

GENERAL AGREEMENT ON

C/RM/M/23
12 May 1992
Limited Distribution

TARIFFS AND TRADE

COUNCIL
11-12 March 1992

TRADE POLICY REVIEW MECHANISM
UNITED STATES
MINUTES OF MEETING

Chairman: Mr. B.K. Zutshi (India)

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I. INTRODUCTORY REMARKS BY THE CHAIRMAN OF THE COUNCIL

1. The Chairman welcomed members of the Council to the second trade policy review of the United States. He recalled the objectives of the Trade Policy Review Mechanism as decided by the Council on 12 April 1989 (L/6490). Accordingly, the Council was to base its work on two reports, one submitted by the United States (C/RM/G23) and the other by GATT Secretariat (C/RM/S/23A, 23A/Add.1 and 23B).

2. The Chairman noted that the report by the United States followed the format outline agreed by the Council in July 1989 (L/6552). In preparing its report, the GATT Secretariat had sought clarification from the United States on the information contained in the six factual chapters of the report. Some Contracting Parties had given advanced notice in writing of the points they wished to raise during the meeting. The United States delegation had been informed of these points. It was understood that these questions should not limit the scope of discussion in the meeting.

3. As this was a second review, the Chairman invited the participants to focus principally on how the United States' trade policies and practices had developed since the first review in 1989. Two main themes were proposed as guidelines for the discussions:

(i) The general economic environment, including: the evolution of the United States economy, the developments in macro-economic policies and their effects, the development of the United States' general policy approach toward multilateral and regional trade liberalization, including the Uruguay Round, the Canada-United States Free Trade Agreement, the NAFTA negotiations, the Andean Trade Preference Act, and the "Enterprise for the Americas".

(ii) Developments in trade policies and trade related measures, including: the effects of the trade agreements on trade with third parties, trends in m.f.n. and GSP treatment, actions taken in the context of GATT Panel recommendations, the use of safeguard measures, VERs and OMAs, developments in the fields of anti-dumping and countervailing measures, recent sectoral policy changes in agriculture, steel, textiles, clothing, shipbuilding, semi-conductors and machine-tools, as well as questions relating to bilateral trade policies.

4. The Chairman thanked Mr. Szepesi and Mr. Suntavaruk for agreeing to contribute, in their personal capacity, as discussants at the meeting. He invited the representative of the United States to give his introductory statement, followed by the two discussants.

II. OPENING STATEMENT BY THE REPRESENTATIVE OF THE UNITED STATES

5. As the United States commences its second full review under the GATT's Trade Policy Review Mechanism (TPRM), I cannot help but reflect upon the remarkable changes the world has witnessed in the past few years. The end of the cold war and the march of so many nations towards lasting economic reform spur hopes that we may be about to enjoy an era of unprecedented economic vitality and international cooperation. Never before have so many nations espoused the principles of free trade. Yet, at the same time, there are many troubling signs. The five-year effort to liberalize world trade and reform the GATT is in jeopardy. Slow economic growth has hit the major industrialized countries, and many others in Eastern Europe and the developing world are still struggling to find economic stability. Perhaps most unsettling are the signs of increasing trade friction and greater protectionist pressures throughout the world.

6. As the world seeks to come to grips with these developments, so too does the United States. My government, like yours, is working hard to develop and implement the policies that will establish a firm foundation for this new economic environment. The questions before us are simple to ask yet hard to answer. How do we capture the good things that have so dramatically transformed our world without surrendering to the bad? How can we best assure a stable and prosperous world economy? Without such an environment, little else will be possible.

7. The United States, as the Secretariat's report notes, remains the world's largest economy. In 1991 we were the world's largest single exporter and importer. Our influence on the world economy and our responsibility for leadership cannot be ignored. That is why I want to begin this review with a restatement of my government's commitment to open world trade. I believe the policies examined in this year's TPRM report manifest such a commitment. Despite a troubling recession and the cries for economic isolationism that often accompany such downturns, the United States Government remains convinced of the need to promote world growth through the liberalization of trade and investment. Our primary effort in the trade policy field these past two years has been to secure an agreement to modernize GATT and reduce trade barriers. Our use of trade policy tools during this period has been directed towards opening rather than closing of markets. We have sought cooperation rather than conflict in our bilateral disputes, and we have shown our respect for the multilateral system by bringing disputes to the GATT where relevant rules exist.

