Referring to documents TAR/Spec/1 and 2, he found the communication submitted by Australia very useful but could understand the position of the Government of Japan to the extent that, as far as Spain was concerned, only the protocols earlier ratified by the legislative body of his country could be taken into consideration if there were some difference between the loose-leaf schedules and those protocols.

3.8 The representative of Yugoslavia said that because of some technical difficulties, his country had to delay somewhat the submission of its loose-leaf schedule but would present it in the very near future.

3.9 The representative of South Africa stated that with respect to the Japanese proposal contained in TAR/Spec/1, it was clear in his view that in place of the sixty instruments listed in TAR/W/6 there should be only one source, namely the loose-leaf schedules for the interpretation of GATT concessions. The period before January 1987 allowed ample time for ensuring that the loose-leaf schedules were a correct reflection of concessions granted. He realized however that there was a legal problem and referred to the proposal by the Director-General contained in pages 22-24 of the 27th Supplement of the BISD. He was wondering whether it did not provide an adequate basis for settling the legal problems. If not, it might be necessary to draw up an appropriately worded protocol for the implementation of the loose-leaf system which might require a two-thirds majority or even unanimity to enter into force and which might only apply to countries that would accept it.

3.10 The representative of Finland expressed the concern of his authorities concerning the low speed the submission of loose-leaf schedules had taken. He understood that there were technical problems on all sides, including his country when it came to certain details, but he wished to emphasize that his delegation would like very much to see the procedures accelerated. In addition, he noted that the speed of reactions to the already submitted schedules was incredibly slow. He urged delegations which had raised objections or requested an extension for the verification of the lists to speed up their procedures, so that a maximum amount of loose-leaf schedules

could be accepted before the initiation of negotiations related to the adoption of the Harmonized System. He realized that there were different kinds of technical problems. He indicated that a distinction might be made between the content of column 7 and the rest of the schedule. It might prove to be difficult to have column 7 ready for all countries in the time provided and to give the legal status intended to the information contained in column 7. He questioned whether one ought to consider the kind of approach suggested by Japan for column 7 but not for the other columns of a schedule. When it came to finding out what the old negotiating rights were his delegation could envisage the possibility of reverting to previous certifications and negotiating instruments, but that should not prevent countries from adopting the bulk of the loose-leaf schedules, i.e. all the other columns, except column 7, as the only legally binding source. He suggested discussing this practical proposal in an informal manner, but felt that the overall legal character of the instrument should be discussed in the Committee itself.

3.11 The representative of India informed the Committee that his authorities were conscious of the problem and that they were presently engaged in various technical and other preparations which would enable them to submit shortly the loose-leaf schedule. He added that his delegation was according high priority to the establishment of the Indian schedule in loose-leaf form. On the question of the legal status, he felt that in order to be meaningful the loose-leaf schedules must have a legal sanctity but realized that there were certain technical complexities involved in the question whether they could be the only legal source. Since this problem would need further reflection, he presumed that this item would remain on the agenda of subsequent meetings of the Committee.

3.12 The representative of Canada stated that his delegation had examined the Japanese views contained in document TAR/Spec/1 and considered that if those views were to be accepted, the whole purpose of the loose-leaf exercise would be put into question. In his view, the aim had been to eliminate the extensive and time-consuming efforts which were currently necessary to find out the status of a particular concession. He understood that the Council Decision of 26 March 1980 on the introduction of the Loose-Leaf System meant that, after 1 January 1987, earlier schedules and negotiating records would no longer be proper sources of interpreting concessions and that loose-leaf schedules would then become the only legal source for the interpretation of GATT tariff concessions. As far as previous INRs were concerned, the Council decision seemed very clear to the extent that, in order to maintain the value of previous INRs, they would need to be indicated in the loose-leaf system before 1 January 1987.

3.13 The representative of Pakistan informed the Committee that his authorities were working on the preparation of their loose-leaf schedule, which would be submitted to the secretariat in the shortest possible period.

3.14 The representative of Romania reported that his authorities were still working on the elaboration of the Romanian schedule in loose-leaf form. Technical difficulties had been met particularly due to the fact that it had been the intention of his authorities to incorporate in the schedule not only the tariff concessions granted during the Tokyo Round but also the tariff concessions annexed to the Aircraft Agreement by creating new specific sub-positions. He was hoping to be in a position to submit the Romanian loose-leaf schedule very soon.

