

GENERAL AGREEMENT ON

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8 October 1991

MINUTES OF MEETING

Held in the Centre William Rappard
on 8 October 1991

Chairman: Mr. Lars E.R. Anell (Sweden)

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1. Accession

(a) Accession of Mongolia
- Communication from Mongolia (L/6886)

The Chairman drew attention to document L/6886 containing a communication from Mongolia concerning its interest in acceding to the General Agreement pursuant to Article XXXVIII.

The representative of Mongolia, speaking as an observer, said that his Government had carefully studied the text of the General Agreement and, having held consultations with contracting parties, wished to accede thereto pursuant to Article XXXVIII. Historical changes had taken place in Mongolia in the past year, and it had now firmly chosen the avenue of democracy and a market economy despite tremendous economic and social difficulties and a catastrophic economic situation. His Government was now resolving the very difficult problems of a transition towards a market economy and had recently embarked on a privatization programme with the assistance of industrialized countries and international institutions. At the same time, his country wished to see its trade policy conform to the spirit and letter of the General Agreement. Mongolia had joined the International Monetary Fund (IMF), the World Bank (IBRD) and the Asian Development Bank (ADB), and was now taking concrete measures to develop and strengthen its trade relations with all countries, including contracting parties to GATT. Mongolia had begun to negotiate bilateral agreements containing the m.f.n. clause with major trading partners, had adopted certain new economic laws among which was a customs legislation establishing its customs duties, and did not apply any quantitative import restrictions. In cooperation with the GATT Secretariat, it had organized, in July 1991, a seminar on GATT and the Uruguay Round negotiations for the benefit both of government officials and private sector representatives. Work on drafting an aide-mémoire on Mongolia's trade policy was due to be concluded shortly, and his delegation stood ready to co-operate closely with all contracting parties in the framework of a working party which he hoped the Council would establish at its present meeting.

The representative of Japan expressed his Government's support for Mongolia's participation in and integration into the international economic community, and welcomed its request for accession. Mongolia's participation in GATT would promote its trade and investment activities and make a significant contribution to its economic development, to the benefit of all contracting parties.

The representative of the United States welcomed Mongolia's application to accede to the GATT. During the past year, Mongolia had moved at an unprecedented pace to transform its economy from central planning to a market-oriented system. The United States had closely supported this transformation, including Mongolia's applications to international organizations such as the IBRD, the IMF, and the ADB. In January 1991, the United States had concluded a bilateral trade agreement with Mongolia, and had been impressed with Mongolia's deep and genuine commitment to reform. It was very appropriate for Mongolia to seek association with the GATT, and the United States welcomed this approach.

The Chairman proposed that the Council take note of the statements and agree to establish a working party with the following terms of reference and composition:

Terms of reference

"To examine the application of the Government of Mongolia to accede to the General Agreement under Article XXXIII, and to submit to the Council recommendations which may include a draft Protocol of Accession."

Membership

Membership would be open to all contracting parties indicating their wish to serve on the Working Party.

Chairman

The Council would authorize its Chairman to designate the Chairman of the Working Party in consultation with representatives of contracting parties and with the representative of Mongolia.

The Council so agreed.

The Chairman invited the delegation of Mongolia to consult with the Secretariat as to further procedures relating to the accession process, in particular regarding the basic documentation to be considered by the Working Party. He also invited Mongolia, on behalf of the Council, to attend meetings of the Council and of other GATT bodies as an observer during the period in which the Working Party carried out its work.

- (b) Accession of Panama
- Communication from Panama (L/6912)

The Chairman drew attention to document L/6912 containing a communication from Panama concerning its interest in acceding to the General Agreement pursuant to Article XXXIII.

The representative of Panama, speaking as an observer, said that in its international trading relations Panama had thus far operated only on

the basis of bilateral trade agreements. However, given the recent events on the international trade scene, and given the opening of Panama's market, it now understood the need to take a positive step towards gaining more export market opportunities and establishing a closer relationship with other trading nations through the mechanism of the GATT. Panama had been encouraged to speed up the transformation and renovation of its economic structures in order to keep in step with the new rhythm of today's pace of development, and to aspire to Latin American integration in light of the convergence of these countries' policies. To this end, his Government had established a special Committee on 5 August 1991, which had studied and reviewed the General Agreement and had held a series of seminars involving the private sector, including one organized in conjunction with the GATT secretariat. Panama had a great interest in the GATT's activities and was in favour of free and non-discriminatory trade open to all nations of the world. His Government stood ready to answer any questions from contracting parties and was prepared to establish a frank and open dialogue to exchange all necessary information.

The representatives of Chile, also on behalf of Colombia, Mexico, also on behalf of Venezuela, Costa Rica, Argentina, also on behalf of Brazil, Nicaragua, Peru, El Salvador and the United States welcomed Panama's decision to accede to the GATT and pledged their full efforts to assist in a solid and constructive outcome. They stressed that the accession of Panama would be beneficial not only to Panama but to all contracting parties and would strengthen the multilateral trading system.

The Chairman proposed that the Council take note of the statements and agree to establish a working party with the following terms of reference and composition:

Terms of reference

"To examine the application of the Government of Panama to accede to the General Agreement under Article XXXIII, and to submit to the Council recommendations which may include a draft Protocol of Accession."

Membership

Membership would be open to all contracting parties indicating their wish to serve on the Working Party.

Chairman

The Council would authorize its Chairman to designate the Chairman of the Working Party in consultation with representatives of contracting parties and with the representative of Panama.

The Council so agreed.

The Chairman invited the delegation of Panama to consult with the Secretariat as to further procedures relating to the accession process, in

particular regarding the basic documentation to be considered by the Working Party. He also invited Panama, on behalf of the Council, to attend meetings of the Council and of other GATT bodies as an observer during the period in which the Working Party carried out its work.

2. International Trade Centre UNCTAD/GATT
- Report of the Joint Advisory Group (ITC/AG(XXIV)/128)

Mr. Hynninen (Finland), Chairman of the Joint Advisory Group (JAG), introduced the report on its twenty-fourth session (ITC/AG/XXIV/128). The Group had reviewed the activities of the International Trade Centre (ITC) during 1990 and had formulated recommendations to the governing bodies of the UNCTAD and GATT. In his opening statement before the Group, the ITC's Executive Director had referred to major developments taking place in the international economic environment and their expected impact on the ITC's future work. He had reported that the ITC had been preparing for these developments in several ways, including the elaboration of its Medium-Term Plan, the refinement of priorities thereunder, and a review of its organizational structure. Several measures had also been taken to strengthen the ITC's technical cooperation capacity, such as new approaches to policy planning and programme development, and the strengthening of its technical support activities. The Executive Director had also reported that the ITC's expenditure on technical cooperation activities in 1990 had risen to a record level of US\$35.7 million. Looking to the future, the Executive Director had called for a closer and more regular dialogue between beneficiary countries, donors and the ITC secretariat and had suggested that the annual JAG meetings might be complemented by a consultative/advisory mechanism.

The Executive Director had reviewed the ITC'S global priorities under the Medium-Term Plan for 1992-1997, which consisted of trade promotion in relation to poverty alleviation, including export development in rural areas; technical cooperation activities regarding the least-developed countries; South-South trade and economic cooperation among developing countries; women in trade development; export business development; environmental considerations in export development; and human resource development. He had also underlined that ITC's cooperation with its parent bodies was continuing to expand and that in the case of UNCTAD, preference had been given over the past year to joint activities in trade information, human resource development and structural adjustment in trade development. Cooperation with the GATT had involved such matters as training, technical barriers to trade, quality control, environmental questions and the export of domestically prohibited goods.

The Executive Director had announced that he would be leaving the ITC at the end of 1991, and the Group had unanimously expressed its appreciation for the outstanding services that he had rendered, both to the ITC and to developing countries, over the past ten years.

In opening the Group's general debate, the Deputy Secretary-General of UNCTAD had referred to the close relationship between the ITC's activities and the needs of developing countries, as evidenced by the high rate of

expansion of the ITC's 1990 technical cooperation programme. He had stressed the UNCTAD's and the ITC's complementary areas of activity and had said that developing countries' current technical cooperation requirements far exceeded the budgetary capacities of both organizations.

The Group had noted the importance of the programme priorities as well as global priorities in the ITC's Medium-Term Plan and had called in particular for increased emphasis on activities aimed at the least-developed countries. The ITC had been invited to take further steps to monitor its programme priorities, strive for sustainability in its technical cooperation activities, and streamline its procedures. It had also been encouraged to reinforce its research and development work and strengthen its technical support services. The Group had also recognized the need for increased resources to expand the ITC's technical cooperation programme.

As to the review of the ITC's 1990 activities, the Group had paid particular attention to several aspects of the sub-programmes, namely: institutional infrastructure for trade promotion at the national level, export market development, specialized trade promotion services, commodities, human resource development, import operations and techniques, technical cooperation with the least-developed countries, and an expanded rôle for women in trade development.

As part of its annual evaluation of the ITC's technical cooperation programme, the Group had reviewed the work in product and market development and had recommended that commodity trade, development and promotion be the subject for the 1992 evaluation. The Group had also discussed the refinement of the priorities under the ITC's 1992-1997 Medium-Term Plan. The Group had adopted the priorities as refined by the ITC, stressing the need for the ITC to focus its work on areas in which it had a comparative advantage. It had requested the ITC to report to future sessions of the Group on progress in achieving the priorities. In this context, the Group had agreed to set up a working group to study funding reforms, as well as the objectives, mandate and modalities of a consultative mechanism. The Working Group had been requested to report on its findings and recommendations to the ITC's technical meeting in January 1992, for eventual consideration by the Group in April of the same year.