8. I should also say that my government is very concerned about the increasing tendency of some groups to advocate protectionism and less trade as a solution. The approach advocated by some in the United States would put us at odds with the clear trend in the world towards lower trade

barriers and more open investment. Trade liberalization by many countries has helped to fuel and increase in U.S. yearly exports of \$168 billion since 1987 and an \$86 billion reduction in our trade deficit in the same period. The United States has been the leading advocate of economic liberalization since GATT's inception, and it would be a tragic error to abandon such policies just when they are gaining broad acceptance and credibility around the globe. It is an error we do not intend to make.

U.S. Economic Outlook

9. Given the size of the U.S. share of both global trade and production, it is important to many of our trading partners as well as our own citizens that the current modest expansion of the U.S. economy continues and strengthens. In this regard, the Secretariat's report contains a wealth of useful information about our economy.

10. Over the last 3 quarters of 1991, the U.S. economy grew at a very modest rate of 1.3 per cent. In the last quarter of last year, the rate was under 1 per cent (just 0.8 per cent), leading to some fears of a double dip recession. However, data about the U.S. economy's performance in the first two months of this year, while not conclusive, give some reasons for optimism.

11. U.S. retail sales, factory orders, new home sales, and leading economic indicators have all increased significantly. Although the U.S. unemployment rate is up and the average work week has lengthened in the latest data.

12. Some of the concerns expressed in the Secretariat's report had less to do with immediate prospects for the economy than with longer term structural factors possibly affecting U.S. growth. While the U.S. saving rate has remained low during this recent period of economic downturn and the investment rate has not yet begun to recover, there are other promising developments which should not be overlooked. The private sector of the U.S. economy has acted to strengthen its balance sheets as households have reduced debt and business has substituted equity for debt. The Administration is proposing new incentives to greater private saving and investment. And, while the Federal budget deficit is under temporary pressure from the recession and the restructuring of the U.S. saving and loan industry, the 1990 budget accord between the President and Congress calls for much lower federal deficits in the future. Despite calls from many in the Congress to break this accord, the President remains committed to holding the line.

U.S. Contribution to World Trade

13. I cannot help but mention what I believe is an understatement by the Secretariat of the contribution of the United States to the growth of world trade.

14. Let's look at a few revealing figures. United States imports accounted for over 17 per cent of the overall growth in world trade in the last decade. Of the major industrialized nations, we are the largest absolute and per capita importer of automobiles, steel, textiles and consumer electronics, and we absorb the greatest share of exports from the developing world. We are the world's largest single market for foreign investment. Our tariff rates are generally low, and we have relatively few non-tariff rates barriers. Of course, certain sectors of our economy benefit from high tariffs or non-tariff protection. I am certain you will be raising these items for discussion. On balance, however, we have maintained an open market despite growing pressure for greater protection.

15. This year's report reveals clearly the progressive globalization of the United States economy and all of our major industries. In 1959, merchandise trade accounted for only 6 per cent of our GNP. Today it is almost 17 per cent. Even more striking is the fact that international transactions overall (merchandise trade, services trade, and foreign investment earnings) account for almost 30 per cent of our GNP. The trend toward internationalization of our economy will undoubtedly continue.

The Uruguay Round

16. The reality of a more interdependent world economy confronts all GATT members. Facing this reality is our toughest challenge. That is why so many GATT members have placed emphasis on the success of the Uruguay Round. A strengthened multilateral trading system is indispensable to our future, because national borders become less relevant every year. The question, therefore, is how we would co-exist without an effective set of international rules to govern trade. The real significance of the Uruguay Round is that it recognizes an need to move away from the current structure of competing national trade policies towards a bolder and more relevant system of global rules. Although we are closer to success than at any time, many throughout the world still have not grasped the importance of success or the consequences of failure. Let me assure you that my Administration continues to see these negotiations as essential to the smooth functioning and future growth of the world economy. Our recently issued "Trade Policy Agenda" makes this priority clear.

GATT and Other "Isms"

17. The Secretariat's report devotes so much attention to the "regionalism" issue in the context of U.S. policy. Some would get the idea that we are acting alone in pursuing preferential trade arrangements! The Secretariat's report expresses fears of erosion of GATT principles, threats of trade diversion, damage to third party interests, and uncertainty with respect to consistency with GATT rules. I find this a bit extreme. The United States has two free trade areas, both fully consistent with GATT principles. Other preferences that have been adopted for developing countries, such as our preference for the Caribbean and Andean regions (which involve very small volumes of trade), have been brought to GATT and granted waivers. No U.S. preferential arrangement raises new barriers to trade of third parties.

18. I am confident that the United States will continue to pursue future preferential arrangements, such as the North American Free Trade Area, in a manner fully compatible with GATT principles. And I trust that those in Europe, Latin America and Asia who also are vigorously pursuing regional arrangements will do the same. These regional arrangements are gaining ground because they make political and economic sense. They facilitate trade liberalization, and, if they are properly structures, they can provide a boost to liberalization within the GATT. In the long run, the solution for reducing the margins of preference for such arrangements is to lower MFN tariff rates in the GATT, rather than to discourage positive steps such as the North American Free Trade Area.