3.15 The representative of the United States indicated that the United States schedule relating to TSUS Parts I and II covering animal and vegetable products, wood and paper, and printed matter, was in the final review process. He expected to submit it to the secretariat during the latter part of April. This part would contain all relevant data in column 7 which should facilitate the checking. As far as the remainder of the schedule was concerned, his delegation had planned to submit the various parts of the schedule in sequential order and hoped that the work would be completed by the end of the summer. On the question of the legal status of loose-leaf schedules, his country would hope that by 1987 the loose-leaf schedules would constitute legally binding documents in relation to each contracting party's GATT tariff concessions. He felt that the purpose of the loose-leaf schedules would be seriously undermined if they were not legally binding and countries could still resort to the numerous earlier protocols and certifications. He added that United States' views were very close to those expressed by Australia. His delegation had encountered problems in checking other countries' schedules but he suggested taking them up in an informal meeting.

3.16 The representative of the European Communities said that regarding the legal status of the loose-leaf schedules and as indicated at earlier meetings of this Committee, the position of his delegation was in full conformity with the position taken by Australia. The loose-leaf schedules should be the legal source of obligations after the time required to verify them.

3.17 The representative of Norway stated that it was the understanding of his delegation that the loose-leaf system should become the only legal source. However, he added that the Finnish observations concerning column 7 merited further reflection since the previous INRs might not be of so great value and perhaps did not justify the extensive work which would be needed to detail them.

3.18 The representative of Austria said that his country had submitted a draft loose-leaf schedule some time ago and that there had been some problems concerning the completion of column 7. For old INRs they had indicated the countries concerned and the rates but not the nomenclature existing at the time of the negotiation. He regarded the first three columns as the most important and the other columns as explanatory

notes of historical nature. Referring to the Japanese communication he could not take a final position. His delegation was in favour of examining further the problem of legal status but only as far as the first three columns were concerned. The indication of INRs in column 5 was equally very important, especially in case of renegotiations under Article XXVIII, but not for the daily operation of the GATT concessions.

3.19 The representative of Switzerland indicated that regarding the legal status of the schedules, the Swiss position was similar to the one explained in the Australian document, supported by several other delegations. He was of the opinion that after a given period of time, the loose-leaf schedules should represent the sole mandatory document. He, however, understood Japan's and other delegations' reticence in this regard, since the work involved in checking earlier concessions was difficult and time-consuming. It was specifically for that reason that the Swiss loose-leaf schedule had not yet been presented. His authorities thought it was useless to submit a schedule without the information required in column 7. Switzerland would therefore be submitting as soon as possible a complete schedule.

3.20 The representative of Japan noted that there had been two schools of ideas, one in favour of the Japanese position and the other having some doubt about the interpretation by Japan concerning the legal status of loose-leaf schedules. He noted that the views expressed at the meeting had been useful for the further consideration of this problem by both the mission in Geneva and his authorities in Tokyo, which attached great importance to the legal status of loose-leaf schedules. He appreciated the comments made by the representative of India and agreed that the item should be maintained on the agenda of the Committee.

3.21 The representative of Australia confirmed the position of his delegation as explained in the paper, and referred to the negotiations under Article XXVIII that his country was carrying at present. As soon as those negotiations were completed, a loose-leaf schedule would be circulated. He commented on the legal status of the loose-leaf system saying that there would not be much point in introducing such a system, unless it was to be recognized as the only legal source of obligations under the GATT. Therefore, all the old schedules, certifications and protocols would become irrelevant. He thought that there was a broader issue involved there which was not only the legal status of the loose-leaves as such but also what purpose was hoped to be achieved with that system. A schedule should reflect precisely what a country's obligation was but should not clutter it up with other information. He agreed with the comments made by the representative of Austria concerning the usefulness of some of the columns. He could also understand in some way the views expressed by Japan knowing that it had a different sort of tariff policy and the problem of going frequently to the Diet was well known. The points brought up in the Japanese paper were appropriate, but only to the draft stage of the loose-leaf system. On 1 January 1987, or on the date the loose-leaf system

would be in force, the old protocols should become irrelevant. Referring to the legal excellence of a GATT schedule and the precision of the concessions, he considered that the time of granting a concession and any other information on the history of the granting of a concession contributed to the perfection of the definition of the concession, but in his opinion, any attempt to set out in the loose-leaf schedules a series of details relating to pre-history or even methods of administration of the concessions, would only confuse the precision of the legal obligation. He added that it would be for this reason and in order to be consistent that column 7 would be left blank in the Australian loose-leaf schedule. The objective was to reinforce the views of his delegation that pre-history would become irrelevant when the loose-leaf schedules entered into effect. He realized the problems raised by the representative of Finland and agreed that before the loose-leaf system would be in full legal effect, historical information would be needed, but once an effective legal instrument setting out legal obligations had been created, past history was irrelevant, except for the initial negotiator status as indicated in column 5. In his opinion, there seemed to be confusion in some peoples' minds as to the purpose of the loose-leaf system because the second half of the proposal of the Director-General related to the incorporation of a considerable amount of historical data. It seemed to him that, if necessary, this could be done in a separate sort of system, a bank of information, but it should not form part of the loose-leaf system. The representative of Australia took up the question raised by the delegation of South Africa about a separate protocol being needed to bring the loose-leaf system into effect and asked the secretariat for some clarification.

