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GENERAL AGREEMENT ON TARIFFS AND TRADE

COMMITTEE ON TARIFF CONCESSIONS

Draft Minutes of the Meeting held in the Centre William Rappard on 28 April 1986

Chairman: Mr. A. Satuli (Finland)

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1. Adoption of the Agenda (GATT/AIR/2271)

1.1 The Chairman welcomed the participants to the twentieth meeting of the Committee and drew their attention to GATT/AIR/2271 which contained the agenda and the list of relevant documents. The agenda was adopted after the order of the items was changed.

2. Sixth Certification of Changes to Schedules

2.1 The Chairman recalled that this item had last been on the agenda of the Committee in October 1985. Since that time, the secretariat had received notifications from Austria, EEC, Norway, Sweden, Switzerland and the United States. The secretariat intended to publish the Sixth Certification before the end of the year and considered it very important to receive notifications, particularly regarding the extension of the Aircraft Annex from Canada, Japan and Romania.

2.2 The representative of the European Communities regretted that some countries had not yet submitted their notification on aircraft products. Japan was one of those countries and his delegation wished to know whether the Japanese delegation intended, firstly, to notify modifications in the schedule of concessions for inclusion in the sixth certification and, secondly, whether products in the extension to the list of products bound duty-free following the January 1985 decision by the signatories of the Agreement on Civil Aircraft would be incorporated in the Japanese schedule of concessions.

2.3 The representative of Japan stated that his delegation would prefer to discuss the question of aircraft concessions in the Committee on Trade in Civil Aircraft. He replied, however, that the bindings related to the extended annex of the Civil Aircraft Agreement had been incorporated in the Japanese tariff schedule through Headnote 8 of its Tokyo Round schedule; therefore, his authorities were of the view that Japan did not need to notify the additional aircraft concessions for incorporation.

2.4 The representative of the European Communities disagreed with that view and referred to Article II of the GATT which mentioned, inter alia, the description of products in schedules of concessions. In his view, it was difficult to accept that one could incorporate concessions granted in January 1985 in a Protocol dated 1979. He asked whether, in general, contracting parties were not required to record bindings in their schedules of concessions and, if so, why the aircraft bindings could be an exception. His delegation had asked for the secretariat's opinion on the matter. In the tariff area the obligations of contracting parties were well defined, in particular because tariff bindings had to be recorded in a schedule of concessions.

2.5 The representative of Japan repeated that the obligations of his country to incorporate the tariff bindings into the tariff schedules had been done through Headnote 8 of the Tokyo Round tariff schedule. However, his authorities were preparing the incorporation of the products related to the Civil Aircraft Agreement into the Harmonized System tariff schedule which was expected to take effect as from 1 January 1988.

2.6 The representative of Canada said that his delegation would be submitting its aircraft schedule very shortly.

2.7 In reply to a question put by the representative of the European Communities, Mr. Kautzor-Schröder (GATT secretariat) stated that in a communication contained in document AIR/46, the delegation of Japan had notified that the Japanese Government had received the approval of the Diet so that Japan was in a position to implement the new Aircraft Annex by

1 January 1985; it appeared therefore that Japan had fulfilled its obligation to eliminate its duties on the products contained in the new Aircraft Annex. On the further question of incorporation of the new Aircraft Annex into the GATT schedule of Japan, he recalled that through a literal interpretation of Headnote 8 of the Japanese GATT schedule and of Article II of the GATT, the Japanese authorities had taken the view that Headnote 8 covered not only the original but also the new (and indeed any future enlarged) Annex. This interpretation appeared to the secretariat to be very doubtful. While recognizing that a final interpretation of the Code provisions could only be given by the signatories, the secretariat would recommend that Japan, as well as all other signatories to the Civil Aircraft Agreement who had not already done so, submit as soon as possible their aircraft concessions resulting from the new Annex, on an item-by-item basis for inclusion into the Sixth Certification of Schedules; an invitation to do so had been extended as early as January 1985 in GATT/AIR/2096. In this context the speaker made reference to Article II of the GATT which governed GATT schedules of concessions and which referred to "products described" in these schedules. This meant, in the view of the secretariat, that a schedule had to spell out a concession in detail, i.e. its tariff number, product description, duty rate and other relevant information.