GATT and Trade Disputes

19. Let me now turn to the charges of unilateralism. I should first say that U.S. trade policy continues to emphasize the importance of adherence to GATT rules. The Secretariat's report, for example, indicates that during the last two years, we acted to implement the recommendations of three GATT panels. This is evidence of our commitment to live by GATT standards.

20. With respect to U.S. actions against others, the Secretariat's report gives a balanced account of our handling of trade disputes, including our use of Section 301. The report confirms our reliance on GATT dispute settlement procedures for matters within the competence of GATT. I would disagree, however, with the Secretariat's conclusion that the U.S. is unwilling to commit not to use Section 301 authority in GATT-related cases without first completing the GATT dispute settlement process. In December, we expressed our support for such a requirement in the context of a successful Uruguay Round agreement because we believed that the new Uruguay Round dispute settlement rules would secure prompt compliance with panel reports. Without such improvements in the dispute settlement rules

however, the GATT will continue to be an incomplete system for resolving trade disputes.

21. The Secretariat's report refers properly to our "measured use of Section 301" during the past two years. We have sought to use this law as an effective means of securing broad trade liberalization and have avoided retaliation. Our objectives under this law have mirrored our broader objectives in the Uruguay Round.

Sectoral Arrangements

22. With respect to charges of allegedly "managed trade", the GATT report notes, in particular, sectoral agreements on semiconductors, automobiles and steel. The issue in examining these arrangements is whether they seek to reduce and distort trade or whether they expand trading opportunities for all. Let me explain why I think the latter is the case.

23. First, the results of these talks have benefited other exporters besides the United States. For example, as a result of the beef and citrus talks with Korea and Japan, imports into these two countries from non-U.S. exporters increased substantially. Exports of beef to Japan from countries other than the United States nearly tripled after our Section 301 agreement was reached, (1986-90), and the rest of the world's citrus exports to Japan grew several times faster than those of the United States. In the first year of the opening of the Korean beef market (1989-90), U.S. exports grew by \$50 million, while the rest of the world exports grew by \$36 million. This will also be true of our recent formal bilateral agreements on semiconductors and computer procurement and our discussions on the automotive sector. They will provide market access opportunities for ALL firms, American and non-American alike. In that sense, they are not incompatible with GATT objectives.

24. Second, these sectoral discussions should be placed in the broader context of our overall bilateral relationships. For example, it should not be surprising to anyone in this room that trade and economic policy is a predominate feature of our bilateral relations with Japan -- the world's second largest economy. These sectoral talks attempt to reduce tensions in a complicated and volatile bilateral relationship, an effort vital to the stability of the entire world economy.

25. As part of our bilateral dialogue, Japan has announced initiatives to resolve standards issues, promote imports and investment, and open government procurement. These efforts will help other countries compete in the very tough Japanese market. Moreover, both sides have agreed to address structural problems that might act as impediments to trade expansion. Changes in these areas are, by their very nature, non-discriminatory.

Semiconductors

26. With respect to semiconductors, the purpose of the U.S.-Japan arrangement as stated is to "enhance free trade in semiconductors on the basis of market principles and the competitive principles of the General Agreement on Tariffs and Trade". Contrary to a VRA, which would limit exports in this sector, the purpose of the arrangement is to increase market-access into the Japanese market on a non-discriminatory basis.

27. With respect to the \$25 billion U.S. market for semiconductors, imports have averaged over 50 per cent of consumption since 1989. Our tariff rate is zero and there are few non-tariff restraints. These are hardly the indicators of managed trade.

28. Finally, we are puzzled as to why the Secretariat has called such efforts non-transparent. The Arrangement specifically states the willingness of each government to consult with any interested third country upon request. We have already held such consultations with certain contracting parties in this room.

Autos and Auto Parts

29. With respect to the automotive industry, the 12 million unit annual U.S. retail sales market for cars and trucks and the \$100 billion U.S. market for automotive parts are the world's largest markets for these products. In recent years, imported cars have accounted for about 30 per cent of the U.S. retail sales market and imported parts have accounted for over 25 per cent of the U.S. market for parts. U.S. tariffs on these products are low: 2.5 per cent on autos and an average of 3.1 per cent on auto parts.