On behalf of the Group, he expressed gratitude to the Governments that had announced their contributions to the ITC's extra-budgetary resources during that session, namely: Austria, Canada, China, Denmark, Finland, France, Germany, India, Indonesia, Ireland, Japan, Korea, Malta, the Netherlands, Norway, Poland, Sri Lanka, Sweden and Switzerland.

The representatives of Norway on behalf of the Nordic countries, Switzerland, Tunisia, Costa Rica on behalf of the Latin American countries, Jamaica, Bangladesh, Tanzania, Poland, Pakistan, Côte d'Ivoire, Thailand on behalf of the ASEAN contracting parties, Senegal, Sri Lanka, Morocco and Nigeria expressed interest in and appreciation for the useful and valuable work of the ITC, its secretariat and in particular its soon-to-retire Executive Director, whose contribution they praised highly.

The representatives of Tunisia, Costa Rica on behalf of the Latin American countries, Jamaica, Bangladesh, Tanzania, Poland, Pakistan, Côte d'Ivoire, Thailand on behalf of the ASEAN contracting parties, Senegal, Sri Lanka, Morocco and Nigeria drew attention to and expressed gratitude for the ITC's assistance which their respective countries had been given.

The representatives of Norway on behalf of the Nordic countries, Bangladesh, Senegal and Nigeria urged donors to continue to finance and even to increase their financial contributions to the ITC's mandated activities, or appealed to other countries to make a contribution.

The representative of Norway, on behalf of the Nordic countries, said that the recent JAG meeting had been of particular importance because it had given participants an opportunity to conduct a thorough review of the ITC's future activities on the basis of the discussion of the refinement of its Medium-Term Plan priorities. The Nordic countries strongly believed that increased confidence in the ITC's ability to implement agreed priorities, as well as a greater concentration of its activities in its areas of comparative advantage should enable it to attract more funding, and enable donors to consider united global financing. He recalled that at the ITC's technical meeting in January 1991, Sweden had proposed that consideration be given to the establishment of a separate global fund and of a mechanism for continuous consultations among the recipient countries, donors and the ITC secretariat. The Nordic countries had welcomed the JAG's decision to establish a working group to study funding resources, as well as the mechanism originally proposed by Sweden, and noted that this Group's work was now well underway. The Nordic countries also encouraged GATT contracting parties to continue or to increase their engagement in the ITC's work. This seemed to be of particular interest now as the Uruguay Round came to a close. ITC's technical assistance would have a very important rôle to play in enabling developing countries to take advantage of the results of these negotiations.

The representative of Switzerland said that his country was an important donor to the ITC and wished to reaffirm its continued support for and confidence in this institution. As others had stated, the ITC had certain comparative advantages and had established a particular niche in the field of international cooperation. Switzerland intended to continue supporting the maximum use of the ITC's precise and substantial form of cooperation with a view to increasing the efficiency of international cooperation. Switzerland was convinced that the ITC's activities would attain even greater importance in the years to come, in view of the importance being given world-wide to market-based economic systems.

The representative of Tunisia said that his delegation wished, in particular, to express support for the ITC's programme of trade promotion in relation to poverty alleviation. Tunisia supported fully the recommendations in the JAG report and wished to see an intensified cooperation with the ITC within the framework of a medium- to long-term programme.

The representative of Costa Rica, on behalf of the Latin American countries, said that for the Latin American region the ITC was of great importance as regards all aspects of its development, including the development of small- and medium-sized business enterprises. He expressed these countries' support for the ITC's future programmes.

The representative of Bangladesh said that, along with other least-developed countries, Bangladesh was a beneficiary of the ITC's programmes. His delegation considered that the assistance requirements of the developing and least-developed countries far exceeded the ITC's available resources and appealed for further contributions to the ITC so that it could pursue its programme of activities. Bangladesh was particularly pleased that the JAG had been able to accommodate the special programme for cooperation with the least-developed countries. This programme would play a very significant rôle in helping the least-developed countries not only to develop the institutional infrastructure for improving their export trade, but also to strengthen and diversify their production base for exports; this was particularly important given the appreciation and sympathy that these countries enjoyed in export markets. Bangladesh appreciated the ITC's programme of action for human and social development, and was also pleased that the ITC had chosen commodity trade, development and promotion as the item for evaluation in 1992. This evaluation would provide guidance for the developing and least-developed countries' future activities in this area.

The representative of Tanzania said that the special programme for least-developed countries, referred to by Bangladesh, was of particular importance to Tanzania, and his delegation looked forward to its implementation.

The representative of Thailand, on behalf of the ASEAN contracting parties, said that these countries recognized that a successful conclusion to the Uruguay Round would increase trading opportunities and therefore enhance the ITC's rôle, especially in assisting the least-developed countries to improve further their export performance.

The Council took note of the statements and adopted the report in ITC/AG(XXIV)/128.

3. Hungary - Protocol of Accession
- Communication from Hungary (L/6909)

The Chairman recalled that this matter had been raised by Hungary at the April Council meeting, and drew attention to that Government's recent communication in document L/6909.

The representative of Hungary said that his Government had adopted and was implementing an economic policy directed towards the establishment of a competitive, market-oriented economy. Information on the measures already taken and the future steps envisaged had been provided to contracting parties within the context of Hungary's trade policy review in April 1991 (see C/RM/M/11). As had been emphasized during that review, the

Government's strategy was based on the implementation of three main concepts, namely deregulation, privatization and liberalization.

As a result of a broad deregulation programme implemented during the previous two years, the State's rôle and influence in the economy had been significantly reduced, and this would continue. Special emphasis had also been put on encouraging the establishment of new private ventures and small businesses, and on the acceleration of the privatization process initiated in 1990. The efficient functioning of the economy had also been facilitated by the application of effective competition policies. The significant reduction of the state budget's rôle in reallocating resources through taxes and subsidies was an important tool in achieving Hungary's goals. The liberalization programme already implemented had not been restricted only to trade, but covered almost all other important aspects of the economy, such as prices and wages. With regard to the foreign trade régime, liberalization measures, begun in 1989, had resulted in the gradual elimination of import licensing requirements for products which accounted for some 90 per cent of total imports. Also, the prior-authorization requirement for engaging in foreign trade had been largely eliminated from the beginning of 1991, except for products where such authorization was needed for health and safety reasons. Starting on 1 January 1991, a large part of Hungary's trade that had previously been conducted under government control with the former members of the Council for Mutual Economic Assistance (CMEA), and some other countries, had also been liberalized and was currently taking place at world prices and in convertible currencies, and was subject to the same rules as those for trade with any other partners.

Against this background, it would be more than anachronistic if Hungary's terms of participation in GATT should continue to be guided by provisions negotiated in the early 1970s and included in its 1973 Protocol of Accession (BISD 20S/3). While Hungary had acceded to the General Agreement on the basis of tariff concessions, its Protocol contained some specific provisions which had perhaps been necessary at that time, but which had become either obsolete or inoperative, or had lost any justification for the future. These specific provisions of the Protocol could be summarized as follows: (a) Paragraph 3 made legal under the GATT the use of specific regulations in trade with countries listed in Annex A of the Protocol. Since the specific methods which had been applied to trade with these countries had been abolished, this provision was no longer needed; (b) Paragraph 4 dealt with the progressive elimination of Article XIII-inconsistent quantitative restrictions maintained by contracting parties against Hungary. Given that practically all of these restrictions had been lifted, this provision had also become superfluous; (c) Paragraph 5 contained a specific clause allowing for the imposition of safeguard measures. Hungary believed, however, that only the general GATT safeguard provisions should be applied in future in its relations with contracting parties; (d) Paragraph 6 and Annex B provided for biennial consultations in the framework of a working party to conduct a review of the operation of the Protocol and of the evolution of reciprocal trade between Hungary and the contracting parties. Hungary believed that in the light of recent changes, including the increased transparency of its trade régime and the institution of the Trade Policy Review Mechanism, this

special forum was no longer needed or justified; (e) Paragraph 7 provided for the possibility of special consultations between Hungary and the CONTRACTING PARTIES. Apart from the fact that this provision had never been invoked, Hungary strongly believed that the general consultation provisions of the General Agreement should be satisfactory in all respects; (f) Paragraph 8 reserved Hungary's position with respect to Article XV:6. Since Hungary had become a member of the International Monetary Fund in 1981, this reservation and the legal consequences therefrom were no longer relevant.

In view of the substantial changes in Hungary's economy, and encouraged by the overall support expressed by contracting parties, his Government requested the establishment of a working party to review Hungary's Protocol of Accession with a view to eliminating its specific features, notably those contained in paragraphs 3 to 8, as well as in Annexes A and B. Hungary expected that the working party would be able to put forward a new or substantially modified draft Protocol which would contain standard terms of accession to the General Agreement. His Government suggested that the report submitted for its trade policy review in April (C/RM/G/11) constitute the basis for the discussions in the working party, and remained ready to submit information on recent developments relevant to the working party's review, as well as all other necessary information and data that might be requested. His delegation welcomed the positive spirit of the informal consultations which had been held on this subject, and hoped that the requested working party would be established at the present meeting.

The representative of the United States welcomed Hungary's request for a review of its terms of accession and for a new Protocol that would contain terms of accession more appropriate to its current economic and trade régime. The United States offered Hungary its full support in achieving new terms that would be agreeable to all without, at the present time, pre-determining the structure or content of the final document. The United States expected that the normal procedures for approval of terms of accession for a contracting party acceding under Article XXXIII would be observed where they were relevant, and that all the rights possessed by contracting parties when Hungary's original terms of accession had been established would be available when the final decision was taken on Hungary's present request.