3.22 Mr. Lindén (secretariat) replied that in the secretariat's opinion it would not be necessary to have any further legal instrument giving legal effect to the loose-leaf schedules, since they only constituted a different form of presenting GATT concessions and were not in substance different from consolidated schedules published over the years, the legal value of which had never been put in doubt. He thought the Council Decision of 26 March 1980 represented the only necessary step to give the loose-leaf schedules a legal status. There would be no need for any further legal instrument since each loose-leaf would be certified in accordance with the procedures which had been adopted by the CONTRACTING PARTIES for the certification of GATT schedules.

3.23 The representative of Finland referred to his earlier statement regarding the problems encountered in filling in column 7 and sympathized with the ideas put forward by the representative of Australia. His delegation would be very satisfied to leave aside what was referred to as pre-history. That was precisely why his country was faced with great problems when for instance for certain tariff items, a detailed presentation of the pre-history had produced explanatory notes of one and a half pages which, he agreed, were containing all sorts of information of no relevance to anybody. Leaving that kind of information out of the schedule would improve greatly the clarity of the schedule.

3.24 The representative of Sweden associated himself with the views put forward by the Finnish delegate in his first intervention and especially regarding the urgency of the work lying ahead of the delegations and the need to speed it up. He reiterated the earlier views expressed by his delegation that the loose-leaf schedules should be the only binding instrument and that column 7 should be complete.

3.25 The representative of the United States admitted that although some of the pre-history would become eventually irrelevant, it was important to have that information in order to facilitate the checking of schedules. He said that he might wish to elaborate in more detail on that point in informal discussions.

3.26 The Chairman summed up the discussion and noted that, in respect to the submission of loose-leaf schedules, there had been an expression of the urgency both as regarding the submission of loose-leaf schedules and reactions to those schedules. There had also been an expression of concern relating to technical problems, especially with regard to column 7, and some delegations had referred to the possibility of holding an informal meeting. To that effect, the secretariat had discussed on an individual basis with certain countries some of the problems but it had felt, and he agreed, that it would be useful to have a small informal meeting with the countries particularly concerned with those technical problems, especially regarding column 7. After the meeting of this Committee, interested delegations could contact the secretariat. The problems of column 7 lead naturally into the question raised by the delegation of Japan regarding the legal status of the loose-leaf schedules. He understood that those problems stemmed partly from the legal process in Japan and perhaps in other countries. Japan had raised the question of the possibility of continuing to refer to previous instruments in the interpretation of tariff concessions. Some delegations had in essence noted that this might be a hypothetical consideration that would exist in the draft stage of the loose-leaf schedules only. These delegations and some others and felt that, until January 1987, previous schedules and negotiating records would continue to be used as sources in determining the initial negotiating rights and for interpreting concessions, but thereafter the loose-leaf schedules should be the only source. The Finnish delegation, supported by some others, had suggested that perhaps the Japanese idea would be useful for column 7, but that the rest of the loose-leaf schedule would follow the Decision as spelled out in the Twenty-seventh Supplement of the BISD. The delegation of South Africa had suggested that possibly a new protocol might be necessary. The delegations of Austria and Australia had indicated problems with some of the columns in the loose-leaf schedules and they had wondered whether the format of a legal document might be simplified. He felt that there had been a very full discussion which had resulted in interesting new ideas. He agreed with the recommendation made by the delegation of India, seconded by some others, that this item be maintained on the agenda and suggested that before the next meeting, members should have informal discussions in order to examine some of the ideas that had been put forth before the Committee.

4. The Harmonized System and GATT Concessions (TAR/W/22 and TAR/W/25)

4.1 The Chairman pointed out that, as requested by the Committee at its last meeting, the secretariat had prepared in consultation with several delegations a new paper, TAR/W/25, which went into further details regarding the adoption of the Harmonized System and its implications for the GATT concessions. This paper contained suggestions regarding time-limits, guidelines and procedures, as well as a list of the documentation to be provided for any Article XXVIII negotiations which would have to be carried out on that occasion. As could be seen from the document, there were several square brackets, which indicated that there had been differing views on several issues. It was clear that further technical discussions between the secretariat and interested delegations on those points would be necessary, but any views that the members of the Committee might wish to express at the present meeting would be welcome. He noted that he had the intention of reverting to the question of the Harmonized System under the item of the agenda dealing with the possible contribution of the Committee to the Ministerial meeting.