2.8 The representative of the European Communities thanked the GATT secretariat for its advice which, in his view, seemed very clear and, although the Community agreed to discuss this issue in the Aircraft Committee, it reserved its right to revert to this question in this forum since matters relating to schedules should be dealt with in the Tariff Committee.

2.9 The representative of Chile felt that the matter raised by the Community did not only affect Japan but was of utmost legal importance for all countries; this question should not only be discussed with reference to a specific country, but in more general terms, in the Tariff Committee.

2.10 The Chairman said that the Committee would take note of the statements made and that the matters related to the Sixth Certification would be included in the agenda of one of the forthcoming meetings.

3. Introduction of the Harmonized System and Article XXVIII negotiations

Submission of documentation

3.1 The Chairman noted that Japan was the first country having submitted the complete documentation for the Article XXVIII Harmonized System negotiations and that it had been distributed to all contracting parties as from 11 April onwards.

3.2 The representative of Argentina said that his authorities were hoping to complete their tariff harmonization work by the middle of the year. He did not have any precision about the submission of the documentation and would consult his capital to this effect.

3.3 The representative of Australia indicated that her country was aiming at submitting the Article XXVIII documentation by June, although their ability to meet the target date would depend on progress in the Industries Assistance Commission; the report had been issued publicly but it was being considered by Government departments before a final decision on it could be made by the

Government. The Australian Article XXVIII documentation would include only bound items and items which would involve a change from unbound to bound or vice versa.

3.4 The representative of Austria referred to the documentation that had already been forwarded to the secretariat. His authorities felt that a breakdown of trade flows by trading partners would be very difficult, especially if they were to be transposed into the new tariff lines of the Harmonized System, and that these data may not be very useful for the negotiations.

3.5 The representative of Brazil pointed out that he had forwarded to the secretariat the transposition of Schedule III relating to Chapters 1 to 24 prepared in conformity with document L/5470/Rev.1. This documentation would be distributed to interested parties very soon.

3.6 The representative of Canada reported that his authorities were working towards providing the formal Article XXVIII documentation by early summer; the exact timing depended on the receipt of the third phase of the Tariff Board study covering Chapters 68 to 97. He further informed the members of the Committee that his delegation had provided to the secretariat one copy of Phase I documentation in the format of Annexes 3 and 4 and that additional copies would be obtained for interested delegations.

3.7 The representative of Czechoslovakia indicated that his authorities were preparing the final phase of compilation of the necessary documentation required for Article XXVIII in the form of Annexes 1 to 4. Regarding

Annex 1, Czechoslovakia would submit a revised version of its loose-leaf schedule taking into account the comments made by other parties on the draft schedule. Annex 2 (proposed Harmonized System Schedule) would only contain information related to (1) Harmonized System tariff number, (2) complete Harmonized System product description, (3) proposed rate of duty, and (4) proposed INRs. Concerning Annexes 3 and 4 (concordance tables), he explained that the documentation would include the complete descriptions. Regarding the value of trade, information would be provided on the basis of global allocations; in his delegation's view, only GATT members should be taken into consideration for the purposes of Article XXVIII negotiations. Annexes 5 and 6 would not be supplied. His authorities were hoping to submit all required documentation in July/August.

3.8 The representative of the European Communities said that his delegation felt that two types of documentation had to be referred to: (1) that designed to facilitate preliminary technical consultations, and which had been submitted in full - including non-bound headings with their tariff rates and trade breakdown - and (2) formal documentation under Article XXVIII. The latter was ready, but because of the time needed for its reproduction would not become available to contracting parties until the latter part of May.

3.9 The representative of Sweden, on behalf of the Nordic countries, said that Finland, Norway and Sweden would present the formal Article XXVIII documentation in the course of next June. That documentation would consist of four annexes including the information requested in document L/5470/Rev.1. Iceland would submit its Harmonized System documentation somewhat later.

3.10 The representative of Hong Kong informed the Committee that he had received the master copy of the Article XXVIII documentation. He expected to deliver the 200 requested copies to the secretariat within the next ten days. The content of the final documentation would be practically the same as that of the original papers prepared for the technical consultations.

