

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

PREP.COM(86)SR/8

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Special Distribution

## PREPARATORY COMMITTEE

### Record of Discussions

#### Discussions of 23-26 June

1. The Chairman informed the Committee that the Drafting Group had met twice the previous week to continue its discussion of the texts on various subjects prepared by the secretariat in the form of non-papers, together with a number of texts submitted by delegations. The Group also had a first discussion on a draft Ministerial Declaration which had been put forward informally by nine members of the Preparatory Committee. The Chairman drew attention to a number of recently-distributed documents, including the summary records of the fifth meeting of the Committee, (SR/5) and the note on the seventh meeting (PREP.COM(86)). In addition two papers had been submitted by Hong Kong; one on Quantitative Restrictions and Other Non-tariff Measures (PREP.COM(86)W/38) and another on the Dispute Settlement Mechanism (PREP.COM(86)W/39). Four other documents, distributed during the last meeting included two by the United States, on Trade in Services (PREP.COM.(86)W/34) and on Investment (PREP.COM.(86)W/35), and by Australia, on More Active Ministerial Involvement in the GATT (PREP.COM.(86)W/36) and on Surveillance (PREP.COM.(86)W/37). Finally, a draft Ministerial Declaration had been put forward by ten members of the Committee (PREP.COM(86)W/41). After a discussion of these papers, the Committee should turn to the question of participation in the Ministerial Meeting of Punta del Este.

#### QUANTITATIVE RESTRICTIONS AND OTHER NON-TARIFF MEASURES (PREP.COM(86)W/38) AND DISPUTE SETTLEMENT (PREP.COM(86)W/39)

2. The representative of Hong Kong said that the two texts tabled by his delegation (W/38 and W/39) were relatively simple and did not need elaboration. They had already been discussed in an informal context and appeared to have aroused sympathy and support.

#### TRADE IN SERVICES (PREP.COM(86)W/34) AND INVESTMENT (PREP.COM(86)W/35)

3. In introducing the two documents submitted by his delegation, the representative of the United States said that it was essential for the entire world trading community that negotiations were launched in September, to address the present and future world trade environment. Failure to do so would condemn the system to continuing, and growing indiscipline. Document PREP.COM(86)W/34, on services, contained a proposed text for inclusion in the Ministerial Declaration and an accompanying paper. The text reflected views expressed by some other delegations on this subject during

meetings of this Committee, particularly in the language of the last sentence: "taking account of the legitimate objectives of national laws and regulations applying to services". It was envisaged that the negotiations would work towards agreement on general principles and disciplines for the conduct and liberalization of trade in services, and also that, during the course of the negotiations, certain specific sectors in which negotiations could take place might be identified. Document PREP.COM(86)W/35, on Investment, also included a text for the Ministerial Declaration, and an accompanying paper. It was submitted in precisely the same spirit as the proposal on services: if the GATT were to reflect and be responsive to the world trade system of the future, the new round must address the issues raised for trade by investment problems.

4. The representative of India repeated his delegation's view that this Committee could not address the subject of services. Two parallel decisions taken by the contracting parties in November 1985 had established two separate and equally valid processes. It was clear that the Group on the exchange of information on services had not yet accomplished the task of reaching a conclusion on the appropriateness and desirability of multilateral action in regard to services, as laid down in paragraph 3 of the 1982 Ministerial Decision. There could therefore be no question of this Committee discussing services in the context of the proposed multilateral trade negotiations. The language in PREP.COM(86)W/34 to the effect that there was agreement that "liberalization" of trade in services through negotiations was desirable, and that an objective would be to develop a multilateral services agreement ignored the fact that no determination had been made regarding the desirability and appropriateness of multilateral action in services. In addition, there seemed to be some inconsistency between the text's reference to the "legitimate objectives of national laws and regulations applying to services" and the notion of "unfair trade practices" encountered in particular services sectors. While his delegation did not believe investment to be a proper topic for discussion in this forum, he would comment on the points raised in PREP.COM(86)W/34. This referred to the possible reduction in the contribution of trade liberalization to expanding world trade because of government investment measures. However, as investment often substituted for, rather than complemented, international trade, it could be argued that foreign direct investment per se could diminish rather than expand world trade. Even if foreign direct investment did provide an overall boost to trade, so did many other factors: it did not follow that such investment must be a concern of the GATT. The text's basic assumption that investment measures were diverting investment flows or distorting trade flows was not acceptable. His delegation also took issue with the reference in the last sentence in the text to the specific Articles and overall objectives of the GATT: neither the Articles nor the objectives of GATT had been intended to deal with investment measures.

5. The representative of Brazil said that a new round of negotiations could and should only be authorized by contracting parties on subjects within the competence of the GATT. It could not be assumed that the advisability of international regulation of new areas presently outside the GATT was an accepted fact and to include these areas in a new round, making the exchange of concessions or the observance of existing obligations dependent on concessions sought in new areas, would not only jeopardize the integrity of the GATT itself, but would delay much needed action in traditional areas already within the competence of GATT, such as agriculture and textiles. The tradition in GATT of decision making by consensus on substantive matters already within the jurisdiction of the General Agreement should be all the more the rule in introducing issues extraneous to GATT. This could only be accomplished by amending the rules of the General Agreement itself, which required acceptance by all contracting parties. To proceed otherwise would mean that the General Agreement, and the rights and obligations acquired thereunder, could be changed by the will of a part of GATT members. While individual contracting parties were not obliged to participate in negotiations, any contracting party had the right to oppose launching a round if it felt that the proposed negotiations would violate the integrity of the GATT and affect its rights under the General Agreement. It would be politically unwise to pretend to overcome such problems by departing from the tradition of decision by consensus, since the same issue would recur when trying to incorporate the results of the new round into the institutional and legal framework of the GATT.