4.2 The representative of Japan said that his delegation found it difficult to discuss in detail the relationship between the GATT and the Harmonized System in a GATT forum. The extent to which the Harmonized System would have an impact on concessions was not known yet and the work in the Customs Co-operation Council in Brussels had first to be finalized. His authorities had made a proposal in Brussels which would avoid Article XXVIII negotiations. However, his delegation considered it appropriate to maintain close contact with the CCC and to follow its work in order to explore the ways for facilitating the implementation of the Harmonized System.

4.3 The representative of Egypt drew the attention of the Committee to point 4.7 of document TAR/W/25 and stressed the fact that when changing into the Harmonized System, the interests of developing countries should not be endangered. He recalled the importance that developing countries were attaching to Part IV of the GATT and the results of the MTN, as well as the advantages of the developing countries under the General System of Preferences. Means and ways towards compensatory action should be worked out in the context of the adoption of the Harmonized System.

4.4 The representative of Brazil agreed with the delegate of Japan that there was no urgency to examine the document on the Harmonized System in the Committee and reserved the position of her delegation to come back to the subject in a subsequent meeting, especially concerning paragraph 3 of the document.

4.5 The representative of the United States noted that since the October 1981 meeting of the Committee, the secretariat had convened a series of informal meetings to consider a paper on the Harmonized System. From his delegation's point of view, those meetings had been very productive,

indicating the scope of likely Article XXVIII negotiations which would result from the adoption of the System, and focusing attention of trade policy officials on the need to begin the necessary preparatory work at an early stage. The paper before the Committee still contained bracketed language and his delegation continued having problems with some parts of the paper, especially with section 4 and the annexes. The texts in brackets underscored the need for further discussions among delegations with a view to resolving some of the current differences of view on the paper. His delegation intended to continue participating actively in such meetings and encouraged others to do so as well. One of the best ways to simplify Article XXVIII negotiations would be to ensure that the necessary preparatory work could begin as soon as possible. Part of the preparatory work consisted in the submission of countries' consolidated schedules of tariff concessions in loose-leaf form and the review by other countries of those schedules. Another important element consisted in the exchange of information among countries of the time-tables and domestic procedures for the adoption of the Harmonized System. There should be as much transparency as possible in this process. Although his country had not yet committed itself to adopt the Harmonized System, the International Trade Commission was at present preparing a draft conversion of TSUS into the format of the Harmonized System. Twenty-four draft TSUS chapters in the Harmonized System Nomenclature had recently been released. His delegation would provide members of the Committee with copies of those documents upon request. He expected that other members of the Committee would similarly share their draft tariff conversions as soon as they would become available. Exchange of this type of information at an early stage would allow countries additional time for review, prior to the initiation of Article XXVIII negotiations. His authorities were equally ready to share information on their envisaged time-table and domestic procedures regarding the adoption of the Harmonized System. It was necessary for the members of the Committee to get more actively involved in the ongoing discussions of the Harmonized System under the auspices of the Customs Co-operation Council. As stated in document TAR/W/25, adoption of this system would facilitate international trade and its analysis, a purpose which was fully consistent with the goals of the GATT. Moreover, the adoption of the Harmonized System would enhance countries' ability to monitor and protect the value of tariff concessions. In his opinion, this issue merited active and thorough consideration by trade policy as well as customs officials.

4.6 The representative of the Ivory Coast said that her delegation solicited a great transparency of the work carried out in the Committee and in the Customs Co-operation Council in Brussels. Since a large part of the work was being carried out there, her delegation had wished to be further informed of what was going on in the CCC. She realized that there were many problems in respect of the loose-leaf system and expressed concern about its consequence for developing countries and in particular the least developed countries. She had hoped that the least developed countries would not have to invoke Article XXVIII as suggested in document TAR/W/25. Discussions

should be continued and the secretariat should not lose sight of protecting the advantages of concessions granted to the developing countries. It would be essential that the application of the Harmonized System to the GSP should not become a pretext to lessen the advantages already acquired by the developing countries.

4.7 The representative of Romania stated that his delegation attached great importance to the work being undertaken towards the adoption of the Harmonized System. He felt that the most important element of that System would be the uniformity which would enable countries to have better possibilities for making comparisons in preparing studies and facilitating negotiations. He found it necessary to continue consultations in order to clarify all the questions which remained pending.