3.11 The representative of Hungary reported that his country had already provided the necessary documentation for technical consultations related to Chapters 1 to 83. He was hoping that, by the end of the summer, his delegation would be in a position to provide the remaining chapters. As far as the final documentation was concerned, his authorities intended to submit it by the end of the year. The documentation would contain not only the bound items, but unbound items as well. Regarding the trade allocations, it would take into consideration the requirements contained in document L/5470/Rev.1, paragraph 4.1.3.

3.12 The representative of India pointed out that the situation of his country was different since the Government of India had prepared a new customs tariff based on the Harmonized System at the 6-digit level, which had already been approved by the Indian Parliament, entered into force in April 1986. His authorities were presently comparing the changes that had taken place in order to ensure that none of the existing GATT bindings had been affected. He was also trying to obtain from his authorities the complete documentation as soon as possible for distribution to contracting parties.

3.13 The representative of Japan reported that his delegation had tabled on 11 April all necessary documents for the negotiations. This early submission was the reflection of his delegation's sincere hope to conclude the negotiations related to the Japanese tariff schedule by the end of September 1986. With respect to the contents of the documentation, explanatory notes had been provided. However, his delegation was prepared to give technical explanations upon requests by contracting parties.

3.14 The representative of Korea explained that the submission of documentation had been delayed due to consultations between different Government agencies. However, he expected to be able to submit Korea's documentation in the near future. The documentation would only cover bound items.

3.15 The representative of New Zealand hoped to have the documentation ready for circulation by the end of June; it would cover both bound and unbound items. With respect to Annex 2, in addition to the required information, there would be reference to historical INRs. There would also be two columns which would give a reference to when concessions had first been established in the schedule and when the current CCCN concession had been established. Annexes 3 and 4 would contain trade allocations and references to principal suppliers.

3.16 The representative of South Africa pointed out that his delegation had so far submitted Chapters 1 to 24 together with the concordance tables; thirty-eight more chapters had been transposed into Harmonized System but were not ready yet for distribution. The remaining thirty-five chapters

were in the course of preparation. Statistics had not been supplied so far, but it was his authorities' intention to provide them only in cases where bindings would be affected. South Africa's documentation would cover only bound items.

3.17 The representative of Switzerland stated that his country's documentation was practically completed and his delegation expected to reproduce it and submit it by the end of May. It would cover the entire tariff (bound and non-bound headings) and Annex 4 would furthermore indicate all headings for which tariffs would be increased or lowered in relation to the current situation.

3.18 The representative of Turkey reminded the Committee that technical difficulties had been encountered in preparing his country's documentation, and the work was taking longer than had been expected. His delegation hoped nevertheless to complete it by the end of the year.

3.19 The representative of Thailand informed the Committee that his authorities were in the process of preparing the documentation and was hoping to submit it after having consulted the secretariat.

3.20 The representative of the United States stated that his country had completed the technical updating of the Phase I documentation. It was now expected to have the formal documentation in Geneva in order to open the negotiations at the end of May. The United States intended to supply the following documentation, including information on unbound items: (1) an up-to-date consolidated schedule of concessions in the existing nomenclature;

(2) a proposed consolidated schedule in loose-leaf format containing the new tariff item numbers, full product descriptions and proposed rates of duties; (3) a concordance from the existing to the proposed consolidated schedule using global trade allocations; (4) a concordance from the proposed to the existing consolidated schedule, also using global trade figures; (5) a listing for each item in the present schedule of the INRs holders, the principal and substantial suppliers. He emphasized that the review of the documentation would be greatly facilitated if percentage shares for each supplier would be shown by parties, based on trade from GATT suppliers. Finally, his delegation would provide each partner bilaterally with a listing of its trade in Annex 3 format including information on duties collected.

3.21 The representative of the European Communities underlined the need for information on non-bound products since the exercise of converting national tariffs into a new nomenclature could only be meaningful if all relevant information - in particular non-bound rates and not merely product identification - was furnished. Referring to the Indian representative's statement, he said that his delegation was awaiting with great interest the documentation to be furnished by that country regarding the transposition at national level.