6. The representative of the European Communities said that the General Agreement was a contract, and that it was perfectly possible to introduce into the framework elements which had not initially been explicitly covered. The coverage of the General Agreement should not be forced to remain static given the very considerable changes in the economic environment which had taken place since the inception of the General Agreement. Moreover, the contracting parties had already been discussing services for years, and had taken a number of decisions, albeit procedural ones, on this subject. In these circumstances, to call in question the competence of the General Agreement to deal with services would damage the credibility of the GATT in the eyes of public opinion and would discredit the Ministerial Meeting. Since there had so far been no constructive dialogue concerning the specific objectives and the modalities for negotiations in the non-traditional areas, it was impossible to say that before disciplines on services had been agreed the established balance of rights and obligations between contracting parties would be affected by addressing them. As far as the Preparatory Committee was concerned, the question for decision was not whether there would be negotiations on services, and perhaps on other non-traditional subjects, in the new round: that must no doubt be left to Ministers to decide. For this Committee, the issue was whether contracting parties were to be allowed to discuss these issues before Punta del Este, and to have their views reflected in the Draft Declaration: if they were not, the GATT would be likely to suffer irreparable damage.

7. The representative of Argentina said his delegation shared the views advanced by the representative of Brazil, notwithstanding the points made by the representative of the Community.

8. The representative of the United States, in response to the assertion by the Indian delegation that it was inappropriate for this Committee to address the subject of services, noted that it was made clear, both in the Decision setting up the Preparatory Committee and in the understandings that lay behind it, that services was a matter that could be discussed in the Committee at the initiative of any of its members. It was also the responsibility of this Committee to recommend a programme of negotiations to the Ministerial meeting, and his delegation believed that the Committee must put forward a recommendation concerning services for decision by Ministers. Concerning the investment-trade dichotomy, there were numerous studies demonstrating that expanded investment led to expanded trade, rather than being a substitute for it. In response to the representative of Brazil, he agreed that any delegation had the right to refuse to participate in the negotiations to be launched in September, if they objected to the inclusion of certain subjects. Similarly, other delegations could refuse to participate in negotiations whose objectives they found too limited.

9. The representative of Colombia took note of the fact that several weeks earlier the United States had refused to discuss any matters in connection with restrictive business practices, and that these matters were not referred to in PREP.COM(86)W/35.

MINISTERIAL INVOLVEMENT (PREP.COM(86)W/36 AND SURVEILLANCE (PREP.COM(86)W/37)

10. The representative of Australia introduced two documents submitted by his delegation: PREP.COM(86)W/36 on More Active Ministerial Involvement in GATT; and PREP.COM(86)W/37 on Surveillance. Concerning the latter, and in response to the concern that surveillance obligations may be particularly onerous for smaller developing countries, he pointed out that the document contained a basis whereby developing countries could be considered differently from larger and developed countries. The paper proposed that establishment of this surveillance mechanism be accepted as an objective for the negotiations, rather than a matter to be decided immediately. What should be adopted now were some principles to guide the discussions on surveillance, with the details to be agreed in the trade negotiations. Finally, this proposal on surveillance of trade policies was distinct from discussions and proposals on surveillance in the context of the standstill commitment. Surveillance of the standstill commitment was absolutely necessary. As a separate matter, this present paper provided for a review of national policies as a continuing function of the GATT, to be adopted in the course of the Multilateral Trade Negotiations.

11. The representative of Brazil said that while the question of more active ministerial involvement in the GATT should receive sympathetic consideration, there were several difficulties with the proposal made in PREP.COM(86)W/36, which appeared to a certain extent to be contradictory. For example, the suggestion that ministerial involvement would aim at providing a mechanism for permanent negotiations to solve trade problems appeared inconsistent with the proposal of the CG18, a purely consultative body, as a model. Further, there seemed no reason why this matter should be taken up in the context of the Multilateral Trade Negotiations, since it was not tied to the new round in any way. While, the possibility of more frequent ministerial meetings on a consultative basis deserved further attention, therefore, it was not clear that a formal resolution was needed, particularly in the context of a Ministerial Declaration on a new round. The proposals on surveillance in PREP.COM(86)W/37 would make dramatic changes in the aims of the GATT and would institutionalize the monitoring of trade policies of individual contracting parties. While this also merited further discussion, it should not be undertaken within the limited framework of the possible new round. It might be appropriate to turn the GATT in that direction, but all the implications of doing so would have to be very carefully considered.

12. The representative of Chile welcomed the paper submitted by the delegation of Australia on more active ministerial involvement, which it would study with interest.

13. The representative of Colombia said the paper on surveillance submitted by Australia contained ideas similar to those proposed by his delegation on permanent surveillance of the trade policies of contracting parties. In general terms, therefore, Colombia would support PREP.COM(86)W/37.

14. The representative of Korea supported the basic idea of more active and frequent ministerial involvement in the GATT. The GATT needed a political will that only ministers could provide. The decision concerning more frequent or active involvement of ministers should not be made at Punta del Este but during the course of the negotiations. Concerning the paper by the Australian delegation on surveillance, distinction should be made between surveillance of trade policies and that of trade practices or trade measures. To discuss actual or proposed trade legislation would obviously be a very difficult matter from discussing specific actions and their effects.

15. Responding to comments on his delegation's submissions, the representative of Australia said that ministers could gather in any kind of forum to address any problem at hand; this process could help further negotiations and assist in resolving specific problems. The reason why the CG.18 did not seem to have contributed very much to the negotiating process was that the officials attending its meetings did not have authority to change national positions and therefore could not negotiate meaningfully. Concerning the suggestion that the MTN would be a limited forum and therefore not an appropriate place in which to take a decision on ministerial involvement, he pointed out that if, as suggested by a number of countries, including Brazil, the September meeting were a session of the CONTRACTING PARTIES at ministerial level, it

would be a most appropriate forum in which to take a decision on greater ministerial involvement in GATT's work. Concerning the timing and nature of the decisions involved in the two proposals, the one concerning greater ministerial involvement could be taken by the ministers: however, much work remained to be done on surveillance and for this reason the Australian paper recommended that ministers accept that this be a subject for negotiation in the Trade Negotiations Committee.