The Chairman proposed that the Council take note of the statements and agree to establish a working party with the following terms of reference and composition which had been the subject of informal consultations:

Terms of reference

"In the light of the changes in the Hungarian economy relevant to GATT, to examine the request of the Hungarian Government as contained in L/6909, and to submit recommendations to the Council which may include a draft revised Protocol of Accession."

Membership

Membership would be open to all contracting parties indicating their wish to serve on the Working Party.

Chairman

Mr. Rudolf Ramsauer (Switzerland)

The Council so agreed.

4. Trade in Textiles

- Report of the Textiles Committee (COM.TEX/69)

The Director-General, Chairman of the Textiles Committee, said that on 31 July 1991, the Textiles Committee had adopted a "Protocol Maintaining in Force the Arrangement Regarding International Trade in Textiles", under which the Arrangement (MFA) would remain in force for a further period of seventeen months, i.e., from 1 August 1991 to 31 December 1992, and had at the same time adopted a "Decision by the Textiles Committee" in relation to the Protocol, whereby the MFA would be kept in force for this period "in the expectation that the Uruguay Round results will come into force immediately thereafter". In taking this decision, participants had reaffirmed their commitment to the provisions contained in Part I.C of the Punta del Este Declaration (GATT/1396), and their undertaking at the Round's Mid-Term Review to endeavour to improve the trade situation paving the way for the integration of the textiles and clothing sector into the General Agreement. They had also reaffirmed the conclusions of the Textiles Committee adopted on 31 July 1986 (COM.TEX/49).

He recalled that the Textiles Committee had initiated discussions on the future of the MFA on 31 July 1990, as required by its Article 10.5, and had continued these discussions at its meeting on 14 December 1990. These developments had been reported to the Council at its meeting in February 1991. Discussions had continued at the Committee's meeting of 16 May 1991, and had been followed by more intensive consultations over the following several weeks which had led to the conclusion of the final texts of the Protocol and the Decision of the Textiles Committee. These agreements represented the collective efforts, co-operation and compromises of a large number of delegations. The Protocol and the Decision of the Textiles Committee were annexed to the Committee's report (COM.TEX/69), which also contained detailed records of statements made by a number of delegations after the adoption of the Protocol and the Decision.

The representative of Chile said that his Government was not a party to the MFA and did not expect to become one. It was therefore concerned to see that another MFA was evolving in the context of the Uruguay Round. He emphasized that if another MFA were to be approved, it could not be imposed on those who did not subscribe to it, and that the rules of the General Agreement would have precedence over any such agreement that might emerge.

The representative of Cuba said that her Government also was not a party to the MFA, and shared Chile's concerns. Cuba was not aware of the detailed preparation for the future transitional arrangements for trade in textiles and would only accept the rules of the General Agreement for trade in this sector.

The representative of the European Communities said that although Chile and Cuba were not parties to the MFA, they were nevertheless participating in the Uruguay Round negotiations. He suggested that they negotiate on this matter when participants in the Round sought to multilateralize trade in textiles.

The Director-General, speaking in his capacity as the Chairman of the Uruguay Round Negotiating Group on Textiles, said that the matter raised by the previous speakers was very much on the agenda of the Negotiating Group, and that the Community had been correct in saying that it was a matter for negotiation. However, negotiation involved both give and take, and he hoped that the matter would be looked at in this spirit, and also in regard to its very important legal implications.

The Council took note of the statements and adopted the report of the Textiles Committee (COM.TEX/69).

5. Austria - Article XIX action on certain types of cement and certain preparations containing cement (L/6899)

The Chairman said that this item was on the Agenda at the request of Japan.

The representative of Japan said that Austria's recent action under Article XIX, as notified in document L/6899, raised several fundamental questions. Japan was seriously concerned that imports of the products in question originating in the member States of the European Communities and the European Free-Trade Association (EFTA) were exempted from this measure, and considered the selective application of safeguard measures to be inconsistent with the m.f.n. principle of the GATT. In Japan's view, Article XIX did not permit a contracting party to exempt its partners in free-trade agreements from the application of its safeguard measures. Although Japan did not have any immediate export interest in the products concerned in Austria's market, it would be interested to hear from Austria how it planned to administer the global quota of 200,000 tonnes that had been announced, and how it intended to allocate the quotas to individual suppliers.

The representative of Austria said that the member States of the EFTA and of the European Communities had been exempted from Austria's Article XIX action on the basis of Article 10 of the Stockholm Convention establishing the European Free-Trade Association, and of Article 13 of the Agreement between Austria and the European Communities establishing a Free-Trade Association. The Stockholm Convention, as well as the Free-Trade Agreement between Austria and the European Communities were agreements covered by Article XXIV. He noted that Article XXIV:8(b)

permitted the elimination of duties and other restrictive trade regulations between free-trade area members with the exception, where necessary, of measures permitted under Articles XI, XII, XIII, XIV, XV and XX. Since Article XIX was not mentioned in this list, measures taken thereunder might not be applied to other members of a free-trade area. The exemption of the EFTA and European Communities member States from Austria's Article XIX action was therefore fully justified. With regard to Japan's query on the allocation of the quotas, he said that Japan did not export the products concerned to Austria and that, therefore, the provision for consultations under Article XIX did not apply to it.

The representative of India said that his delegation shared Japan's concerns. Although India, too, did not have any export interest at present in the products restrained under Austria's action, the issue of non-discriminatory application of safeguard measures was of fundamental importance to it. India had consistently argued that in taking Article XIX action, a member of a customs union or free-trade area could not exempt the other members from the scope of action, particularly when imports from such members contributed to the serious injury. India considered that such exemptions diluted the principle of non-discrimination and m.f.n. application of restrictive measures taken under Article XIX. He expressed India's serious reservation as to the legal basis of the explanation provided by Austria.

The representative of Thailand, on behalf of the ASEAN contracting parties, said that they shared Japan's concerns regarding Austria's selective application of its Article XIX safeguard measure. Although the ASEAN contracting parties had no major trade interest in this issue, they had serious reservations about the violation of the m.f.n. principle of Article XIX.

The representative of Hong Kong said that although his country did not have a specific trade interest in the products concerned, it considered Austria's selective application of this action to be inconsistent with Article XIX. Hong Kong did not agree with Austria's interpretation that Article XXIV allowed selectivity in the application of Article XIX measures. All safeguard measures under Article XIX should be applied on an m.f.n. basis without exception. Selective safeguard action ran contrary to current efforts in the Uruguay Round to strengthen the GATT system, including the conclusion of an agreement on safeguards based on the m.f.n. principle.

The representative of Pakistan said that the m.f.n. principle was the foundation of multilateralism and of GATT. Austria's selection of the tariff headings of the products concerned by this measure (L/6899) had led to a very narrow disaggregation of the product, which was not strictly in line with the spirit of Article XIX. Furthermore, the stated objective of this action, "to prevent imports at price levels lower than those for similar products obtained in Austria ...", contained an extension of "similar products" which also seemed to be not in line with Article XIX. His delegation was also of the view that the criterion of price alone could not justify any Article XIX action.

The representative of Korea echoed the previous speakers' views that the selective application of Article XIX measures was incompatible with the m.f.n. principle. Korea was not convinced by the legal arguments put forward by Austria in support of its action.

The representative of Hungary said that, in terms of actual economic impact, Austria's action affected almost exclusively imports coming from a geographical region which could easily be identified. Though Hungary was not the contracting party to which reference was made in the penultimate paragraph of Austria's communication in L/6899, it had substantial interest in exporting some of the products concerned to Austria's market. It therefore reserved its GATT rights with respect to this matter, including the possibility of entering into consultations with Austria. His delegation was surprised to see no inclusion in Austria's communication of any information on trade flows, nor any details regarding the administration of the global quota introduced. Further information from Austria on the application of the safeguard measure and the administration of the global quota, as well as the relevant import data, would be appreciated.

The representative of Austria said that Article XXIV was an acknowledged exception to the m.f.n. principle. This was part of the GATT system and of international trade law. Responding to Pakistan's concern, he said that price was a condition under Article XIX because a low price was linked to increased quantity. As for the countries directly affected by this measure, Austria would certainly accept their requests for consultation and would provide them with information regarding the administration of the quota.

The representative of Japan disagreed with Austria's interpretation of Articles XIX and XXIV. He recalled that some members of the Working Party that had examined the Agreement establishing a free-trade area between the European Communities and Austria had been of the view that "the invocation of Article XXIV did not mean that other Articles of the General Agreement should cease to apply; and these members could not agree that the invocation of Article XXIV permitted the discriminatory application of Article XIX" (BISD 20S/156, paragraph 32). His delegation was disappointed with Austria's response to its request for information on the allocation of the quotas. Although Japan did not have an immediate export interest in the products concerned, it had a certain interest in maintaining a good multilateral trading system; it would be harmful to the system if there were no transparency regarding the safeguard action taken.

The representative of the European Communities warned that to change any part of the free-trade agreement between Austria and the European Communities would endanger the balance of the whole agreement. He responded to Japan's statement by quoting from another paragraph of the same Working Party report wherein it was stated that "The representative of the European Communities called attention to the omission of Article XIX from among those mentioned in Article XXIV:8(b), which required the elimination of certain 'other restrictive regulations of commerce' as between members of the free-trade area. His authorities, accordingly, were of the view that they were free to exempt these members from possible restrictions imposed under Article XIX" (BISD 20S/156, paragraph 31).