30. The GATT report indicates that Japan's voluntary export restraint of passenger cars, first introduced in 1981, still continues. On March 1, 1985, however, the U.S. Government announced that it would not ask the Japanese Government to renew the VER. This request remains in force and, as the report points out, imports of these cars have been running thousands of units below the VER ceilings for some years.

31. Regarding our recent discussions with Japan, the voluntary actions of Japanese auto companies (not the Government) to increase their purchases of foreign-made parts can only serve to create future trade opportunities for the firms that produce auto parts worldwide. Furthermore, these discussions serve a useful purpose in changing the Japanese system from one based largely on private business relationships to one based more on price, quality, and delivery.

Steel

32. The report discusses at length our VRAs on steel but says little about the massive subsidies world-wide that brought injury to U.S. producers while allowing a certain level of trade to continue. The United States recognizes that VRAs are not a desirable tool of trade regulation. We have already indicated that in the steel sector VRAs will shortly be terminated. However, we must stress the need for an effective international consensus to discipline subsidies to the steel sector. Subsidized trade is not compatible with free trade, and it must be curtailed if GATT principles are to mean anything in this sector. Many other countries have acknowledged this problem, and have entered into negotiations with us on a multilateral consensus agreement on steel trade practices. The success of this endeavour will be critical in assuring that the steel sector -- one of those sectors that receives the heaviest levels of government support -- becomes more market oriented.

Tariffs and Non-Tariff Measures

33. The Secretariat's report acknowledges our generally low average tariff, (about 5 per cent on a trade-weighted basis) although it does cite relatively high tariffs on some agricultural commodities, textiles and clothing, ceramics and glassware. I should point out, however, that in many of these sectors import levels are still substantial despite our high tariffs. Nevertheless, we are engaged in negotiations to reduce barriers in these sectors in exchange for similar liberalization by others. Of course, tariffs are on the table in the Uruguay Round, where we would be pleased if some of our trading partners would try to bring their average industrial tariff rates down to our level. The report also talks about certain non-tariff barriers in agriculture and textiles, which are similarly on the table in the Uruguay Round. In agriculture, our policies compare favourably with those of others (for example, the report shows that our producer subsidy equivalent of 30 per cent of all agricultural programs is well below the OECD average). Our advocacy of overall reform of world agricultural trade is well known, and need not be recounted here.

Antidumping

34. The report raises certain issues about U.S. use of antidumping measures. It acknowledges that antidumping actions affect less than 1/2 of 1 per cent of U.S. imports, but indicates a correlation between the threat of antidumping actions and the emergence of VRAs. Since I have already discussed these two sectors, I merely want to indicate here that the actual number of final decisions leading to Antidumping orders has declined since the 1989 TPRM review. There were only 8 orders imposed in 1990 and 11 orders in 1991, compared to 36 orders in 1989.

35. Having said this, let me state for the record that the United States believes our antidumping procedures are fully in accord with GATT. This is a GATT-sanctioned remedy which, if fairly and transparently implemented, serves to enhance and safeguard the benefits of a liberalized trading system. Considering the fact that our market accepts such a massive volume of imports, there are bound to be many complaints - legitimate complaints - from domestic industries about unfairly priced imports.

Conclusion

36. United States negotiators were among those pushing the hardest for early agreement on the Trade Policy Review Mechanism at the Montreal Mid-term Review session. Recognizing now just how much work is involved in preparing for these reviews - which in our case come up every two years - I sometimes wonder if our negotiators realized what they were getting us into. But more seriously, we backed the TPRM then and we support it even more strongly now as the central element of the trading system's surveillance function. I know that not all delegations that have had the pleasure of undergoing the TPRM exercise have been fully satisfied with their experience, and some have even complained at what they seemed to feel was "unfair" criticism of their trade policies by other parties. It is almost as though they thought the point of the exercise should have been to give them a big pat on the back.

37. For our part, we welcome discussion and debate on American trade policies. We come from a political tradition that values vigorous public discourse. Overall, we stand by our trade record and we believe that record compares favorably to others. We even accept the need to apply more rigorous scrutiny to the United States and other "majors" because we have a greater influence on world trade. And, we welcome legitimate, fact-based, criticism. Just as we defend our policies to an international audience here in Geneva, we believe our domestic audience needs to hear the concerns our trading partners express in respect of certain of our trade practices. In short, we can dish it out, but we can also take it.

III. STATEMENT BY THE FIRST DISCUSSANT

38. The first discussant expressed his appreciation to the Secretariat and to the U.S. authorities for providing a valuable basis for discussion. He viewed the U.S. report as a progress report to be read in the light of the first U.S. TPRM report, in order to understand the issues raised in their real context.