16. The representative of Colombia agreed with those delegations which felt that Ministerial Meetings should not become an annual routine, possibly supplanting existing GATT institutions while not having the capacity to resolve trade issues. It might be useful, however, to think of restructuring the terms of reference of the Consultative Group of 18, as suggested in the Australian proposal, and to have the Group meet once a year at ministerial level.

17. The representative of Japan expressed the hope that the process of drafting would shortly begin and would use constructively the ideas presented in the six documents presently being discussed.

18. The representative of Israel supported the ideas on surveillance presented by Australia which would produce greater equity within the system. At present, a number of countries annually or biennially underwent severe questioning and surveillance procedures within the framework of the Balance-of-Payments Committee, which were not restricted to import policy but covered domestic policy questions as well. This was a healthy and helpful process and should therefore be extended to all GATT members. He believed that a surveillance mechanism of the type envisaged in PREP.COM(86)W/37 would help strengthen GATT machinery and make the organization more effective.

19. The representative of Hungary supported the proposal on surveillance submitted by the representative of Australia for the reasons of equity and the need to strengthen the GATT system which had been advanced by Israel.

20. The representative of the European Communities expressed concern about the lack of progress in the Committee towards the production of a text for submission to Ministers. It was beginning to seem impossible that a draft could be prepared in the time available. The Committee should focus its attention on drafting a short text, bearing in mind that it was not the purpose of the Declaration to settle issues that could only be addressed in the negotiations themselves.

DRAFT DECLARATION CIRCULATED BY BRAZIL ON BEHALF OF TEN COUNTRIES  
(PREP.COM(86)W/41)

21. The representative of Brazil announced that ten countries (Argentina, Brazil, Cuba, Egypt, India, Nicaragua, Nigeria, Peru, Tanzania and Yugoslavia) had decided to circulate a draft Ministerial Declaration (PREP.COM(86)W/41). It would be seen that the paper attempted to combine the traditional approach of a general declaration with the Committee's specific mandate to recommend a negotiating programme to Ministers. The text of the general Declaration therefore endorsed specific mandates for negotiation on

particular areas. Secondly, it would be seen that the draft was not exhaustive: language on some of the specific areas which it was hoped would be ready for decision by the time of the Ministerial Meeting remained to be added. This should therefore be seen as a dynamic paper, capable of improvement. Many other developing countries had been consulted and had not reacted positively to the text and it was hoped that some of them would be able to join as co-sponsors.

The draft opened by defining the nature of the Ministerial Meeting. It then proceeded to deal with two major questions. The first of these, necessarily, was what should be done to preserve the trading system? The answer to this was to be found in the commitments to standstill and rollback and to negotiations on safeguards. The second question was how the system could be strengthened through a new round of negotiations. Here the sponsors of the document had made it clear that they were ready to engage in negotiations when an appropriate negotiating mandate could be defined and provided that the commitments to standstill and rollback had become effective. The paper also envisaged the possibility that some subjects within the competence of GATT might not be ripe for decision in terms of a negotiating mandate by the time of the Ministerial Meeting. It was therefore foreseen in the paper that additional preparatory work on these subjects might be necessary after the meeting. This did not imply that the sponsors of the document would not be prepared to start negotiations on those subjects ripe for decision. The Annexes attached to the document would in many respects be familiar to the Committee since they reflected proposals which had already been tabled on standstill, rollback, safeguards, the treatment of developing countries and to a certain extent on agriculture.

22. The representative of Colombia said that the paper just presented did not take into account the views of his delegation, despite the fact that it had participated in the consultations on this paper. He would be proposing a number of amendments either to this Committee or in the informal drafting group. These specifically concerned Annexes I and II, on standstill and rollback, which had not been supported by his delegation. His delegation would also make proposals to fill the blanks in Annex VI (on tropical products) and would consult other delegations to see whether they could support these amendments. His delegation had no problems with Annexes III, IV and V of this document.

23. The representative of New Zealand said that while he had had only a few minutes to consider PREP.COM(86)W/41, much of it was familiar. As paragraph 11 contained a statement to the effect that no new round would be launched until the standstill and rollback commitments in Annexes I and II had become effective, it was important to assess what was the likelihood that the commitments there laid down could in reality be accepted and implemented. His own judgement was that for political and practical reasons, and because of the unbalanced presentation of rollback as an obligation on developed countries only, there was no possibility that these proposals could be generally accepted. His advice to his government would therefore be that this paper as it stood could not be seen as seeking to provide a basis for launching the new round. His country, which had a modest internal market and depended heavily on the preservation of the multilateral trading system, would treat this draft declaration on that basis.

24. The representative of Chile thanked the group of countries which had submitted the document. However, his delegation shared the apprehensions of the European Economic Community that because of a proliferation of drafts this committee would be unable to complete its job. It would be more practical to agree to work on a basic text, with additions to and deletions from that text to be negotiated. His delegation believed that the document submitted by the group of nine countries should be the basic text for discussion.

25. The representative of Korea said that the two drafts which had been tabled demonstrated the wide spectrum of views in the Committee, and had thus facilitated its task. The drafts should now be improved and reconciled, with the aim of providing a shorter final draft in time for the mid-July deadline.

26. The representative of the United States said that the two draft declarations on the table fell short of the Preparatory Committee's responsibilities. His brief reading of the draft declaration of the group of ten countries indicated that it demonstrated little or no ambition for GATT and the trading system, while even the draft of the group of nine, which otherwise provided a useful starting point for discussion, revealed only a moderate level of ambition. The Ministers in September should have much higher ambitions than these, since they would be laying the basis for trade relations for the rest of this century and beyond. In the next two weeks the Committee must live up to its responsibilities by providing recommendations that would be equal to the opportunities and the expectations created by the Ministerial Meeting.