4.8 The representative of the European Communities fully shared the opinion expressed by the delegation of the United States as well as the statement made by the delegation of Romania. This important issue would have an important effect on international trade and on the simplification of customs formalities in general. He understood that work would continue in informal meetings and if so, regretted that the paper on the Harmonized System would not be discussed in the present meeting. He believed that there was urgency in dealing with this problem and advised delegations not only to carry out work domestically but check the work being done by others. He agreed that it would be useful to exchange information and his delegation was ready to do so upon request.

4.9 The Chairman explained that it was not his intention to preclude a debate on document TAR/W/25 and he encouraged delegations to comment on it.

4.10 The representative of Austria felt that a lot of preparatory work could be done within GATT without waiting for the final decision in Brussels. He admitted that everything would depend on the decision taken in the CCC but the most urgent work in this respect would be the finalization of the loose-leaf schedules in the present nomenclature and their verification. The GATT secretariat could get in touch with the CCC in Brussels and ask for concordance tables, from present nomenclature into the Harmonized System nomenclature, and vice versa. On the basis of those documents, contracting parties could then undertake preliminary work, and as a final decision was taken in Brussels toward the adoption of the Harmonized System start the work on consolidated schedules in the new nomenclature.

4.11 The representative of Canada stressed the usefulness of informal meetings and reserved the detailed comments of his delegation on document TAR/W/25 for those meetings. As far as the implementation of the Harmonized System was concerned, his country had not yet taken a final decision related to its possible adoption but would, at a later time, be ready to provide a time-table for the domestic process.

4.12 The representative of India shared the views expressed on the utility of the informal discussions which had been held among interested delegations and which had led to document TAR/W/25. He specified that not only parts of the document were in square brackets but in fact the whole document. It was his delegation's assessment that the discussions held, whether in informal sessions or at the present meeting of the Committee, were without prejudice to the final decision governments might take on the implementation of the Harmonized System. The decision would be contingent partly on the outcome of the discussion in the Customs Co-operation Council in Brussels. His delegation shared all the concern expressed by certain developing countries on the special dispensation for developing countries and expressed the hope that, when it would come to a final view on this matter in GATT, special measures for developing countries would be applied. He further endorsed the views of other delegations which had said that work should be intensified, so that when the time would come to take a final decision on the adoption of the Harmonized System, preparatory work in GATT would be ready in respect of the procedures to be adopted. Given the preliminary nature of the work and the fact that most countries were not in a position to convey final governmental approval, the delegate of India suggested keeping this item on the agenda for subsequent meetings of the Committee. He added that the Committee could perhaps also make a recommendation to the Ministerial meeting. He felt however that the technical aspects of the document should better be discussed in informal sessions rather than in the Committee itself.

4.13 The representative of Norway reiterated the importance that his authorities attached to the preparatory work which should be carried out as speedily as possible. He believed that further informal discussions were necessary in order to try to simplify the transition as much as feasible, without impairing the value of the concessions.

4.14 The Chairman, in summarizing the discussion, noted that there had been a preliminary discussion and that several delegations had stressed the utility of continuing detailed technical work on document TAR/W/25 in informal settings. There had been an expression on the part of several delegates for a greater transparency in the process and for co-operation with the Customs Co-operation Council. He mentioned that the CCC had been invited to attend the meeting but had not been able to do so and that members of the GATT secretariat had regularly been attending meetings in Brussels. Some delegations had suggested an exchange of information concerning the Harmonized System; other delegations would reflect on this suggestion.

5. Tariff escalation

5.1 The Chairman recalled that, unfortunately, it had not been possible to circulate in time for the present meeting, the document on tariff escalation TAR/W/26. Therefore, it would not be possible to discuss the details of

the study prepared by the secretariat. He noted, however, that this item had been of interest and importance to a number of delegations and some might wish to make comments.

5.2 The representative of India reiterated the interest of his delegation in the subject of tariff escalation. He believed that as the recent plurilateral consultations on trade liberalization held under the auspices of another GATT Committee had shown, it was a problem which manifested itself on a continuing basis. He had been looking forward to examining the pilot study on the effects of tariff escalation on a particular product and reserved the comments of his delegation on the study until it would be available. He also expressed the hope that this study would be the first of a series of studies leading to a better appreciation of the problem of tariff escalation. He believed that this was a matter of utmost importance which would require the attention of the Ministers. His delegation, as some others, would be making recommendations on how this subject could be presented to the Ministers. He suggested the holding of another meeting of the Committee on Tariff Concessions to discuss this issue in detail.

5.3 The delegations of Romania, Ivory Coast, Nigeria, Peru, Malaysia, Israel, Yugoslavia, Pakistan, Brazil took the floor and stressed the importance their countries attached to the problem of tariff escalation. Many of them supported the statement made by the representative of India. They also expressed their interest in the pilot study prepared by the secretariat, but, since the document was not available for discussion at the present meeting, reserved their right to comment on the study at a subsequent meeting of the Committee. Some were of the opinion that this problem should be presented to the Ministers on the occasion of the November Ministerial meeting.