Conduct and timing of negotiations

3.22 The Chairman recalled that at the last meeting of the Committee in February, interested contracting parties had come to the conclusion that 1 January 1988 would be a feasible and realistic date for the implementation of the Harmonized System. In that connection, they had recognized that in order to meet this date, it would be necessary for the GATT Article XXVIII negotiations between them to be carried out as fast as possible and, in any event, concluded before the end of 1986.

3.23 The representative of the United States was hoping that all active participants would circulate their Article XXVIII documentation and thereby be in a position to open negotiations on their schedules before the end of July. His delegation expected to finalize the documentation within a few weeks and to distribute it by the end of May. It would then expect actual negotiations to begin immediately after the summer break, or earlier, depending on when contracting parties would complete their analysis. He estimated that approximately ninety days from the issuance of a contracting party's conversion would be needed to initiate the actual negotiations. The specific time requirements would depend in large part on the nature of the documentation presented by each contracting party. For example, bilateral balance information would vastly facilitate analysis and decision-making. If this information was not provided along with the basic conversion documentation, additional time would be required to develop such an analysis. The United States would provide each partner with such a document so that each contracting party would be able to determine quickly the treatment of items on which it held GATT rights.

3.24 The representative of the European Communities underlined that participants would have to speed up the work in order to respect the date of 1 January 1988 set for implementing the Harmonized System. Accordingly, it seemed necessary to complete the negotiations by the end of the current year or early in 1987. His delegation expected to submit its formal documentation toward the end of May and would then be ready to open negotiations. He did not think that systematic furnishing of balances was essential; nevertheless, the Community would furnish them to contracting parties which so requested. Progress of the negotiations would depend not

only on speeding up material work, on goodwill and on the quality of documentation, but above all on the content and substance of the negotiations.

3.25 The representative of Japan recalled that his delegation had already tabled all the necessary documentation. He requested that claims of interest and requests for compensation be submitted at the latest by 10 July 1986, but hoped that countries would not wait until that date. The Harmonized System was expected to be implemented on 1 January 1988 and the Government of Japan hoped that the negotiations would be carried out as expeditiously as possible with a view to implementing the Harmonized System as scheduled. Japanese domestic procedures to meet the new target date required that negotiations be completed by the end of September 1986. Therefore, the co-operation of trading partners would be highly appreciated; in order to expedite the negotiations, the necessary data-base tapes would be supplied shortly.

3.26 The representative of Switzerland said that in order to observe the date of 1 January 1988, it would be essential for the main part of the negotiations and results to be synchronized and finalized in good time. It was difficult to evaluate the consequences of a situation in which contracting parties might find themselves at the beginning of 1987 with partial results, many negotiations not having been completed. In order to avoid such a situation, he called on all interested parties for the documentation to be finalized in good time and for negotiations to be completed, if not by 1 January 1987, at least in the first few weeks of that year so that the results could be implemented as scheduled.

3.27 The Chairman noted in all statements a certain sense of urgency and reiterated his appeal that all parties concerned would expedite the work to be carried out in capitals in order to submit their complete Harmonized System documentation as soon as possible.

3.28 The representative of the United States referred to an informal paper[1] distributed to the Committee members on the procedural steps associated with the Harmonized System/Article XXVIII negotiations and explained that the intention of his delegation was to bring together some thoughts that had emerged from discussions in the Committee, as well as from bilateral consultations that had taken place over the last eighteen months. He believed that there was a recognition that, given the complexity of the exercise, detailed discussion on minute or even theoretical points should be avoided. The proposal contained in the paper submitted by his delegation aimed at facilitating the preparation of claims of interest/requests.

3.29 The representative of Switzerland underlined that the document introduced some degree of realism and flexibility into the conduct of the negotiations. Nevertheless several references had been made to partners having negotiating rights (traditional rights). Since the exercise had no precedent, it did not seem justified to consider only those rights and he reserved his delegation's position as to the definition of negotiating rights.

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[1] Subsequently distributed in document TAR/W/61.