27. The representative of Switzerland said that as one of the co-sponsors of the paper of the nine countries, he wanted to make it clear that the purpose of the paper was to contribute to the preparatory process by providing a basis for discussion in terms of a structure for the declaration, and a definition of objectives, modalities and other aspects of the negotiations. This paper was not intended to constitute a complete and final position of its authors but rather as a contribution to the preparatory process and an attempt to quicken the pace of the Committee's work.

28. The representative of Norway on behalf of the Nordic countries said that on the basis of a quick reading the paper presented by the group of ten countries seemed to emphasize heavily the two elements of standstill and rollback, while relegating to the background the question of a new round. He shared the concerns expressed by the representative of New Zealand about the timing envisioned in this document and wondered if the sponsors of the paper had taken into consideration the timing of putting into effect the conditions set out in paragraph 11? If the decisions required in Annexes I and II had to be taken at the highest level and where necessary ratified by Parliament, this would be a very time-consuming process. How could these proposals be reconciled with the November 1985 decision of the Contracting Parties that the Preparatory Committee should complete its work by mid-July in such a manner as to permit Ministers to take a decision in September on the launching of a new round?

29. The representative of Zaire said that in the light of the documents presently on the table, his delegation felt it would be extremely difficult to reach a basis for a compromise acceptable to all parties. He therefore repeated his delegation's proposal should first tackle those issues on which it would be easy to reach an agreement and draft texts on these, and then move on to the more difficult issues which would involve negotiation to see to what extent it was possible to agree on a text. Concerning the text presented by the group of ten countries (PREP.COM(86)W/41), his delegation had already stated its concerns about its paragraphs 11 and 12 and about Annexes I and II concerning standstill and rollback. His delegation had stated during the informal meetings of the developing countries that in practical terms, it would be very difficult for some parliaments to act in time to enable ministers to launch the negotiations at the appropriate time. For this purely practical reason this delegation had been unable to support this draft.

30. The representative of the European Communities noted that the reactions to PREP.COM(86)W/41 demonstrated the lack of dialogue within the Committee and wondered whether this text would have been presented in the absence of a text of the Nine. As to the draft Declaration itself, he noted that there were some important similarities between it and the text tabled by nine contracting parties, in so far as both dealt with safeguards, agriculture, standstill, rollback and tropical products, for example. This was encouraging and might provide an indication as to how the substance within these chapters might be addressed. However, PREP.COM(86)W/41 conveyed two messages which appeared to be challenges to which it was necessary to respond. The first was the assertion that the new round must be limited to trade in goods. If this were to be the final position of the sponsors of the document, then there could be no possibility of an agreement. However, if a door could be left open for the discussion of these questions, perhaps in terms of the modalities for the treatment of non traditional issues, agreement might still be possible. The second message was that the meeting in Punta del Este would not launch a new round of negotiations. If this were true there would be no point in continuing the work in the Preparatory Committee, since on this point also there would be no possibility of agreement. He therefore felt bound to ask whether in the view of its authors this text was designed to lead to negotiations and if so, whether its style was appropriate to that aim. Finally, the tone of the document seemed to be excessively defensive, giving the impression that GATT had lost all credibility. To adopt such a defeatist attitude at this stage would be very dangerous and might be self-fulfilling. The Committee should adopt an optimistic approach and not invite failure by maintaining inflexible positions which left no room for discussion. The first countries to suffer from this would be the developing countries.

31. In referring to the document PREP.COM(86)W/41, the representative of Gabon said his delegation supported a number of the points it contained concerning developing countries and concerning areas in which previous commitments had been undertaken but had remained essentially unfulfilled. These issues would remain on the agenda until the problems had been solved. However, his delegation also had reservations on a number of points in the text, which was why it was not among the sponsors of this document.

32. The representative of Singapore, on behalf of the ASEAN countries, said that while the documents presented by the Group of ten countries and by the group of nine countries were appreciated, it was now time for the Chairman to try and bring the work of the Committee to a successful conclusion by submitting a Chairman's draft which could form a basis for negotiation acceptable to all members of the Committee.

33. The representative of Sweden said he did not believe that the two draft Declarations on the table did in fact represent the complete spectrum of views in the Committee. He therefore did not think that the middle of the road would be found midway between these two drafts. The draft presented by the group of nine countries, (of which Sweden was one), represented a much broader spectrum of views. The present procedure of introducing additional papers was not helping the Committee accomplish its task. The Committee could, at this point, consider that views had been made known and that all papers had been presented, and that it was now time to move ahead towards a comprehensive text which would take into account much more than the two complete drafts which had been presented.

34. The representative of Canada said his delegation had difficulty with the approach of PREP.COM(86)W/41 in that it set as a prerequisite for the launching of the new round the resolution of a number of issues which had been eluding the GATT for many years. It was the persistent problems in the areas of standstill, rollback and safeguards which had led to the conclusion that a new round was necessary to resolve these and other problems. Thus, to suggest that the most difficult areas must be settled before the round could be launched would continue the circular process of working which was destroying the GATT. While he did not necessarily disagree with the idea that safeguards should be dealt with independently of the launching of a new round of multilateral trade negotiations, experience suggested that this would not be feasible. He could however accept placing safeguards high on the agenda of the new round. The text of the group of nine was an attempt to bridge the gaps between the different views expressed and make possible a successful round of negotiations. However, the paper of the group of ten, which was not designed to launch the new round at Punta del Este, made no contribution towards bridging the gaps in positions, even if this had been the intention of its authors. Failure to reach agreement on the desired outcome of the September meeting would have implications for the nature of the meeting. While his delegation would prefer to have a session of the CONTRACTING PARTIES at Ministerial level, if it were evident that there was not enough harmony or common commitment to achieve a consensus on the type of round to be launched, it might be necessary to consider an ad hoc Ministerial meeting instead.