5.4 The representative of Canada wished to inform the Committee that not only a certain group of countries, but his delegation as well, had an interest in the question of tariff escalation. In fact, his country had supplied some information which he hoped had been helpful to the secretariat for advancing its work. He was hoping that the secretariat's difficulties with publishing the study did not stem from the lack of submission of information from those other delegations which had previously expressed an interest in this work.

5.5 The representative of India asked whether the secretariat could give some clarification on the precise nature of the difficulties it had encountered and also on the possibility of undertaking further work in order to ensure that the discussion in subsequent meetings of this Committee could proceed beyond the expression of general interest into more specific meaningful aspects of the problem of tariff escalation.

5.6 Mr. Till (secretariat) pointed out that the paper had been completed, that it had been only a matter of processing and that the document would be

available in a couple of days. The paper constituted a study on the copper producing and consuming industry; it described the pattern of the market and the question of tariff escalation. The secretariat had encountered a number of difficulties: firstly in defining the processing chains since in the copper sector although a simple one, as soon as the study proceeded further than the first processing stage, there was no single chain. The different patterns in the industrial structure of various countries made the follow-up of progressivity of duties more complex, not to speak of establishing duties on individual products. Information was lacking on the production costs and output which would have enabled the secretariat to calculate properly the tariff averages necessary for the calculation of tariff differentials or for the indication of the level of effective protection. The paper should be seen at this stage only as a study on possible calculations which could be undertaken. The secretariat would need further guidance of the Committee before embarking on further studies of this nature.

5.7 The Chairman said that the item would be maintained on the agenda for the next meeting.

6. Possible contribution to the Ministerial meeting

6.1 In introducing this subject, the Chairman recalled that the Chairman of the Preparatory Committee had asked that each GATT committee consider the contribution it might make to preparations for the GATT Ministerial meeting. In doing so, there appeared to be two types of contribution that the Committee could make: firstly, necessary documentation required for the Preparatory Committee and/or Ministerial meeting; secondly, recommendations from the Committee on items within its field of competence concerning actions, decisions or declarations that the Ministers might undertake. He suggested that for the moment, efforts be concentrated on the latter aspect, as the necessary documentation was likely to be determined by whatever recommendations might be suggested for the Ministerial meeting in the field of tariffs. In looking at the catalogue of potential items contained in PREP.COM./W/1/Rev.1, it appeared that there were at least two items on which the Tariff Committee could make recommendations: the Harmonized System and Tariff Escalation. Regarding the Harmonized System it appeared from comments he had heard in the Committee, that work would not have progressed sufficiently in Brussels or in capitals for Ministers to signal acceptance of the Harmonized System. Nevertheless, it would seem appropriate that they indicated certain principles with respect to Article XXVIII negotiating process that the contracting parties could follow in accepting the Harmonized System, drawing upon the guidelines being developed in TAR/W/25, for example. They could also recommend that tariff concessions should remain unchanged and that in adopting the Harmonized System Nomenclature lower rates be chosen when there would be a choice among rates. On the second item, tariff escalation, he noted that the Committee had not yet examined the pilot study prepared by the secretariat. Nevertheless, as

indicated in the discussions, the item appeared of considerable importance to a number of contracting parties, and those countries might have proposals to put forward for eventual consideration by the Ministers.

6.2 The representative of Norway believed that it would be useful for the Preparatory Committee if a short report were sent forward to it on the state of work in those two areas. He added that as far as recommendations were concerned, it would be considerably more difficult, since on the Harmonized System, consultations and negotiations would have to proceed further. Moreover, he was wondering whether the two subjects proposed were of a nature to be put before the Ministers for possible decisions.

6.3 The representative of Austria said that as a member of the Preparatory Committee, he would not advise to overcharge the agenda of the Ministerial meeting and it should be taken into account that the competent Ministers were aware of the problems of the Harmonized System and tariff escalation. Therefore, he did not see any need for including those items in the agenda of the Ministerial meeting.

6.4 The representative of Australia pointed out that the checklist prepared for the Ministerial meeting was not closed at this stage. He had thought that Ministers might have somewhere on their agenda an item referring to the implementation of the MTN. He was not sure that work would be advanced enough to put forward to the Ministers the subject of the Harmonized System and whether the Committee would be in a position to make a recommendation. On tariff escalation, at the last meeting, his delegation had indicated that work was also going ahead as results of Commonwealth Heads of Governments meeting and expressed some views on the tariff escalation question. He hoped that work would go forward in this Committee and only at a later stage would it be possible to make a judgement about recommendations or not to the Ministers.