3.30 The representative of the European Communities said that the United States proposal would allow the discussion to bear on matters that had not yet been taken up; whatever the interest of participants in one or other product or sector under negotiation, account would finally have to be taken of the entire transposition exercise which could result in a number of debits or credits. The fact of having negotiated on one sector in particular did not mean that no general request for compensation would be made if the balance of one partner revealed a debit for the Community. As to drawing up a list of claims of interest within a 90-day period, that possibility existed provided the documentation furnished facilitated the establishment of such a list. To that end, the furnishing of balance sheets - whether systematically or individually - was essential. With respect to the most complex transpositions, before drawing up a list of claims of interest within the 90-day period, the Community would wish to receive taped data from the contracting parties concerned. With reference to claims of interest, the more the transpositions abided by the principle of technical neutrality, the shorter the list of such claims would be.

3.31 The representative of Canada felt that the American proposal had considerable merits as a way of proceeding through the preparation of the claims of interest. The proposal should help speed up the process and would facilitate notifications of claims and the actual initiation of the negotiations before reaching the ninety day period was terminated.

3.32 On behalf of the Nordic countries, the representative of Sweden said that the suggestion from the US delegate would seem to be very practical since it provided a security blanket for all countries, but that it should

not be used to delay negotiations. Regarding the documentation presented by Japan, although the Nordic delegations could accept the idea of making a general reservation of their rights, they had noted that there was no listing of INRs. The Nordic countries felt that they would have to submit a long list of claims for INRs which would be different from claims of interest for negotiations.

3.33 The representative of New Zealand stated that his delgation would in principle be favourably disposed towards the idea behind the US proposal in terms of its facilitation of the submission of claims of interest. He noted, however, that time was running in respect of Japan's schedule and the real question was whether there was any reason under the General Agreement why the proposed procedure could not be applied in that case.

3.34 The representative of Hong Kong pointed out that it was a useful idea but that he needed to forward the US proposal to his capital for detailed consideration. He recalled that Hong Kong would participate and co-operate fully with all other delegations with a view to ensuring implementation of the Harmonized System on 1 January 1988. He also stressed that an early and successful completion of the Article XXVIII negotiations depended not only on the format of the documentation or on the procedures, but also on the contents.

3.35 The representative of Australia supported the speedy conclusion of the Article XXVIII negotiations and considered that the US proposal would be examined closely in her capital. In respect of the volume of documentation she expressed caution in that there could be problems in identifying

products or preparing requests on matters of actual interest within the ninety day period. The question raised by the Swiss delegation concerning supplier rights was a valid point to be pursued under a different agenda item. The Harmonized System exercise involved changes of bindings on numerous items and could therefore have an important impact on the trade of many countries. The question whether or not countries had supplier status became important when that status was increasingly held by a few countries only.

3.36 The representative of Hungary found the US proposal very interesting; his delegation had already found many practical merits, especially regarding "blanket statements" of claims which would take into consideration the problems of delegations from smaller countries which had not the necessary equipment and manpower for the evaluation of the huge volume of documentation.

3.37 The Chairman noted that several delegations had commented on the US proposal in a positive spirit, although some of the comments had been of a preliminary nature; delegations needed some time to reflect and consult with their capitals. He proposed to keep this matter on the agenda and to revert to it at the next meeting of the Committee for further discussion and possible conclusion.

Common Data Base

3.38 Mr. Raynal (secretariat) said that since the last meeting the secretariat had received new tapes from the United States, Canada and Switzerland. None of the submissions could yet be considered final.

Details regarding the processing of submissions had been given to the five delegations participating in the Harmonized System data-base exercise. With respect to preparation of the two tables to which the Technical Group had given priority, (table 6: Bilateral balance of tariff changes measured by theoretical customs collection, and table 9: Detailed assessment of the effects of the tariff conversion to the Harmonized System nomenclature), the programmes needed for preparing the first table had been written and tested; "prototype" results had been produced and the programmes could therefore be used as soon as definitive data had been loaded. For the second table, work was progressing but 4 to 6 weeks more would be needed before the programmes could be operational. The secretariat hoped to receive the definitive data as soon as possible so as to be able to organize tape exchanges among participants.

3.39 Mr. Raynal referred to a statement by the representative of the European Communities in the Preparatory Committee's meeting of 27 and 28 January last to the effect that with a view to the new round of negotiations, up-to-date and comparable data would have to be supplied on tape; he had also called for consultations to be organized as soon as possible. It would appear that where tariff measures were concerned, that Committee should be associated actively in the consultations.