35. The representative of Australia said that, based on a quick reading, there were a number of elements of document PREP.COM(86)W/41 his delegation could accept. These included the sense of urgency conveyed by the paper in terms of the need to discuss a timetable for the negotiations, and some of the language on safeguards and agriculture. The text dealing with the treatment of less-developed contracting parties also contained principles which his delegation could support, although it had some queries about the

practicality of some of the mechanisms suggested. However, there were two aspects of the document which were flawed. The first was the notion that it would be acceptable to have only a partial launch of the negotiations, as implied in paragraphs 10 and 11, and that even this would be subject to the precondition that the standstill and rollback commitments had become effective. It was clear to his delegation that either there must be a complete launch of the negotiations or there would be no negotiations at all. The second flaw was the lack of reference to services. While he understood the position of the sponsors of the document, it was a fact that there would be no new round launched unless there was an understanding on how the question of services was to be handled. Any text omitting this element could not provide a basis for the successful launching of the new round. While it was clear that services needed to be included in the new round, it was not clear how this might be done, and this was an issue, like agriculture, which might have to be left to the Ministers at Punta del Este.

36. The representative of Hong Kong said that while his delegation had joined others in expressing reservations about the contents of the paper of the group of nine countries, it had been willing to use its framework as a basis for trying to develop a balanced declaration acceptable to all. The new draft in PREP.COM(86)W/41 also contained a number of elements with which his delegation had some difficulty. In addition to those already cited by the representative of Colombia was the fact that the sections on standstill and rollback substantially reproduced document PREP.COM/W/3, on which his delegation had already commented in this Committee on 15 April concerning the treatment of textiles and clothing. There was, however, a considerable amount of material in this new draft which could be useful. The time had now come to reconcile the conflicts and contradictions in the different drafts. He thus agreed with the representative of Singapore that it would be helpful to have a single draft from a more independent entity.

37. The representative of Japan said that while he had not been able to read in detail the paper just presented by the group of ten countries, some of its components seemed quite useful. However, the suggestion made in the document that the launching of the new round be delayed until certain issues had been resolved was not acceptable. While the text proposed by the group of nine countries needed improvement, and perhaps a better structure, it could provide a basis for a declaration which would satisfy the needs of all contracting parties. His delegation would participate in working to improve the paper of the group of nine countries in order to achieve a declaration to be submitted to Ministers.

38. The representative of Austria shared the concerns expressed by New Zealand and Norway concerning the document PREP.COM(86)W/41. The procedures provided for in Annex I, paragraph 6, and Annex II, paragraph 3 could block the whole process of launching the new round. In Austria's case, the Federal President, as the highest level of the executive branch, could not take such decisions without the agreement of Parliament. Further, it was not acceptable that any country or group of countries should seek to prescribe how decisions of such importance were to be taken in other countries. Therefore, the procedures proposed in the paragraphs in question would not be acceptable to his government.

39. The representative of Korea said that international trade was not a zero-sum game between developed and developing countries whereby the "gains" of one group of countries resulted in a loss for the other group. The two papers before this Committee did not represent the full spectrum of views. He agreed with the representative of the United States that this Committee needed to have a more ambitious and generous vision of what a new trade round could accomplish, which would serve the interests of both developed and developing countries.

40. The representative of Brazil said that while it was up to the sponsors of the text to speak in support of the ideas contained in PREP.COM(86)/W/41, he felt encouraged by the preliminary reception. While his delegation did not accept the paper of the nine countries and did not agree with many of its important features, his delegation treated it as a serious attempt and had been prepared to examine it. Contrary to what some had said, PREP.COM(86)/W/41 was a very ambitious paper. It called on the Punta del Este meeting to take a very important decision to halt and to reverse protectionism, which was more important than simply launching a new round. A round was not an end in itself but a means to an end. It was not appropriate to give priority to the launching of a negotiation over the goals of reestablishing the disciplines of the GATT. The paper also contained timetables and thus was ambitious not only in substance, but also in terms of the time framework in which progress should be made. This paper was a proposal with room for negotiation, but whereas there were some areas in which there was flexibility, the basic positions of the developing countries would have to be considered. He rejected any suggestion that this paper might be a block to the preservation of the GATT. On the contrary, it was proposals to include in the GATT matters outside its jurisdiction which represented a threat to the system and were blocking the possibility of cooperative action. The task before the Committee was to find a means by which differing views might be accommodated. On a further matter, he asked the Chairman if the paper by SELA on the conclusions of its meeting on the new round held in Montevideo in the last week of May had been distributed as requested.

41. The representative of India said that more time would be needed to discuss PREP.COM(86)W/41, as there had not been much time to look at the paper and the annexes very carefully. The paper and its ideas should be examined in their own right rather than being compared to ideas contained in other papers.

42. The Chairman, in response to the question posed by the representative of Brazil concerning the distribution of the paper by SELA, said that while several members of the secretariat had seen the document no request had been received to have it circulated.

WORKERS' RIGHTS

43. The Chairman invited comments on the document entitled "Workers' Rights" circulated by the United States (PREP.COM(86)W/43).

44. The representative of Argentina said that it appeared to him that this document raised more questions than it answered. For example, it was unclear what criteria might be used in deciding whether or not workers' rights had been respected. Presumably the fact that the United States had been able to ratify only seven labour conventions in the ILO (as compared to Argentina's ratification of 62, and Spain's of 115) should not be held to imply that workers' rights were denied in the United States. However, in the absence of agreed and objective criteria, who would decide whether workers' rights in a third country had been duly respected? For the GATT to "review the effects" of the denial of workers' rights would be even more problematical. In their document the United States asserted that the denial of workers' rights could lead to distortions of trade, and there might be some truth in this. But, many other factors might also distort trade, such as the subsidization of scientific research in most developed countries. The relationship of workers' rights to GATT Articles and objectives might be a more suitable concern of this Committee, but the great difficulty of action in this area was exemplified by the lack of clarity of many of the concepts used in the US paper. Differences between countries in levels of workers' rights or of remuneration were very closely related to differences in the overall level of development: even in the ILO there were no international standards calling for equal treatment in all countries. The danger of abuse of arbitrary criteria was very obvious.