The representative of Chile said that the issue under discussion was not only a matter of principle, but that there were practical repercussions as well. There was no room for selectivity, not even under the pretext of a free-trade area. Chile had always rejected selectivity in the safeguards negotiations in the Uruguay Round because an exception should not be turned into a general rule, or else everything done in the GATT would be rendered null and void.

The Council took note of the statements and agreed to revert to this matter at a future meeting.

6. Committee on Balance-of-Payments Restrictions

(a) Consultation with the Czech and Slovak Federal Republic
(BOP/R/193)

Mr. Boittin, Chairman of the Committee, said that at the consultation with the Czech and Slovak Federal Republic on 9 July, the Committee had commended that Government for the breadth of its fundamental economic reforms and the progress achieved to date, and had encouraged it to pursue its economic liberalization efforts. The Committee had recognized that, in view of the sharp deterioration in the balance-of-payments situation, it had been necessary for the Czech and Slovak Federal Republic to introduce a temporary import surcharge. It had also recognized that the measure was transparent and price-based, and had recalled that such measures should be applied in a non-discriminatory manner. The Committee had noted that the coverage and rate of the surcharge had already been reduced, and that the surcharge was intended to be eliminated by the end of 1991. The Committee had considered that the surcharge was justified in the light of Article XII and the provisions of the 1979 Declaration on Trade Measures taken for Balance-of-Payments Purposes (BISD 26S/205). The Committee had encouraged the Czech and Slovak Federal Republic to continue the progressive elimination of the surcharge and had expressed the hope that the indicated timetable could be respected.

The Council took note of the statement and adopted the report in BOP/R/193.

(b) Note on the meeting of 9 July (BOP/R/194)

Mr. Boittin, Chairman of the Committee, said that, as had been stated at the July Council meeting (C/M/251 - item 21), Brazil had informed the Committee at its meeting on 9 July, under "Other Business", about wide-ranging liberalization measures implemented by it and had also announced its disinvocation of Article XVIII:B. Brazil's full statement had been reproduced in document BOP/R/194.

The Council took note of the statement and of the information in BOP/R/194.

7. Procedures to implement changes in the Harmonized System (L/6905)

The Chairman said that at its meeting on 31 July 1991, the Committee on Tariff Concessions had approved a text containing procedures for the implementation of changes in the Harmonized Commodity Description and Coding System. The Committee had also decided to submit the document containing the procedures to the Council for adoption (Annex to document L/6905).

The Council took note of the statement, and adopted the procedures contained in the Annex to document L/6905.

8. Japan - Restrictions on imports of certain agricultural products
- Follow-up on the Panel report (BISD 35S/163, L/6389, L/6810)

The Chairman recalled that the Council had considered this matter at its meetings in February, March, April, May and July, and in July had agreed to revert to it at the present meeting.

The representative of the United States recalled that at the May Council meeting his delegation had reported that the United States and seven other contracting parties had met with Japan in a second round of plurilateral consultations on this subject which had offered little reason to believe that Japan was prepared to eliminate its GATT-inconsistent quotas on starch and dairy products. At the July Council meeting, his delegation had reported that recent bilateral talks with Japan had also been unsuccessful. More than three years after adoption of this Panel report, Japan had not even committed itself to implement fully the recommendations thereof. Japan insisted that it could only take action in light of the outcome of the Uruguay Round. However, if Japan hoped that GATT rules would be weakened to accommodate its policies as a result of the Round, then its hope was mistaken. Japan's recent increase in its dairy product import quota allotment suggested that its dairy policies were not attuned to market developments in any case, and was another reason to reform its policies quickly. Japan enjoyed the benefits of an open world trading system in many products, especially in the United States. Under these circumstances, it was unimaginable that Japan would take its international obligations so lightly. He said that Japan was scheduled to consult with the United States on this issue in the week of 21 October and expressed the hope that it would be prepared to take a more forthcoming position in those talks. However, until Japan fulfilled its GATT responsibilities, the United States would have to continue to reserve its GATT rights. The United States would continue to work closely with the other interested contracting parties on this issue.

The representative of New Zealand noted that this item had been discussed at length in each of the Council meetings since February. At the July Council meeting, his delegation had said that it looked forward to concrete indications that Japan was prepared to develop a satisfactory solution to the concerns of other contracting parties. From New Zealand's perspective, he regretted that he could report no progress. Key

recommendations of the Panel report, adopted in its entirety in February 1988, remained outstanding more than three and a half years later. New Zealand was concerned about the wider effects on the GATT of Japan's attitude to this Panel's recommendations. He recalled that the Director-General in his introduction to the report on the status of work in panels and implementation of panel reports at the July Council meeting (Spec(91)67), had drawn attention to the situation in respect of this particular Panel report, together with four others. New Zealand fully supported the Director-General's request that the contracting parties concerned re-examine their positions with a view to restoring the integrity of the GATT dispute settlement system.

The major trading nations drew large benefits from the liberal multilateral trading system as embodied in the GATT. Effective dispute settlement was a key to maintaining this system. New Zealand acknowledged that in the Uruguay Round Japan was a strong proponent of improved and strengthened GATT rules and disciplines. However, it regretted that faced with this dispute settlement ruling, Japan had not responded consistently with its GATT obligations or its wider interests in the GATT system. New Zealand acknowledged that several other contracting parties had outstanding panel recommendations. Japan's position was particularly worrying, however, because it had thus far not even acknowledged its obligations to make a commitment to implement in full the outstanding Panel recommendations. What precedent did Japan expect contracting parties to take from its stance on this case? Was the message that large contracting parties could implement only those panel recommendations that they found politically acceptable to implement, and leave aside those that were "too hard"? This would, as the Director-General had said, be an unfortunate precedent. For these reasons, as well as its significant commercial interests, New Zealand continued to expect Japan to acknowledge its obligation to implement the Panel's recommendations in full, to make immediate and substantial improvements in market access, and to present proposals for a timetable to achieve full, GATT-consistent implementation. He noted that Japan was scheduled to meet with the United States on this issue in the week of 21 October, and said that New Zealand would continue to reserve its GATT rights.

The representative of Australia said that, as had been made clear at previous Council meetings, Australia expected Japan to meet its current GATT obligations by committing itself to the full implementation of the Panel report, free of any Uruguay Round linkages. Plurilateral and bilateral discussions held earlier in the year had not seen any discernible change in Japan's approach. Australia stood ready to hold further consultations on both dairy and starch, in which it had strong export interests. However, the time was past for mere exchanges of views, both sides being fully aware of specific domestic and export interests and market structures. Japan had to come forward with a plan to begin the process of GATT-consistent liberalization. Australia was not demanding that this liberalization be achieved overnight, but the beginning of a well-defined process leading to full compliance with Japan's obligations was well overdue. There was no justification for Japan to defer moves towards the fulfilment of its GATT contractual obligations, particularly given its recently expressed concern (under Agenda item 5) about the need to maintain a strong multilateral trading system.

At the July Council meeting, Japan had laid claim to having implemented the large majority of the Panel's recommendations. It was worth noting that in the past three years, and since its September 1988 announcement of implementing measures (L/6389), Japan had made no further movement towards GATT-consistent liberalization. In the dairy and starch sectors, the only product to have been liberalized fully was processed cheese. Japan had not taken any steps towards dismantling the basic import régimes of quantitative import controls in those sectors, which had been found to be GATT-inconsistent.

Australia noted with interest the US statement which foreshadowed bilateral discussions with Japan later in the month, and hoped that these would advance the prospects for a GATT-consistent outcome satisfactory to all. To this end, Australia looked forward to working closely with other interested contracting parties. Until a solution had been found, Australia would continue to reserve all its GATT rights.

The representative of Argentina recalled that his delegation had also participated in the plurilateral consultation with Japan. This matter was of crucial importance not only because of the concrete trade issues involved but also because it affected the very credibility of the multilateral trading system. His delegation endorsed fully the statements by the United States, Australia and New Zealand.

The representative of Uruguay said he wished to flag two points raised by the previous speakers which Uruguay considered to be very important. One was that the issue of non-compliance with panel recommendations had serious implications for the GATT's dispute settlement system, and the other that compliance with panel recommendations had to be based on GATT obligations as they currently existed.

The representative of Chile said that contracting parties had to abide by the underlying principles of the GATT dispute settlement mechanism. Chile supported fully the previous speakers' statements.

The representative of Thailand said that as a country with strong interests in agricultural trade as well as in the maintenance of an effective multilateral trading system, Thailand was concerned and dissatisfied with the no-progress situation on this matter. He associated his delegation with New Zealand's and Australia's statements.

The representative of Japan said that his delegation had stated Japan's views on this matter at previous Council meetings and would not repeat them. Japan stood ready to continue consultations with the contracting parties concerned, and hoped that these would result in a satisfactory solution for all.

The Council took note of the statements and agreed to revert to this item at a future meeting.

9. European Economic Community - Payments and subsidies paid to processors and producers of oilseeds and related animal-feed proteins - Follow-up on the Panel report (BISD 37S/86)

The Chairman recalled that the Council had considered this matter at its meetings in April, May and July, and in July had agreed to revert to it at a future meeting. It was on the Agenda of the present meeting at the request of the United States.