3.40 In the broader context of the data assembled and updated by the secretariat, Mr. Raynal said that it might be useful to reflect on possible utilizations of the Tariff Study files during a transitional period between the present time and the date of implementation of the Harmonized System. Some countries participating in the Tariff Study had recently requested

summary tables for which the secretariat did not have or no longer had computer programmes. It might be useful for delegations to indicate to the secretariat how they intended to use the Study data so that an overall picture could be established of programmes needed for elaborating data in the desired format.

3.41 The representative of the European Communities recalled that his delegation attached great importance to the Harmonized System data bank becoming operational as soon as possible. His delegation had exchanged taped data with the United States; such exchanges should greatly facilitate negotiations with that country and similar exchanges with other countries were desirable. Apart from utilization of the data base for the Harmonized System negotiations, he hoped that the number of participants in the exercise could be increased, particulary with a view to the new round of negotiations. Consultations to that end would allow the needs of contracting parties to be defined more clearly. In that connection, he enquired whether a time-frame had already been established for the consultations. With respect to utilization of data resulting from the Tariff Study, the latter covered only a limited number of participants which should be increased; for utilization of the Tariff Study in its existing form, it would be useful to know what adaptations would be necessary, and what problems had been encountered in preparing the summary tables requested by certain delegations.

3.42 The representative of the United States confirmed that his delegation had provided the secretariat with the data submission corresponding to the documentation prepared for the Phase I discussions. A submission corresponding to the Article XXVIII documentation would be given to the

secretariat shortly after the time the hard copy documents were given, i.e. at the end of May. The exchange of data with the Community proved useful and he shared the Community's view on the need to expand the number of participants in the data base and to envisage also its future use, which his delegation saw as the successor to the Tariff Study. He also hoped that it could be broadened to include other information that could be useful to parties. Regarding the possible use of the data base for the broader negotiations in the new round, he said that the Article XXVIII documentation may not be sufficient for the broader negotiations. Bridge data corresponding to more recent base years would be an aspect to be discussed during the forthcoming consultations.

3.43 The representative of Japan said that his delegation was ready to exchange tapes on a reciprocal basis with as many trading partners as possible. He shared the view that the common data base would be very useful not only for the HS work but also for the new round. He also hoped that as many trading partners as possible would participate in a common data base exercise. Japan would submit the data base information some time in May.

3.44 The representative of Canada referred to the relationship between the data base and the tariff study and said that it would be useful if the secretariat could provide delegations with information on what material was available from the Tariff Study, as well as an indication on how the secretariat would make the link between the two systems.

3.45 The representative of Switzerland associated himself with the Canadian representative's request regarding organization of the transitional period.

3.46 The representative of Sweden pointed out that the Nordic countries had noted the interest of the main countries for additional participants in the data base; they would study the possibility of participating in the data base as they had participated in the Tariff Study.

3.47 M. Raynal (secretariat) informed the Committee that official consultations had not started yet. The link between the Tariff Study and the HS data base would be examined very shortly and a paper would be prepared.

3.48 The representative of Australia said that her delegation would like to be involved in the consultations and would also welcome a paper from the secretariat on the link between the Tariff Study and the Data Base.

3.49 The representative of the European Communities underlined the urgency and importance of the consultations, taking into account the time-frame not only for the Harmonized System but also for the new round.

Legal procedures

3.50 The Chairman recalled that, at the last Committee meeting, a number of delegations had favoured the protocol approach for the publication of the results of the Harmonized System negotiations. It had been agreed to keep this item on the agenda.

3.51 The representative of the United States favoured the key-country Protocol approach elaborated by the secretariat in document TAR/W/55/Add.1, and considered it more appropriate to the Harmonized System exercise than

the certification approach. It would provide a more efficient way to put the Harmonized System into effect, while safeguarding the rights of those with whom negotiations might not have been concluded. His delegation would expect the end-results of the negotiations to become new Harmonized System-based consolidated schedules in loose-leaf form replacing the present ones.