45. The representative of the United States expressed appreciation for the serious attention paid by the delegation of Argentina to a matter which was taken very seriously in the United States. GATT membership involved a commitment to improve the standard of living of all populations through the liberalization and expansion of trade. The intention of the United States in bringing this matter before the Committee was to ensure that this wider objective of improving living standards and sharing out the fruits of economic development were borne in mind throughout the process of liberalizing trading régimes. The Preparatory Committee should assess whether the issue of workers' rights had relevance to international trade and, if so, whether it should form part of the new round. This could be done either by placing the subject on the agenda as a matter to be negotiated or by dealing with it in the Ministerial Declaration in some other way - as an objective or principle, or a matter to be explored in a working group. Among the problems arising in this area were the right of association, the right to collective bargaining, the prohibition on the use of forced or compulsory labour, a minimum age for the employment of children and acceptable conditions of work with respect to wages, hours of work and health and safety. If governments were unable to justify to public opinion the entry onto their markets of products which appeared to derive competitive advantage from the denial of workers' rights in the country of production, the trading system might face a severe political problem.



46. The representative of Colombia agreed in general with the points made by Argentina. He added that the comparative advantage of many countries was due mainly to the relatively lower cost of one factor of production, namely labour. This was not because workers were exploited but because the economic situation of these countries was entirely different from that of the United States and other developed countries: it was simply out of the question for developing countries to offer similar levels of pay to those obtaining in the United States. It was a matter of concern to see the recurrence in GATT of proposals which would have the effect of cancelling the comparative advantage of developing countries. In the textiles context there already existed a category of "low-cost producers", but this term was not of course applied to developed countries which had nevertheless substantially reduced their costs of production. The most effective way to raise the standard of living of the people of the world would be to allow producers to export their products and thus safeguard the employment of their workers. This was particularly true in those sectors, such as textiles and sugar, where subsidies or trade barriers in developed countries nullified the comparative advantage of developing countries. Finally, the Committee should take care not to overload the Declaration; the workload was already quite heavy enough.

47. The representative of Nicaragua said that ILO figures indicated that more than half of the world's labour force had no fixed work and that many others had no social security. The major world powers used thousands of words and dollars to justify the present situation, but levels of poverty and misery continued to increase almost everywhere in the third world, with no possibility of changing this situation. On the contrary, the only alternative proposed by the international financial organizations was to demand greater sacrifices from the poor countries. The restriction of public spending, as part of the measures known as "structural adjustment" was merely a means of shifting the burden of adjustment onto the shoulders of workers. So long as international economic relations remained on their present basis of injustice, the workers who formed the great bulk of the world's population would have no real possibility of raising their standards of living.

Furthermore, if workers in the third world felt the effects of the crisis in economic terms, in many international contexts they were also confronted by political violence and the repression of dictatorial régimes which saw in the advance of the workers movement a threat to their own privileges. Nicaragua's workers had suffered this situation and understood its grave implications. In this complex situation the ILO must play an active and aggressive rôle in bringing to bear all the forces which might serve to overcome the conditions in which the great majority of humanity found itself. The workers of Nicaragua believed it to be of fundamental importance to take up directly the intolerable problem of foreign debt and other related questions such as the education and cultural improvement of the working population.

From the point of view of the exercise of political and labour rights, Nicaraguan workers now had, for the first time, the possibility of direct participation in the discussion and creation of the political constitution, by means of public meetings and popular assemblies in which they were able to

express their opinions on the government of the country and on the rights of workers. The participation of workers had thus reached the decision-making level in relation to the general planning of the national economy. But it could not be said that these achievements had been won without sacrifices. Thousands of workers had been obliged to leave their workplaces to take part in the struggle for the survival of the revolution. Nicaragua had to face a war of aggression promoted by the greatest power on the American continent, which with complete disregard for the international community was seeking to subject Nicaragua once more to its political will. This war of aggression cost more than 40 per cent of Nicaragua's national budget. For reasons of principle, therefore, Nicaraguan workers were in solidarity with all those fighting for a better life throughout the world: they saw the rights of workers not merely in relation to trade but also in terms of the right to work, to education, to health and to a better standard of living from every point of view - and also in terms of the right to political and trade union freedom and to self-determination.

48. The representative of Nigeria expressed agreement with the points made by Colombia on the difficulties which would arise from any attempt to create a multilateral framework of rules concerning workers' rights. It must be remembered that wage levels in many countries, while they might appear low, were not necessarily an indication of inadequate standards of living. Any attempt to harmonize wage levels would inevitably come up against the problem of harmonizing living standards. On the other hand, African delegations were acutely aware of the gross exploitation of workers, for purely racial reasons, which was taking place on their continent. It might well be desirable for GATT to take cognisance of these problems: if appropriate disciplines could be agreed this would do much to restore the credibility of GATT.

49. The representative of Korea said that his country had no reason to be apologetic or defensive on the subject of workers' rights, which in Korea were fully up to world standards. It was unfortunate that for years Korea had been excluded from membership of the ILO for purely political reasons; the effort to obtain membership would continue. As to the merits of the United States proposal, it was the view of his delegation that GATT should be concerned with things which were tradeable across borders - whether goods, services or intellectual property. He was not convinced that workers' rights were a proper subject for discussion in GATT and feared that to attempt to deal with them would open a Pandora's box of difficulties. Recent articles in the American press had strongly criticised the protectionist motivation of legislation purporting to protect workers' rights in third countries. So far as comparative advantage was concerned, it was true that labour costs in Korea were judged to be about one fifth of those in the United States. But on the other hand, levels of investment per head and of access to technology were also much lower in Korea. Labour costs were becoming much less dominant as a factor in comparative advantage, the nature of which was constantly changing. Though workers' rights were undoubtedly a proper subject of concern, it did not seem necessary or desirable to deal with them in GATT.