The representative of the United States recalled that at the July Council meeting the Community had confirmed its intention to announce its oilseed reform proposals before 31 July and to enact them no later than 31 October. The Commission had indeed issued a proposal on 31 July. However, after careful review, the United States believed that the proposed policy changes did not conform with the Community's GATT obligations. While the Commission's proposal to introduce a system of direct producer aids might appear to resolve the national-treatment problems that had resulted from a system in which processing aids had been administered so as to discriminate in favour of domestic products, the proposed changes did not address, in the United States' opinion, the Panel's ruling that the Community's support for producers nullified and impaired its zero tariff binding on oilseeds. The Commission's proposal would maintain a very high level of subsidy, and extend it to an acreage even greater than that harvested in 1990/1991. In practical terms, such a policy meant that Community oilseed producers would remain completely insulated from world markets.

The United States had relayed these concerns to the Community more than a month earlier but had received no response thus far. It had become clear that it would be very difficult to resolve the differences over these policy proposals bilaterally, and the United States had therefore proposed to the Community that the original Panel be reconvened to give an opinion as to whether the Commission's actions would meet the standards set out in the Panel's findings and conclusions. The Community had failed to respond to this request. It had also become increasingly clear that any further reforms from the Community to address the nullification and impairment issue would be unlikely by 31 October and that the Community might not even meet the deadline that it had set for itself. Some Community member States were opposing oilseed policy reform independent of overall reform of the Common Agricultural Policy, and the Commission's proposal had not even been submitted to the European Parliament for consideration. In sum, no meaningful actions had been taken, nor did they appear to be contemplated. US industry had long suffered, and continued to suffer, losses as a result of the Community's oilseed régime and was understandably losing patience. One did not know how much longer it could be expected to wait. Accordingly, the United States would request action at the next Council meeting if the Community did not take steps to put meaningful policy reforms in place before 31 October.

The representative of Canada said that his country had a long term and strong interest in access to the Community's market for oilseeds. The Community's continuing subsidies had effectively insulated its domestic market from the world market and strangled imports from competitive producers. He recalled that Canada had reserved its third-party rights in

the original Panel and had made a submission thereto. It had a strong interest in the implementation of the Panel's recommendations, particularly with respect to the elimination of nullification and impairment of tariff concessions for Canada's canola exports. Canada had consulted with the Community on this issue in light of the Panel's recommendations, but had not been satisfied with the results and its access remained impaired as a result. Accordingly, Canada supported the United States' request to reconvene the Panel to investigate the Community's compliance with the recommendations thereof, and reserved its rights to make a third-party submission thereto.

The representative of Argentina expressed his Government's deep concern at the Community's failure to implement the Panel's recommendations on this matter. Argentina had noted the Community's stated intentions to implement these recommendations by 31 October, but this now appeared to be only a remote possibility. A preliminary reading of the Community's draft proposals indicated that they did not satisfy the Panel's findings and recommendations. The proposals foreshadowed a system of direct producer aids which would appear to be consistent with Article III. Nevertheless, under the proposals, the producer, in order to obtain this payment, had to have a sales contract with a first-processor thus leading indirectly to a favourable bargaining power for the processors and assuring a greater benefit upon the purchase of a domestic, as opposed to an imported, product. Furthermore, as a result of the Community's proposals, the level of the subsidy, which would be more than 8 per cent above the reference price, would effectively insulate its producers from international price movements and would maintain unaltered the present impairment in the value of the Community's tariff concessions. Another concern was that the guaranteed payments would be extended to an acreage greater than that harvested in 1990. Argentina believed it was indispensable for the Community to bring its régime into GATT conformity, and reserved its right to revert to this matter at the next Council meeting.

The representative of Brazil expressed his Government's support for the United States' request for reconvening the Panel. The Community's delayed and inadequate action did not redress the unfair situation faced by agricultural exporting countries, and continued to prejudice world trade in oilseeds. Brazil had a special interest in promoting a fair and equitable trade in agricultural products, and for this reason supported the United States' request. He reserved his country's right to intervene on this matter as and when the Panel was reconvened.

The representative of Australia said that under the previous Agenda item he had already made clear Australia's views on the implementation of panel reports and the significance thereof for the maintenance of a strong and sound rules-based multilateral trading system. His delegation supported calls for the full and early implementation of panel reports such as the one at hand, and also the suggestion to reconvene the original Panel on this matter to comment on the GATT consistency of the Community's proposed implementation measures.

The representative of the European Communities said that he had noted the various statements concerning the importance of implementing -- mechanically and automatically -- panel recommendations. However, things should not be put in such a simplistic manner. He recalled that the Panel in this case had recommended that "the CONTRACTING PARTIES take no further action under Article XXIII:2 in relation to the impairment of the tariff concessions until the Community has had a reasonable opportunity to adjust its Regulations to conform to Article III:4" (BISD 37S/86, paragraph 157). That recommendation had been accepted by all, including the Community. Adapting and adjusting in order to comply with panel recommendations could not be achieved lightly and overnight. He referred to the United States' statement that if the Community did not respond to its request for the reconvening of the Panel, then the United States would come back to the Council at its next meeting for action. He understood this implicitly to mean that the United States would renounce any action that had not been authorized previously by the Council. This was an important and positive statement from the point of view of the GATT dispute settlement mechanism, and one which would certainly be noted.

With regard to the Commission's proposals on the Community's oilseeds régime, he said this was an internal affair as long as a decision had not been taken. Some delegations appeared to have taken the view that a decision on this matter would not come through. However, that was only conjecture at the present stage. The Council could only determine whether or not the Community had fulfilled its GATT obligations on the basis of a concrete measure. At that time, the Community would not say no to the reconvening of a panel. But why would one want to reconvene a panel if there was no concrete measure for it to consider? The United States' request at the present time appeared to be a subtle form of harassment -- an attempt to interfere in the Community's internal affairs. In reporting on the present discussion to his authorities, he would, therefore, suggest that since Council members already appeared to be convinced that nothing would come of the Commission's efforts, it should not bother with any further efforts to move in the right direction. He urged members to reflect on this, and not to draw over-hasty conclusions. For his own part, he would respect all the commitments that he had undertaken in this regard.

The representative of the United States said that his delegation was less satisfied after the Community's statement than it had been before, with regard to what might happen to contracting parties affected by the Community's intended action on its oilseeds régime. The issue before the Council was that the action presently being taken by the Community was, in the view of many, a unilateral interpretation of the Panel's ruling and inconsistent with its recommendations. The Community had not indicated why it would find unacceptable the reconvening of the Panel to look at this matter if it indeed felt that its implementation of the Panel report complied with the recommendations thereof. The United States would revert to this matter at the next Council meeting.

The representative of Canada said it had been his understanding that the United States was formally asking the Council to reconvene this Panel. He now took it that this was not the case.

The representative of the United States said that his delegation would come back to the Council at its next meeting for action if the Community did not take steps to put meaningful policy reforms in place before 31 October.

The Council took note of the statements and agreed to revert to this item at its next meeting.

10. Non-implementation of panel reports (C/M/247 - Item 6, C/M/248 - Item 4, C/M/249 - Items 6, 7 and 9, C/M/250 - Item 5 and 6 and C/M/251 - Item 11)

The Chairman recalled that at the end of its discussion at the July meeting on the Agenda item "Status of work in panels and implementation of panel reports - Report by the Director-General" (C/M/251 - item 11), the Council had agreed, at the suggestion of several representatives, to hold a discussion at the present meeting on the question of non-implementation of panel reports. This issue had been with contracting parties for some time, and would continue to be before them because of its great importance. However, it could not be resolved simply through a debate -- any debate would go on as long as the problem remained. Some delegations had indicated to him their view that the present meeting was perhaps not opportune for a discussion on this matter; while he could not be the judge of that, he wished to assert that this issue would be on call as long as the problem remained, and any delegation could raise it at any meeting.

The representative of Argentina agreed that this issue would not be resolved through a debate. However, a debate would be useful in providing a better understanding of what was at stake in order that contracting parties' respective governments could get the courage together to tackle a problem that in Argentina's view affected the very basis of the GATT system. How could one improve the rules of the game, if those that already existed were not accepted by the parties concerned? This was a question that needed to be addressed seriously -- one could not imagine any organized society if the rules that had been established therefor were simply ignored by its members. His delegation noted from the Chairman's statement that this issue could be reverted to anytime. Argentina, in particular, believed that this question needed to be addressed, and would indeed revert to it; there could be no certainty in the world trading system until this problem was resolved. Argentina recognized that there were difficulties involved in taking the decisions required to implement panel recommendations. However, such decisions were difficult for all contracting parties concerned and not only for some. A few contracting parties could not be allowed the luxury not to suffer the pain of taking decisions -- such a situation would affect not only the future of GATT, but also any future negotiations. He reiterated his Government's deep concern at the present situation in regard to non-implementation of panel reports, and underlined the importance of a strong and open trading system to small- and medium-sized economies.

The representative of Australia said he would not contest the view of some that the present meeting was perhaps not opportune for a debate on

this issue. He would note, however, that the Council at its present meeting had agreed to establish working parties to consider the accession applications by Mongolia and Panama; from meeting to meeting the number of country name tags in the Council room was increasing, and more countries were knocking on the door. What would the representatives from these governments have gleaned from the discussions at the present meeting? Certainly that the rules system of the GATT -- an organization that prided itself on being a rules-based body for the benefit of all contracting parties, large and small -- did not function very well when it came to be applied to the largest industrialized contracting parties. That was not a good sign to be receiving when acceding to the GATT. Moreover, from the discussion under Agenda item 5 one would have gleaned that the interpretation of the relationship between GATT provisions relating to safeguards and the operation of free-trade areas seemed to be blurred, and that contracting parties could not make up their minds as to their real responsibility or how the provisions should be interpreted. Again, in a situation in which more and more of these agreements were being negotiated, one wondered what sort of signal that sent as well. As his delegation had indicated under previous agenda items, Australia was deeply concerned with the non-implementation of panel reports and regarded this as a serious concern for the functioning of the GATT system. It would be evident from looking at the string of instances in which reports had not been implemented where the major faults lay and where they needed to be overcome.