6.5 The representative of Canada felt that the Ministerial meeting could provide an opportunity for Ministers to reiterate their full support for the tariff concessions granted in the MTN, as well as for the general principle that the value of those concessions should be preserved. For example, Ministers might give emphasis to the work towards the elaboration of rules on tariff reclassification and rules of origin. He also thought that Ministers might be in a position to call for a general acceptance of the Harmonized System when it would be ready for adoption as well as for continuation of work on problems relating to tariff escalation.

6.6 The representative of India referred to the statement made by the delegate of Norway regarding the two-fold classification of items in terms of either the possibility of a report on the state of work or for recommendations. He felt that those were interrelated since whatever report the Committee would give to the Preparatory Committee on the state of work on the Harmonized System or tariff escalation, it would have to reflect the

lack of substantial progress and seek the blessings of Ministers for further activities. The very manner in which the report was presented would by itself invite a particular form of response. Considering the interest which had been expressed on both subjects, he would understand that the Committee would want not only to prepare a report on the current state of affairs of these two subjects but also make recommendations. He was wondering whether it would not be appropriate for the Committee to meet again in the near future and consider then the possibility of how the Committee would wish to present its view on those two matters to the Preparatory Committee.

6.7 The representative of Finland was in favour of not overburdening the agenda of the Ministers with ideas and their justification. It was obvious that Ministers would give some kind of political message to the world trade community and he questioned whether there were issues in the tariff field which ought to be included in that part of the results of the Ministerial meeting. It was the intention of all those preparing the Ministerial meeting that certain concrete decisions on specific items be made. He doubted that concrete decisions could be taken on the two issues proposed, especially if the preparations for the Harmonized System proceeded so slowly. On tariff escalation, an analysis of the factual background had just started and concrete decisions would be difficult. He said it would be reasonable to expect from the Tariff Committee a proposal for a future GATT programme, taking into account the work on the Harmonized System and tariff escalation. He shared the idea of the representative of India about having a short meeting before the next Preparatory Committee meeting to concretize the contribution of the Committee on Tariff Concessions to the Ministerial meeting.

6.8 The representative of the European Communities noted that it was difficult to foresee what stage the various parts of the preparatory work would have reached at the time of the Ministerial meeting. Concerning the Harmonized System, work had started some seven years ago in the CCC and it seemed to him that work had not been carried out in vain. At the time of the Ministerial meeting, it would be possible that work would have reached such a stage that the Ministers could make a recommendation in favour of the adoption of the Harmonized System by the contracting parties, but he agreed that at present work was not sufficiently advanced to submit such a recommendation. Even if the work was not advanced enough at the time of the Ministerial meeting for the Ministers to make a recommendation, the question would nevertheless be part of the work programme of GATT for the coming years. On tariff escalation, he pointed out that this question had also been on the agenda for some time in both the Committee on Trade and Development and the Committee on Tariff Concessions. Work had to be assessed before considering what could be done in this field. Apart from those two points, he agreed that the value of concessions granted during the MTN should be protected and the attention of Ministers could be drawn to this matter.

6.9 The representative of Japan stressed that his comments were of a preliminary nature. He agreed that the Harmonized System was one of the items which deserved consideration by the Ministers. In light of the stage of progress of work concerning this item, one idea would be that for example the Ministers could endorse general guidelines with an aim of accelerating the work on the Harmonized System with a view to securing its introduction as soon as possible. As far as the content of an eventual recommendation, he thought that it had to be very technical and he wondered whether it was advisable to bother Ministers with technical questions. About tariff escalation, his delegation's reaction was similar to that of the EEC. As far as this Committee was concerned a first study had been prepared but not yet examined. In addition, since tariff escalation was a subject of principal interest to developing countries, he was wondering whether the Committee on Trade and Development should not be responsible for taking up this matter.

6.10 The representative of Brazil did not agree with the statement made by the Japanese delegate that tariff escalation was mainly the concern of developing countries. She felt that there had been some confusion in the discussion when it had been argued that the agenda for the Ministers should not be overburdened, since the items discussed had already been included in the draft agenda of the Ministerial meeting. In her opinion, it was not the task of the Tariff Committee to decide what concrete decisions could be taken by the Ministers. The committee's rôle was to envisage and elaborate a possible contribution which would then be examined by the Preparatory Committee.

6.11 The representative of Yugoslavia stressed the importance of tariff escalation and the advisability for the Committee on Tariff Concessions to make a contribution to the Ministerial meeting. The subjects of the Harmonized System and tariff escalation were both appropriate. He did not share the opinion expressed by certain delegations concerning the agenda being overburdened. For the moment, the Committee should only consider what should be its contribution and although some precise decisions could be drafted, the Ministers would decide where they would take concrete action.