50. The representative of India said that while the subject of workers' rights was undoubtedly serious, the tendency to overload the GATT with extraneous subjects on the strength of an excessively liberal and loose interpretation of the Preamble threatened to destroy the GATT as a serious institution. There seemed to be in some quarters a touching faith in the ability of GATT to solve the most difficult issues outside its normal concerns, despite its failure to deal with many long-standing problems in its proper domain. India fully shared the concern for improvement of living standards throughout the world, but felt that the achievement of this objective was in many cases made impossible by failures in areas for which GATT had direct responsibility. For example, restrictions on exports of textiles, the basis for industrialization in most developing countries, prevented workers in these countries from reaping the benefits of international trade. To dismantle the discriminatory régime in textiles would be a major step forward in the defence of workers' living standards. He had expected that when the United States brought forward the question of labour in the Preparatory Committee, the problem of restrictions on immigration would be among those put forward for discussion. Unfortunately the US proposal might well be used to impede the free flow of goods - as had happened before in the name of ensuring fair labour standards - but would do nothing to facilitate the free movement of labour which many might see as the natural counterpart to the concern of the United States with the free flow of investment. In general it appeared that a number of proposals brought forward in this Committee were related to proposed legislation in particular countries: was it intended that GATT should be brought into conformity with national legislation?

51. The representative of Malaysia said that since the United States had made it clear that at present they had no particular definition of workers' rights in mind, it would be helpful if the secretariat could indicate the meaning of workers' rights in the context of the GATT. What GATT Articles were relevant to the obligations of contracting parties in this area, particularly with regard to the new round? Without clear information on these points it would be very difficult for his delegation to engage in substantive discussion of the matter. The member governments of the ILO no doubt had obligations and commitments in respect of workers' rights but it was by no means clear that this was true for GATT contracting parties.

52. The representative of Chile asked whether in the view of the United States' delegation the concept of workers' rights would include the right of workers to choose their workplace - i.e. to work in the country where they found the best opportunities and highest wages, for example. In particular, was it a right of a worker from a developing country to go to work in the United States? This was a basic question since the free movement of manpower would certainly contribute to reducing disparities in wage levels. Chile agreed with the United States' desire to see greater freedom for foreign investment, and had very liberal legislation in this respect, but on the other side of the equation Chile would like to see free movement of manpower. In Chile's view the concept of workers' rights should be very broadly understood, not as being confined within national frontiers.

53. The representative of Brazil said that while workers' rights was undoubtedly an important question, both at the national level and within the framework of the ILO, it was clearly not a matter for GATT. The tendency to try to introduce into GATT any matter that might be held to have repercussions on trade was a recipe for failure in the proper responsibilities of this organisation. Disarmament, macro-economic policies and the monetary adjustments made necessary by balance-of-payments difficulties - which certainly had important implications for the level of demand - all had important repercussions on trade and on trade policies. For example, Brazil like other indebted countries, was obliged by falling internal demand to generate export surpluses, largely through contraction of imports. Presumably it was not suggested that these matters should be brought to GATT for solution. It was hard to believe that the United States' proposal was intended to be taken seriously.

54. The representative of Cuba said that her country had no problems in the field of workers' rights. Employment, health and education standards were all at high levels. It was of course true that many countries, and particularly developing countries, had serious problems of unemployment and poverty, but in Cuba's view these were largely due to injustices which would not be regarded by some delegations as proper matters for discussion in the GATT. As to the United States' proposal, Cuba was opposed to the discussion of matters outside the competence of the General Agreement and feared that if the overloading of the Ministerial Declaration continued the launching of the round would become impossible.

55. The representative of Singapore said that workers' rights and labour standards should be dealt with in the ILO, where responsibility for them belonged. He repeated the questions posed by Malaysia: how were workers' rights to be defined and what was the relevance of the concept to the obligations of GATT contracting parties. It could also be asked whether a country which strictly observed labour standards but failed to provide employment for its workers was respecting workers' rights more fully than a country which ensured full employment even if it did not meet some of the more exacting labour standards of industrialised countries? In many developing countries the choice was between having a job or starving, and in these circumstances the provision of full employment could be seen as the only meaningful guarantee of workers' rights. It was necessary to reach a very high level of wealth and material satisfaction before one could afford the luxury of concern with the level of workers' rights in third countries. US concerns could best be met by ensuring that the American market for exports from developing countries remained open. With further development thus stimulated, the countries concerned could be relied upon to provide better living and working standards for their workers.

56. The representative of New Zealand said that his country had a long tradition as a pioneer in the promotion and protection of workers' rights, and was still deeply concerned with this issue. Nevertheless, they had serious misgivings about the introduction of this concept into GATT. This was not because of any unwillingness to see the GATT develop in a dynamic way to deal with new issues; New Zealand had supported the inclusion of some new

issues because it believed that this would serve the fundamental objective of promoting a liberal trading system based on predictable rules. It was for precisely the same reason that they doubted the wisdom of the United States proposal, which seemed likely to create an element of unpredictability in the trading system and a platform for protectionist lobbies. Historically the idea of the protection of workers' rights in the GATT context had always led to protectionism rather than liberalisation, being used by labour lobbies in the more developed countries, often with the encouragement of management, to justify trade restrictions. In New Zealand's view it would be better to stick to the normal GATT formula about the promotion of full employment, which was naturally and closely related to trade liberalisation.

57. The representative of Zimbabwe said that many factors, including some that were certainly in the competence of GATT, entered into the formulation of prices for internationally traded goods and services. GATT should take an interest in any situation where such goods and services were produced through the gross exploitation of labour. He shared the concern of the delegation of Nigeria with the systematic negation of workers' rights in one African country and would therefore welcome an opportunity to discuss the United States' proposal, which could be seen as a step towards the creation of GATT obligations for the observance of labour standards, with sanctions for non-compliance.

58. The representative of Romania said that his country attached special importance to the problems of workers' rights, but regarded this as a matter for the ILO, outside the competence of GATT. The GATT could certainly contribute to the improvement of standards of living in poorer countries by ensuring the liberalization of world trade and greater equity in international economic relations.