The representative of the European Communities expressed his delegation's appreciation for the Chairman's efforts in trying to resolve the issue of non-implementation of panel reports (see C/M/249 - item 9 and C/M/251 - item 11). However, one should not over-dramatize this issue because there was every chance in the Uruguay Round negotiations of emerging with a strengthened dispute settlement mechanism that would no longer allow for the sort of problem at hand. The end of the Round was far too close for any really useful discussion to be held on this particular issue at the present time. Either the Round would fail, in which case this type of problem together with many others that would crop up in the future would endanger this institution, or it would succeed and shed a different light on them. Bearing in mind what he had said earlier -- that in future these types of problems should not arise -- he would not favour a debate on this topic when one was so close to the end of the Uruguay Round.

The representative of Argentina said he found no comfort in the Community's suggestion that contracting parties should not discuss this issue at the present time, and that they should wait until the end of the Uruguay Round after which everything would be alright. Why was it not so now? After all, there had been a round of negotiations prior to the Uruguay Round which had resulted in the present rules and procedures. Was there, therefore, any guarantee for contracting parties seeking a stable trading system that any new rules would be abided by?

The Chairman recalled that the Director-General presented a periodic report to the Council, in the spring and the autumn, on the status of work in panels and implementation of panel reports. The next such report would be before the Council at its November meeting, which would offer

representatives a further opportunity to address the matter at hand, if they so wished.

The Council took note of the statements.

11. Trade and environment (L/6859, L/6892, L/6896)

The Chairman recalled that at the end of the discussion on this item at the May Council meeting, and in response to requests for factual background documents, he had announced that the Secretariat would prepare a factual paper along the lines of the ASEAN contracting parties' request in L/6859, as well as a note on the United Nations Conference on Environment and Development (UNCED) discussions as they related to GATT provisions and principles. These notes had been circulated in documents L/6892 and L/6896. He also recalled that at the July Council meeting, the Chairman of the CONTRACTING PARTIES had expressed his readiness to hold further informal consultations on the question of the convening of the 1971 Working Group on Environmental Measures and International Trade (see C/M/74, item 3), and also on the matter of a GATT contribution to the UNCED. Such consultations had recently been held on behalf of the Chairman of the CONTRACTING PARTIES by Mr. Carlisle, Deputy Director-General.

Mr. Carlisle, Deputy Director-General, said that in consultations held on 16 September and 2 October it had been agreed that:

1. the 1971 Group on Environmental Measures and International Trade would be convened;
2. the Group would have, for the present, the following three items as its agenda:
 - (a) trade provisions contained in existing multilateral environmental agreements (e.g. the Montreal Protocol on Substances that Deplete the Ozone Layer, the Washington Convention on International Trade in Endangered Species and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal) vis-à-vis GATT principles and provisions;
 - (b) multilateral transparency of national environmental regulations likely to have trade effects;
 - (c) trade effects of new packaging and labelling requirements aimed at protecting the environment;
3. the Group itself would adopt this agenda at its first meeting;
4. the Group would be open-ended, i.e., open to any contracting party which wished to participate;

5. because of the present burden on delegations arising from the Uruguay Round, until January 1992 the Group would limit the number of its meetings as much as possible;
6. Finally, the Chairman of the Council should enquire if Mr. Kaya of Japan was still available to chair the Group. If not, the Council Chairman, as was customary, would hold consultations to designate a new Chairman.

With regard to the last point, it was his understanding that Mr. Kaya was not available; therefore, if the agreement reached in the consultations was upheld by the Council, its Chairman could proceed with consultations to designate a new Chairman. In view of the agreement reached in the consultations and assuming that it was endorsed by the Council, the Chairman of the CONTRACTING PARTIES had indicated that the task entrusted to him should now be relinquished. Finally, there remained the question of GATT's contribution to the UNCED, and he wondered whether the Council Chairman would wish to conduct further consultations as soon as all of the relevant Secretariat documentation was ready.

The representative of Chile recalled that at the July Council meeting his delegation had indicated its concerns about the GATT's competence in this field and had expressed doubts regarding the validity of the 1971 Group because circumstances had changed radically over the last twenty years. He drew attention to a report dated 9 August 1991 from the UNCTAD Secretary General to UNCTAD VIII entitled "Accelerating the development process - Challenges for national and international policies in the 1990s", which had commented that one of the most difficult tasks for the 1990s was to draw up a framework for the adoption of economic policies that would allow governments to tackle the relationship between trade and environmental policies. This was all the more important because of the possible use of trade measures in the context of environmental policies. As the report had noted, trade policy makers, particularly in developing countries, were concerned about the possibility that the big trading partners would use trade measures to impose certain environmental policies on others. Differences in environmental legislation between countries might also give rise to political pressures in developed countries which might adopt, as a compensation, certain trade measures. For example, countervail laws might be re-interpreted in such a manner as to compensate for cost differences arising from differences in environmental or technical specifications. In order to prevent such measures from being used as disguised trade barriers, it would be necessary to abstain, as far as possible, from using trade measures for environmental purposes and to adopt very clear principles and rules in this regard.

Chile did not wish to challenge the convening of the 1971 Group for the time being nor to discuss the legality of the matter. But it wished to make clear certain principles to avoid possible problems in future. Chile believed that any working group within the GATT dealing with trade and environment should subordinate itself to five fundamental principles in its work: (1) First was the principle of duality or differentiation, according to which any standards concerning trade and environment should be differentiated according to countries and the degree of their

responsibility for the state of the environment. (2) The second principle would be to reject standards that could be used as non-tariff trade barriers. Small differences in the environmental characteristics of imported goods as compared to domestic goods could therefore not be used as a pretext to favour domestic producers. (3) The third principle concerned the pertinence of procedure, and the question of whether trade measures were the most appropriate means to achieve certain environmental goals, and whether such measures might not be counterproductive. (4) The fourth principle was that of proportionality, which was of great importance in dealing with the trade and environment link, particularly when a so-called violating country had a small economy highly dependent on trade. This principle would be applied whenever it was considered necessary to adopt trade instruments for environmental purposes. An evaluation would need to be made to see whether or not the restrictive trade effects were proportional to the legitimate environmental objectives. (5) Finally, standards on trade and environment should be defined at the beginning and on a scientific basis. The evaluation of the application of trade measures should be carried out on the basis of scientifically-based proof; they should not just be hidden protectionist measures.

While Chile believed that GATT could have a rôle in assisting in the process of drawing up rules or regulations on this subject, it remained doubtful as to whether GATT should be the main or exclusive forum to do so. All rule-making activities in this field should be carried out in fora with universal membership, such as in the United Nations Development Programme, the United Nations Environment Programme or the Food and Agriculture Organization. He stated for the record Chile's concern regarding the future evolution of the work of the 1971 Group.

The representative of New Zealand said that it was very important for the GATT to make its proper contribution to the debate on trade and the environment. A working group was both desirable and necessary and would serve as a useful first step.

The representative of Mexico recalled that from the very beginning of the Council discussions on this subject, his delegation had expressed itself in favour of an open and constructive debate thereon in the GATT from the point of view of trade liberalization and adequate rule-making, and not trade protectionism. Mexico considered the convening of the 1971 Group to be positive in this respect. This would help in determining and clarifying the relationship between the environmental issues on the Group's agenda and GATT rules and objectives, without entering into an exercise involving the interpretation of the General Agreement, much less the modification of its provisions. In Mexico's understanding, the three items proposed for the Group's agenda -- if they were accepted -- would be the focus of discussions in the Group in the coming months. Any proposed change in this agenda should first be discussed in the Council. Finally, he wished to emphasize that in Mexico's expectation the discussions in the Group would show, once again, that the drafters of the General Agreement had established a contractual instrument that was sufficiently broad so as not to interfere with environmental issues of interest to contracting parties, but which, at the same time, was sufficiently precise so as to prevent such issues from being used as a pretext for protectionism.

The representative of Colombia, referring to the Secretariat's background notes, said that it would be useful if the Secretariat were to continue to provide information on the UNCED preparatory process. With regard to the result of the informal consultations that the 1971 Group should be convened, his delegation accepted this but wished to add that it had not been consulted, and that it had some reservations concerning the items on the Group's agenda. Colombia was concerned at the lack of transparency regarding this subject matter which in other fora was receiving a lot of attention. The GATT should examine all trade aspects of the environment issue, although Colombia shared others' concerns that this should not be allowed to become an obstacle to the Uruguay Round negotiations. In this connection, implementation of the results of the Round consistent with the objectives of the Punta del Este Declaration (GATT/1396) would greatly contribute to environmental protection. He said that Colombia would participate in the Group's work whenever it was convened, and had noted that the Council Chairman would hold further consultations regarding an eventual GATT contribution to the UNCED. He noted also that any GATT contribution would need to be readied before the next -- and last -- meeting of the UNCED Preparatory Committee in March 1992.