3.52 The representative of Switzerland expressed the view that the decision on formal publication of the results was not a matter of extreme urgency at the current stage. It would be useful first to see how the negotiations developed and progressed. Only then could a decision be taken with full knowledge of the facts, while observing deadlines and without creating any confusion between applicable and applied tariffs. To date, the customs tariff system had been the most stable area of the entire trading system, and customs tariffs should retain that aspect of credibility and stability.

3.53 The representative of Japan recalled that his delegation had submitted a paper (TAR/W/51) raising two points: the first one was a proposal to incorporate the results of the Harmonized System negotiations directly into consolidated tariff schedules of each participating country without drawing up the required documents referred to in document C/113. This proposal had, according to him, received good support. He therefore hoped that it would be adopted by the Committee in an appropriate way. The second point related to the legal character of the final documents (certification or protocol). Although Japan had not taken a final decision, it would seem that the protocol approach would merit further examination. The Japanese delegation requested the secretariat to prepare another paper describing the time-table and the format of tariff schedules if the protocol approach were adopted.

Referring to the "key-country" approach mentioned by the United States delegation, he appreciated the importance of simultaneous implementation by major countries, but if a "key-country" approach would prevent Japan from obtaining a certified copy of the final document related to the Japanese schedule because negotiations among other countries were not terminated, Japan could not accept such an approach.

3.54 The representative of the European Communities said that his delegation had not taken a final decision but was tending towards the protocol approach.

3.55 The representative of Sweden indicated that the Nordic countries would favour the protocol approach but had never envisaged a "key-country" approach.

3.56 The representative of New Zealand said that his delegation had a preference for the protocol approach.

3.57 The representative of Hong Kong had no strong preference for either approach and would be prepared to join in a consensus.

3.58 The representative of the United States, referring to the comments made by Japan, added that the term "key-country" approach was in no way intended to prevent Japan from implementing the Harmonized System on 1 January 1988. His delegation was flexible regarding key countries; it was important to have as many countries as possible implement the Harmonized System on 1 January 1988; he was also flexible as to whether there would be only one protocol or several.

3.59 The Chairman, in summing up the discussion, pointed out that while some delegations seemed to have now a more definitive view in favour of the protocol approach, other delegations needed more time to reflect on this matter; this issue would be considered again at the next meeting. He also noted that the delegation of Japan had suggested that the secretariat circulate a new paper for the purpose of giving all contracting parties a clear picture of the procedures to be followed in the case of a protocol.

Policy Issues

3.60 The Chairman recalled that the Swiss delegation had submitted a proposal in document TAR/W/57 regarding the definition of suppliers' rights. Some comments on this proposal had been made at the last meeting by a few delegations, but others had expressed the wish to revert to this paper at this meeting. It had also been agreed that the procedural aspects, i.e. the right forum for discussion of that proposal, would be examined first.

3.61 The representative of Switzerland explained that, having regard to developments, the existing provisions of Article XXVIII could usefully be supplemented, with a view not to removing existing rights but rather to adding others for countries which could obtain a negotiating right when a product exported to a given destination was of particular interest for the exporting country, since the concept of principal supplier derived essentially from the importer's view-point. Existing rights would be supplemented simply by adding to the principal negotiator a second negotiator for which its exports under that formula were particularly important. Many countries were deprived of negotiating rights in the present situation. If

they could retrieve them, they would be more interested in the functioning of the negotiations and in the GATT system. The Harmonized System exercise could be an opportunity for making a test-run which would yield some indication as to how that new criterion could be applied in the new round of negotiations. A new provision could then be considered for Article XXVIII, based on experience which would have shown the usefulness and feasibility of such a method.

3.62 The representative of Canada said that his delegation had considerable sympathy with the objectives of the Swiss proposal and appreciated the problem that small countries had in obtaining main supplier position, however, this problem was of a more general nature. Other criteria, like exports on a per capita basis, could also be considered to determine the supplier status. His delegation would have difficulty in proceeding with an examination of the Swiss proposal within the context of the Harmonized System exercise.

3.63 The representative of the United States did not favour using the Harmonized System as a test of the sort envisaged in the Swiss proposal, because this would complicate negotiations, the proposal could double the number of principal suppliers. However, his delegation would not oppose an examination of the operation of Article XXVIII which would include an examination of the substance of, among others, the Swiss concern.