59. The representative of Zaire said that he feared the United States' proposal threatened to create a very unfortunate atmosphere in the Committee, and even to destroy its work. He had been particularly struck in this respect by the statements of Nigeria and Zimbabwe. Workers' rights was inevitably an emotive and painful subject, inextricably linked, in the minds of black people, with the problem of racism. All over the world the rights of black workers were systematically denied. For those with memories of the colonial past, in particular, the United States' proposal could only arouse bitter and painful recollections. For the sake of the GATT, and for human reasons, he appealed to the United States to withdraw it.

60. The representative of Jamaica recalled that his delegation had touched on the question of workers' rights in the CG.18. Jamaica had no reason to feel defensive on the subject and was fully prepared to discuss its economic aspects. It was not clear that this could best be done in the context of a New Round: perhaps some other opportunity could be found to discuss the matter so as to ensure that the grossest of current violations of workers' rights practised by one contracting party would be tackled first. The possibility of sanctions against countries whose practices offended against the objectives of the GATT would have to be considered. It was to be hoped that in putting forward this proposal the United States would indicate whether they had it in mind to address as a major issue this most acute problem practised by one contracting party.

61. The representative of Hong Kong said that he fully agreed with the views expressed by the Ambassador of New Zealand on the relationship between proposals of the kind which were now under consideration and protectionism. So far as the Ministerial Declaration was concerned what was needed was a reaffirmation of the commitment of contracting parties to the principle of comparative advantage rather than a reference to the protection of workers' rights.

62. The representative of Gabon said that although the ILO was already dealing with the subject of workers' rights, he could agree, coming as he did from a continent in which workers' rights was an acute problem, that the United States' proposal deserved serious consideration.

63. The representative of Yugoslavia said that her country was very much interested in the protection of the rights of workers temporarily employed in developed countries. If the U.S. proposal were to be taken seriously, it should include analysis of the national legislation of these developed countries in order to see whether they provided national treatment, in terms of workers' rights, to guest workers. The countries which did not provide the necessary workers' rights to workers temporarily employed in them (low wages, night work, longer working hours, non-provision of even minimum living conditions), when selling on international markets the products of the labour of these workers, committed an act of unfair trade and violated the spirit of free-market competition. In addition to economic factors, historical, cultural and social conditions also contributed to the establishment of workers' rights. In a wider perspective it would be relevant to see to what extent subsidization of research and development caused distortions of international trade. Like many other less-developed countries experiencing economic difficulties, her country was not able to allocate sufficient resources for science and research activities. As a result, the educated young people showing an interest and talent for science and research went to those countries which heavily subsidized their science and research institutes. The cost of education and training of these talented people were borne by the less-developed countries concerned which were not compensated for this so-called "brain-drain". On the other hand, the countries benefitting from these talents took advantage of the low cost of the production of goods which as the result of that labour reached international markets.

64. The representative of Uruguay said that progressive labour legislation had been in force throughout this century in Uruguay, which was among those countries having ratified the greatest number of ILO conventions. In particular, the Government and people of Uruguay were concerned with the right to work, and this was a special problem for workers in those industries suffering from a lack of discipline in international trade relations. In the meat and dairy industries, for example, workers were losing their jobs because subsidies in developed countries denied them access to export markets. Employment in the textile industry was lost whenever restrictions were placed on products legitimately produced at competitive prices. For these reasons the proposal by the United States was of great interest.

65. The representative of Peru expressed the view that despite the great importance of workers' rights, it would be wrong to introduce another extraneous subject into the GATT. There were many other matters which impacted directly upon the standard of living of working people, notably high interest rates, erratic exchange rates, the excessive debt burden of many developing countries and protectionism. The new round should be dedicated to matters within GATT's competence and in particular to halting protectionism. This was the only effective contribution the GATT could make to the improvement of living standards.

#### ORGANIZATION OF WORK

66. The Chairman informed the Committee that informal consultations had taken place on the basis of the two draft Declarations which had been circulated, together with a number of "non-papers" circulated by the secretariat. These consultations had helped to clarify the positions of different members of the Committee and the process would continue.

On the question of the nature of the meeting to be held at Punta del Este, consultations had not proceeded to the point at which he was in a position to make a proposal to the Committee. These consultations would also be pursued before the Committee's next meeting.

67. The representative of Jamaica asked whether the draft Declaration presented by the Group of 9 delegations had been circulated formally. The Chairman replied that this draft had not yet been circulated as a formal document of the Committee but that it had been introduced in a formal session of the Committee and the comments which had been made on it would be recorded in the Summary Records. The document had of course been made available to all members.

The representative of Jamaica went on to express the hope that in the further work of the Committee great care would be taken to ensure full transparency in the negotiating process. Recent experience of agreements arrived at between small groups of major trading countries, which later appeared unable to agree on a common interpretation of what had been agreed, strongly suggested that transparency had operational value as well as being necessary for smaller countries which might otherwise feel themselves marginalized. For this reason it might be unfortunate if too much of the work took place in meetings of which no formal records were kept. It should be remembered that all members of the Preparatory Committee would have their Ministers at Punta del Este and smaller countries would find it difficult to join a consensus which had been put together in a closed room by a few countries who might later destroy it at their convenience. He recalled that at the last Session of the CONTRACTING PARTIES he had proposed that the Ministerial Meeting should take the form of a Session of CONTRACTING PARTIES. This had not been accepted and the Committee now faced an impasse on this question.

68. The Chairman said he fully shared the concern of the representative of Jamaica with the transparency of the process, and with the right of every member of the Committee to have his positions taken into account. As Chairman he fully accepted the responsibility to ensure these conditions. He also agreed on the need for faster progress in the work of the Committee. He agreed on the value of Summary Records of the Committee's proceedings but suggested that the freedom of discussions without records could often be helpful. He pointed out that the informal meetings of the Committee were open to all members, and that the Committee's secretariat was always ready to brief delegations.