The representative of Uruguay said that while his delegation had participated in the first round of informal consultations some time ago, it had not done so in the second, more recent round. The information just provided by the Deputy Director-General was therefore new to his delegation and would need to be transmitted to his authorities for further consideration. In the meantime, his delegation reserved its position. He emphasized that Uruguay attached great importance to the repercussions of environmental issues on trade. During an earlier Council discussion on this topic, his delegation had outlined a list of points which it had considered should be given priority attention in any GATT discussion on the trade and environment linkage. It was disappointing that none of these points, nor any of those just flagged by Chile, had been included in the proposed agenda of the 1971 Group. His delegation had noted that a Group created some twenty years ago had been resuscitated. This was something very unusual, never before seen in the history of GATT. Leaving aside the legal aspects of this issue, he said that contracting parties should now be aware that any group created at any time on any subject could be resuscitated simply by action by one or several contracting parties. He noted that membership in the Group was being extended to any contracting party that wished to participate, and believed that the Group would not be very successful unless a very large number of developing countries were to bring their contribution to its work, and unless it tackled the issue of development, as set out in its terms of reference, in a thorough manner. He also noted that there was no intention to convene the Group in the immediate future.

The representative of the United States welcomed the announcement that the 1971 Group was to be activated. The convening of this Group was important, and would send a message to the world that GATT was sensitive to the crucial link between trade and the environment. The promotion of the world trading system and the protection of the global environment were both critical items on the international agenda. It was essential to ensure

that the pursuit of both objectives was mutually supportive. He noted that the proposed agenda, while limited, was a starting point and that no effort had been made to circumscribe the Group's original mandate. The true significance of the understanding that had been outlined was that delegations, in a spirit of goodwill, had set aside their misgivings and had opened a dialogue. By building upon that goodwill, governments could effectively tackle the manifold challenges posed by the trade and environment interlinkages.

The representative of Cuba expressed regret that once again there had been a lack of transparency in the GATT. Cuba and many other contracting parties had not been invited to any of the informal consultations despite the fact that in earlier Council discussions on this issue they had clearly shown their interest. While Cuba would not object to the consensus which seemed to be emerging, it would say that the convening of a working group dating back to 1971 was precipitating matters. There was no urgent need to convene this Group; it would have been better to wait because the UNCED would possibly have provided further guidance on the work concerning the link between trade and the environment. Cuba would participate in the Group's work in as constructive a manner as possible, and would try to ensure that the concerns of the majority of developing countries would be taken into consideration therein. He reserved Cuba's right to speak on each of the proposed agenda items on the understanding that this subject would be discussed in the broadest possible manner in other fora as well.

The representative of Peru said that his delegation had no objection to convening the 1971 Group. He considered that the Group's rôle should be solely analytical, and that at no time should it be called upon to interpret GATT rules. It was his understanding that the Group would not meet frequently before the conclusion of the Uruguay Round. There were three fundamental principles which should be envisaged in the Group's work: (1) First, trade measures for environmental purposes should not be adopted so long as there was no consensus at the multilateral level clearly establishing what was, and was not, a danger to the environment. (2) Secondly, the introduction of restrictive trade measures on the pretext of environmental protection was not acceptable. (3) Finally, the environmental question had to be tied to the problem of development. Measures adopted in this area should of necessity be considered as prerequisites for the development of the developing countries.

The representative of Malaysia, on behalf of the ASEAN contracting parties, referring to the Secretariat's factual note in L/6896, said that further work might need to be done on the fourth element of the paper, i.e. the listing of trade measures taken by countries for environmental protection as well as environmental measures with trade implications. Information in this area would also be useful in the context of the discussions on trade and environment, particularly in ensuring that trade measures adopted for environmental purposes did not become trade barriers. Additional input from the Secretariat in this area would therefore be welcome.

The representative of the European Communities said that his delegation was encouraged by the Deputy Director-General's report even

though the agreed approach was a little too restrictive and perhaps did not tackle sufficiently or vigorously the environment policy issues as they related to GATT rights and obligations. Nevertheless, the Community supported that approach because even small steps in the right direction deserved support. However, if the Group's results were not decisive, the Community reserved the right to come back to this issue and to suggest a more comprehensive mechanism, no doubt in the post-Uruguay Round phase. The Community awaited with some impatience the opportunity to discuss certain aspects of the trade and environment link within the Council as well, when the Group presented its report thereto.

The representative of Korea said that his delegation had thus far refrained from taking an active part in discussing the trade and environment issue in the GATT, especially because of the strong view prevailing in some quarters in his country that discussion of environmental issues per se tended to be hostile to trade and development. However, after giving careful consideration to this important issue, Korea had decided to support strongly the GATT's involvement in the debate on the trade implications of environmental measures. In this connection, Korea joined in the consensus to convene the 1971 Group. Nevertheless, the successful conclusion of the Uruguay Round negotiations should remain the top priority for contracting parties at the present time. When this priority was closer to being fulfilled, the trade and environment debate could receive close attention. For this reason, Korea welcomed the agreement in the informal consultations that the Group would have only a limited number of meetings until January 1992.

The representative of Nigeria recalled that in earlier Council discussions on this subject, as well as in the informal consultations, his delegation had raised some fundamental questions relating to the 1971 Group which, in twenty years since its establishment, had not met even once. He acknowledged that the Group had no time frame as such and that it was an existing mechanism which could be convened at any time. Nigeria's main concern, however, was the timing of the EFTA countries' request, since it might divert attention away from the speedy conclusion of the Uruguay Round. Nigeria was also concerned whether the Group would still be a flexible standby mechanism to be used at the request of contracting parties, or if it would assume the form of a different mechanism. However, with the EFTA countries' assurance that this was not a diversionary move, Nigeria had no objection to convening the Group.

Nigeria did not believe that the Group's mandate should be changed in any manner which would preclude the main objectives which, among others, aimed at protecting the human environment and taking into account the particular problems of developing countries. Those goals were still as relevant today as they had been in 1971, although the emphasis then had been on industrial pollution. Nigeria could accept the agenda for the Group's discussions, as agreed in the informal consultations. It would, however, insist that in the Group's future work, issues of particular and special interest to developing countries be taken into consideration adequately. In this regard, he mentioned the need for simultaneous action

to be taken by contracting parties for the alleviation of poverty and the heavy debt and debt service burden in developing countries through improved terms of trade. There was also an urgent need to conclude the work in regard to the export of domestically prohibited goods, which would complement any future work on trade and environment.

The representative of Australia welcomed the convening of the 1971 Group, and said that Australia would be seeking to play an active rôle in its deliberations. It was particularly gratifying that the Group was to be convened in an atmosphere of consensus and with an agenda sufficiently broad to commence the discussion of the key trade and environmental linkages.

The representative of Venezuela said that his delegation had not participated in the informal consultations and therefore reserved the right to revert to this item at a future Council meeting, particularly as regards the agenda of the Group. Venezuela had supported an exchange of views in the GATT on the link between trade and the environment. If there were clear-cut rules and regulations in this area then Venezuela, for one, would certainly not face as many problems as it had had to tackle recently. He expressed the hope that the GATT would make an important contribution to the UNCED, and assured contracting parties of Venezuela's cooperation in this regard.

The representative of India said that the 1971 Group had been a standby mechanism for the purposes of addressing specific issues, and that such issues had been identified in the informal consultations. By the same token, as and when contracting parties came across further specific issues in future, there would be no problem in their being addressed by the Group. However, in India's understanding, the three issues agreed in the informal consultations were, for the present, the only agenda for the Group. He noted that the Group's original mandate was still valid, and that its work would be conducted under that mandate which, among other things, called on the Group to take into account the particular problems of developing countries.

The representative of Argentina said that his delegation had participated actively in the informal consultations, and was pleased to note that almost complete agreement had been reached therein on the convening of the 1971 Group as well as on its agenda. As regards the substance¹ of the matter, he recalled that Argentina had made a lengthy statement¹ at the May Council meeting detailing its position on all aspects of the trade and environment issue, in particular on GATT's rôle thereon.

The Chairman said that he would initiate further consultations on the question of a GATT contribution to the UNCED when all the relevant documents prepared by the Secretariat had been distributed to delegations. As had been noted by Colombia, a certain timetable for these discussions in the GATT had been decided by the timetable of the UNCED preparatory process

¹Spec(91)89.

itself. He noted that there had been some confusion during the whole discussion on this subject as to whether the Council had to decide on the convening of the 1971 Group. It was quite clear that this had never been requested by any contracting party and that this issue had never been before the Council. However, contracting parties had agreed to consult on this matter in order to facilitate the Group's work, and part of those consultations had concerned the question of what would be a proper agenda for this Group. It was quite clear that the Group's original mandate remained, but within that mandate one had had to discuss the specific issues to be addressed. In these consultations, agreement had been reached that the three issues outlined by the Deputy Director-General would form the Group's agenda for the present. He noted that some delegations at the present meeting had expressed certain reservations with regard to that agenda, and said that these would have to be taken into account, presumably in the Group itself, because it was not a practical possibility for the Council to start to discuss the agenda of different groups.

In this connection, he proposed that the Council agree that the Chairman of the Working Group should consult with interested parties to see if changes in the Group's agenda were necessary to take their concerns into account. He also proposed that the Council authorize him to designate a new Chairman of the Working Group in consultation with interested contracting parties since Mr. Kaya, the present Chairman, was no longer available.

The Council so agreed and took note of the statements.

12. EC/Japan - Trade in motor vehicles

The representative of the European Communities, speaking under "Other Business", informed the Council that Japan and the European Communities had reached a mutually acceptable solution regarding their future trade in motor vehicles, and that both parties intended to notify jointly the outline of this accord to contracting parties shortly.

The Council took note of the statement.