6.12 The representative of Israel pointed out that the items under consideration for submission to the Ministers had already been included in the draft agenda of the Ministerial meeting. He agreed that at this stage it would be premature to decide on the exact nature of the Committee contribution.

6.13 The representative of Norway said that it would be certain that tariff escalation and Harmonized System would form part of the future work programme of GATT after the Ministerial meeting. When he had suggested not overburdening the agenda, he had had concrete recommendations in mind. The Tariff Committee would set a good example if it could prepare for the Preparatory Committee a short report on these two issues explaining the

state of work and possibly containing some rudimentary recommendations. He did not think that the Committee should delay reporting to the Preparatory Committee until work would be more advanced since what the Preparatory Committee needed would be an overview of the subjects in order to better judge the importance of the various subjects presented.

6.14 The representative of the Ivory Coast wondered whether there could be any doubt regarding the contribution of the Committee to the Ministerial meeting. Account had to be taken of tariff escalation, maintenance of concessions and the Harmonized System. Her delegation considered that the question of tariff escalation fell in the framework of the analysis of the general problems facing the developing countries, the plurilateral consultations which had taken place earlier would also fall in this context. Regarding the maintenance of concessions, it was obvious that the value of concessions should be protected. On the Harmonized System, she felt that advancement of the work gave proof of the importance attached to this problem which should be part of the future GATT work programme. Therefore, her delegation would also support the suggestion that the Committee should submit a brief paper to the Preparatory Committee for its next meeting.

6.15 The representative of Romania realized that it was not easy at this stage to envisage the development of the two subjects and the discussions which would take place in the period up to the Ministerial meeting, as well as the manner in which these subjects might find their reflection in the results of the Ministerial meeting. His delegation was of the opinion that there would be enough room in the Ministerial conference context, either in the political statements of a general bearing or in the recommendations, for including a specific reference to these issues.

6.16 The representative of the United States said that his delegation had no fixed ideas on any procedure for arriving at suggestions for the Ministerial meeting but he thought that the work of the Committee should feature on the Ministerial agenda. The Harmonized System would certainly be an appropriate topic and he felt that the urgency of that exercise would merit some endorsement by the Ministers. It would seem that procedurally the suggestion made by the representative of India had some merit and that during informal discussions within the next few weeks it might be possible to refine some of the ideas. The Committee could then meet very briefly to come to some decision on these points.

6.17 The representative of Nigeria stated that, in view of the fact that work was still under way in Brussels on the Harmonized System and that this item had yet to be discussed in the Committee, he thought more time should be allowed before taking any decision. He therefore supported the suggestion reverting to this question in the near future. Regarding the question of tariff escalation he shared the view that it was a common subject of interest to both developed and developing countries. He repeated that further discussion in this Committee would be necessary to allow delegations to develop their thinking on this subject.

6.18 The representative of India referred to the "ripeness" criteria expressed by some delegations and said that if one subject was ripe for consideration, it was precisely tariff escalation, since the ramifications of the problems were well known. He added that he made this remark without any prejudice to the subject of the Harmonized System which should be considered as well by the Ministers.

6.19 The Chairman noted that there had been a first useful discussion which indicated that thinking on this topic was at a preliminary stage and some useful ideas had been expressed and several delegations had supported the idea of holding a short meeting to consider the specific question of the contribution that this Committee might make to the preparatory process. In that regard, he noted that the Preparatory Committee would meet again towards the end of the month and suggested holding another meeting of the Committee on Tariff Concessions on 21 April. In the meantime, he encouraged informal consultations among delegations with a view to elaborating a concrete contribution.

7. Other business (Renegotiations under Article XXVIII)

7.1 The representative of the European Communities took up the question of negotiations under Article XXVIII and noted that certain delegations had made abundant use of Article XXVIII:5 procedures, so that negotiations had been excessively prolonged. Perhaps these prolongations had led a contracting party to an interpretation of Article XXVIII, paragraph 5 according to which a contracting party would be authorized to implement, without a waiver, notified withdrawals together with the compensatory offers before the negotiations were concluded and even without notification of the absence of their conclusion. He enquired about the feelings of other contracting parties regarding such an interpretation of Article XXVIII.

7.2 The representative of South Africa replied that this issue concerned his delegation but since he had not received any notice that the matter be brought up at the present meeting, he reserved the right of his delegation to come back to the subject at another meeting of the Committee.

7.3 The Chairman agreed to revert to this subject at a subsequent session of the Committee.

8. Date of next meeting

8.1 It was agreed that the next meeting of the Committee would be held on 21 April 1982.