3.64 The representative of Japan shared the views expressed by Canada and the United States. The time for Harmonized System negotiations under Article XXVIII was limited and his delegation was afraid that the examination

of the Swiss proposal would make the harmonized System work more complicated and cause undue delay. Consequently, he felt that the Swiss proposal should be examined separately from the Harmonized System work.

3.65 The representative of Australia considered that there was an imbalance in the current application of Article XXVIII in that principal suppliers and negotiating rights were limited to a few large contracting parties. She noted that there was considerable support among small exporters for a review of this Article. The Harmonized System exercise provided contracting parties with the unique opportunity to reflect on the way in which Article XXVIII procedures could be applied in a fairer fashion.

3.66 The representative of the European Communities underlined that his delegation's position had not changed since the last meeting and that he shared the doubts expressed by certain delegations regarding the possibility of dealing with this subject in the context of the Harmonized System. In his view there was no need for a discussion in the Committee, even separately from the Harmonized System, or on that proposal, nor on any other aspect regarding Article XXVIII.

3.67 The representative of New Zealand noticed the divergent views expressed. New Zealand was favourably disposed towards the Swiss proposal which only suggested that there be a test run, without tying the work of the Committee. He suggested that a simple series of examples on some relevant products could produce interesting results.

3.68 The representative of Sweden reiterated the interest of the Nordic countries in the Swiss proposal which, however, they were hesitant to mix with the work of the Harmonized System in order not to delay the latter. If the Swiss authorities could undertake a test run relating to their own documentation, or possibly apply their proposal to the Japanese documentation in respect of Switzerland, this could give an interesting example of how a market could be affected. He stressed that it should be separate from the Harmonized System exercise.

3.69 The representative of Korea reported that his Government was not in favour of the Swiss proposal but felt that there should be some improvements in the definition of suppliers. His delegation would submit a short working paper on this subject in the near future.

3.70 The representative of Hungary recalled that his delegation was very interested in the Swiss proposal which deserved further consideration. In his view, it did not contain any new element but aimed at reducing certain uncertainties which could be found in Article XXVIII. Anyone could ask for the establishment of principal supplying interest, even under the present regulations, but the outcome of the request was rather unclear.

3.71 The representative of Switzerland thanked delegations which had supported his proposal; the latter nevertheless remained open for discussion of the criteria to be established with a view to its application. He had noted the comments by other coutries which, while declining to envisage such a method in the Harmonized System exercise, had recognized that the problem merited examinatien and should be reverted to in the context of the new

round. Nevertheless, he could not see how the simple method suggested by Switzerland could complicate or delay work on the Harmonized System. Referring to individual balances which the United States delegation was intending to furnish to each partner, he wondered how useful they would be for countries which had only few, or no, negotiating rights. Submission of individual balances seemed to him to indicate that new rights of countries which were not at present considered to have a negotiating right should be taken into consideration as flexibly as possible. His delegation was simply calling for a test-run which would not constitute a precedent for the negotiations. As regards the suggestion for the test-run to be made by the Swiss delegation, it would not be a matter of merely making a theoretical "test-run" with a view to determining which countries could have a right of additional negotiator in relation to those already existing, but of seeing what impact the fact of admitting those countries to the negotiations would have on the negotiating process as such. In his view, such a test-run would not complicate the negotiations. In conclusion, he suggested that the countries concerned - both exporters and importers - reflect on the proposal and the unique opportunity that existing for making the test-run, if only in one tariff area, given that the Harmonized System exercise was unprecedented and that it was nowhere stipulated that Article XXVIII was applicable exclusively. That unique experience could, to a great extent, serve as a basis for discussion in the new round of negotiations.

3.72 The Chairman noted that there had been a considerable amount of interest expressed for the Swiss proposal but that there had been also some views put forward by delegations that would be reluctant to pursue this matter in the context of the Harmonized System exercise. He proposed to leave the question

of the manner in which this item would be put on the agenda of the next meeting to be decided upon informal consultations that he would conduct with interested delegations.

Date of the next meeting

4. The Chairman suggested that the next meeting of the Committee would be held in about two months time, tentatively on 1 July 1986.