13. United States - Imports of lumber from Canada (SCM/83)

The representative of Canada, speaking under "Other Business", said that on 3 September Canada had given the United States notice of its intention to terminate the softwood lumber Memorandum of Understanding which had been entered into by the two countries on 30 December 1986 to resolve differences with respect to the conditions affecting trade in softwood lumber products (see SCM/83, page 3). Termination by either party had been explicitly provided for in the Memorandum upon 30 days' notice.

² An outline of this accord was subsequently notified in L/6922.

He recalled that in October 1986, the US Department of Commerce had preliminarily determined a 15 per cent subsidy on Canadian exports of softwood lumber products to the United States. This had reversed a 1983 no-subsidy determination by the Department of Commerce, even though there had been no substantive change in the intervening period in international trade rules, US countervailing law, or Canadian timber pricing practices. Faced with the prospect of a final affirmative determination, Canada had agreed under duress, in the Memorandum of Understanding, to impose a 15 per cent export tax on certain softwood lumber products exported to the United States. This arrangement had not been envisaged as permanent and had been intended to provide time for Canada's provincial governments to implement planned changes in forest policies, including increases in charges to the lumber production industry. The Memorandum had allowed Canada to reduce or eliminate the export charge on the basis of these increased costs. By 1991, the 15 per cent export charge applied to less than 10 per cent of Canadian softwood lumber exports to the United States.

On 4 October 1991, the United States had responded to Canada's exercise of the Memorandum of Understanding's termination clause by announcing the initiation of a countervailing duty investigation of softwood lumber exports from Canada -- the third such investigation of this industry in eight years, and with no evidence of a subsidy. At issue was whether the price that a government charged for the right to cut timber was a countervailable subsidy. His delegation believed that this issue should be a matter of concern to all natural-resource producing contracting parties. The United States had also announced, on 4 October, the implementation of a new bonding requirement applicable only to softwood lumber imported from Canada. The effect of this new requirement -- implemented pursuant to Section 301 of the Omnibus Trade and Competitiveness Act of 1988 -- was that lumber exported by mills in certain provinces between 4 October and the date of the preliminary countervail determination would be subject to a retroactive duty of up to 15 per cent should the final outcome of the countervail investigation be affirmative. This measure was a clear breach of the United States' GATT obligations. Regrettably, the US Administration had yielded once again to protectionist pressures from US industry and Congress. Canada intended to seek recourse to GATT dispute settlement procedures, including the urgent establishment of a panel, to confirm that timber pricing practices did not constitute a countervailable subsidy and that the Section 301 bonding requirement was inconsistent with the United States' GATT obligations.

The Council took note of the statement.

14. Training activities - Special course for officials from Eastern and Central European countries

The representative of Switzerland, speaking under "Other Business", recalled that Switzerland had recently financed a special trade policy course, within the framework of GATT's training activities, for officials from Eastern and Central European countries responsible for GATT matters. He informed the Council that his authorities were prepared to finance another such course and that they would work with the Secretariat to ensure

that the organization, programme and the modalities of this course duly took account of the lessons learned from the previous one.

The representatives of Hungary, Romania, Poland, Yugoslavia, and Bulgaria (as an observer) thanked the Swiss authorities for having financed the earlier special trade policy course, which had proved to be extremely useful for all participants, and noted with appreciation Switzerland's readiness to finance another such course.

The representative of Romania said that as a result of this course officials from his country had acquired indispensable knowledge which had enabled them to participate in the elaboration of a new trade policy for Romania based solidly on GATT rules and disciplines.

The representative of Poland said that Switzerland's sponsorship of this course had been a valid contribution to the promotion of GATT standards and values.

The representative of Bulgaria, speaking as an observer, said that the course organized at Switzerland's initiative would help his Government in acceding to the GATT more rapidly.

The Council took note of the statements.

15. Korea - 1992-1994 Programme of liberalization (L/6834)

The representative of New Zealand, speaking under "Other Business", reiterated his Government's concern regarding Korea's obligations to phase out its GATT-inconsistent balance-of-payments measures.³ At the most recent plurilateral consultation, held on 1 July, Korea had declined a request by New Zealand and a number of other contracting parties to expand its 1992 product liberalization list. While the domestic difficulties entailed by liberalization were understood, New Zealand remained very disappointed at the coverage of Korea's 1992-1994 programme (L/6834). New Zealand had indicated its willingness to work with Korea to help phase in liberalization in the most equitable and non-disruptive manner possible. New Zealand looked to enter into further discussions with Korea to press for a more flexible response to its concerns than had been shown thus far.

The representative of the United States said that his delegation shared New Zealand's concern over Korea's continued reluctance to schedule the liberalization of its trade restrictions formerly maintained under the cover of Article XVIII. As his delegation had indicated at the July Council meeting, the 1 July consultation with Korea had offered the United States little comfort. Not only had Korea failed totally to indicate any expansion in the coverage of the liberalizing measures, but it had also refused to provide even basic information on all current measures affecting trade in the products that had been scheduled for liberalization in the current programme. He noted that the recent experience with Korea did not

³See BOP/R/183 and Add.1.

compare well with certain other countries which had been able to eliminate GATT-inconsistent trade measures despite ongoing balance-of-payments difficulties.

The representative of Australia recalled that at the July Council meeting his delegation had noted that plurilateral consultations with Korea had highlighted three main areas of outstanding differences, namely inadequate product coverage, uncertainty over the nature of liberalization, and unacceptable linkages with the Uruguay Round. In underscoring its concerns and expectations, Australia had looked forward to resuming consultations with Korea once the latter had reflected further on these issues. Thus far, there had been no response from Korea, and Australia once again urged it to examine carefully the concerns raised and to come forward with a positive and flexible response at an early date.

The representative of Canada said that his delegation agreed with the statements made by New Zealand, the United States and Australia on this matter.

The representative of Korea recalled that at the July Council meeting his delegation had reported on the results of the 1 July plurilateral consultations which had been held with five interested contracting parties. In accordance with the request by the interested contracting parties, Korea had further provided them, at the end of July, with detailed information on the trade régime of the products covered in the first liberalization tranche. As his delegation had previously indicated, the product coverage reflected in the 1992-1994 programme was the result of Korea's best and maximum efforts to address the interested contracting parties' interests, and he regretted that it remained difficult to accommodate their requests at the present time. Korea's deteriorating balance-of-payments situation, which had led to a trade deficit of US\$7.9 billion at the end of August, had put it into a more difficult position in this respect. However, his delegation wished to assure all that Korea's multilateral, as well as bilateral, commitments would be implemented faithfully. He added that the concerns expressed by the interested parties at the present meeting would be conveyed to his authorities.

The Council took note of the statements.

16. Latin American Economic System (SELA) - Conclusions of the Sixth consultation meeting on the Uruguay Round

The representative of Costa Rica, speaking under "Other Business" in his capacity as coordinator of the Latin American and Caribbean Group of countries, informed the Council of the conclusions of the Sixth consultation meeting of SELA on the Uruguay Round held in Geneva on 3 October 1991 to review and evaluate the situation of the Uruguay Round negotiations, and to define these countries' strategy for the final phase.⁴

⁴The text of the conclusions was subsequently circulated as MTN.TNC/W/88.

At that meeting, these countries had expressed their preoccupation with respect to two kinds of asymmetries that had persisted since the Uruguay Round Ministerial meeting in Brussels in December 1990. On the one hand, in areas such as services and intellectual property the broad outlines of final texts were clearly emerging, in marked contrast with the substantially unsatisfactory situation in other areas of greater interest to the region such as market access, including tropical products and natural resource-based products, textiles, agriculture, and the strengthening of the rules and disciplines of the multilateral trading system. On the other hand, while the Latin American and Caribbean countries had participated actively with constructive and flexible positions, this attitude had not been reflected in the position of the major industrialized countries. The Latin American and Caribbean countries agreed on the need to complete the Uruguay Round in the shortest possible time. They considered that the negotiating process would only be valid if it redressed the above-mentioned asymmetries and was subject to procedures that guaranteed transparency, full participation, and results that amply contemplated the fundamental interests of all countries. A set of limited or partial results, especially if they did not correspond to the objectives that were most important for these countries, would be totally unacceptable. Recalling that, in conformity with the Punta del Este Declaration, an evaluation of the results of the negotiations should be undertaken before their completion, he said that these countries would contribute with an updating of their own evaluation. The countries of Latin America and the Caribbean were willing to continue their substantial contribution and to assume their responsibilities under the conviction that all other participants would proceed similarly, in particular the major trading nations. They had decided that the Sixth consultation meeting would remain open in order to monitor the evolution of the process and to update the evaluation at the time deemed most appropriate.

The Council took note of the statement.

17. Establishment of a panel under the April 1989 improvements to the GATT dispute settlement rules and procedures (BISD 36S/61, C/M/249 - Item 10, C/M/250 - Item 16, C/M/251 - Item 19)

The Chairman, speaking under "Other Business", recalled that at the April Council meeting when Brazil's request for a panel to examine its complaint against the United States over a matter involving alleged denial of MFN treatment was being considered for the second time, he had stated that "the April 1989 Decision established the rule that unless there was a consensus not to establish a panel requested by contracting parties, a panel would have to be set up at the second Council meeting at which the matter was being discussed"⁵. There had been questions regarding the

⁵C/M/249, page 24.

interpretation of this and he had held consultations with the contracting concerned. He wished to clarify that in his understanding, the possibility indicated in the April 1989 Decision that there might be a consensus not to establish a panel at the second Council meeting also included the possibility of a consensus to postpone the consideration of a request for a panel.

The Council took note of the statement.