39. During the recent recession, rapid growth in merchandise exports had supported the U.S. economy and contributed to considerable declines in the trade and current account deficits. As the United States was the largest single economy and trading nation, its economic prospects had a crucial impact on future trends of world output and trade. He therefore suggested that the U.S. delegation comment both on the most recent trends in leading economic indicators, and on the relationship between trade policies and macroeconomic policies. In particular, what changes in trade policies had been made during the last two years, what was the current sentiment regarding trade policies in Congress and among industries, and was there not a risk that a more pronounced economic recovery might lead to an increased demand for imports and generate additional protectionist pressures?

40. Three broad trade policy objectives were defined in the 1992 U.S. Trade Policy Agenda. The first stated objective was to complete the Uruguay Round, and this review provided an opportunity for the U.S. delegation and other members of the Council to express a strong determination to reach a successful conclusion to these talks within a timeframe close to the schedule already fixed. The second objective, which was to continue bilateral and regional efforts to promote trade liberalization, would be developed by the second discussant. The third declared objective was to enforce U.S. trade agreements and to employ the leverage of its U.S. market and trade laws to encourage further sectoral market opening, such as in telecommunications, steel, shipbuilding, civil aircraft and government procurement.

41. An effort had been made by the U.S. authorities to restrain recourse to unilateral action, but there were still seven Section 301 investigations outstanding, as well as similar procedures concerning trade in telecommunications and government procurement. There was also pressure from U.S. industry to identify 31 trading partners as "priority countries" under the special 301 provisions. In this context, was the United States prepared, in the event of a successful Uruguay Round outcome, not to use unilateral action to respond to an alleged GATT violation without first completing the GATT dispute settlement procedures?

42. The United States had a good record on transparency. U.S. trade policy formulation and implementation permitted open discussion of all

elements of concern to trading partners, but remained complex. This complexity reduced its transparency.

43. With regard to agriculture, the United States pursued a dual approach. Whilst on the one hand seeking radical reforms in multilateral rules and disciplines on agricultural trade in the Uruguay Round, the United States had maintained or strengthened agricultural protection for another five years through the Farm 1990 Act and the Omnibus Budget Reconciliation Act, despite certain steps to improve market orientation. The scope of the Export Enhancement Programme might also increase, depending on the results of the Uruguay Round. The expansion of subsidies was justified, in the United States' view, by the perceived need to respond to subsidized competition. Was it not also a pretext for protection of domestic producers?

44. In addition, import quotas were still maintained on a number of agricultural products covered by the U.S. GATT waiver. Producer subsidy equivalents had increased in 1991 for a number of products including wheat, wool, coarse grains, sugar, beef and sheepmeat. Such assistance programmes were bound to have a major negative impact on the trading opportunities of other exporting nations; they were also costly to U.S. consumers, as the ITC had pointed out, particularly in dairy products, peanuts and meat. Could the situation not be changed to the benefit of consumers?

45. Although some sectoral arrangements and "grey area" measures had expired or were about to do so, most remained in force. The renewal of the semiconductor agreement with Japan included a new 20 per cent foreign market share. Voluntary restraint arrangements on machine tools were also being extended with Japan and Taiwan, though some restraints were allowed to lapse. Although some VRAs on steel would shortly expire, the future of MFA restrictions, which the United States continued to use heavily, would depend on the outcome of the Uruguay Round. Given this disparate picture, some questions naturally arose. What was the United States current policy regarding "grey area" measures? Why were VRAs maintained on machine tools from countries whose share of imports had declined, whilst imports from other countries were growing unabated? In the case of steel, would VRAs be reintroduced if a Multilateral Steel Agreement did not occur, or would the United States resort to its trade laws in the event of allegedly unfair trading practices? Did the growing importance of bilateral agreements with Japan, as manifested in the areas of semi-conductors and motor vehicles) not in fact constitute a major departure from the rules of the multilateral trading system?

46. As regards competition policies, there was an apparent contradiction between the absolute prohibition of import cartels by U.S. domestic law, and the legality of certain export cartels. There was also a dichotomy in the application of U.S. anti-trust law as between enterprises in the

United States and those abroad which were subject to VRAs. Was it not reasonable to suggest that the "sovereign compulsion" exemption from anti-trust laws might encourage the creation of export restrictive arrangements cartel-type agreements supported by foreign Governments, and operated through cartel-type agreements among both importers and exporters?

47. The discussant concluded that the review of developments in the U.S. trade policies and practices had confirmed his belief that the U.S. market was open in many respects, and that the interests of both the United States and its trading partners would best be served by an early successful conclusion of the Uruguay Round negotiations, which would consolidate trade liberalization thanks to strengthened multilateral rules and disciplines.

IV. STATEMENT BY THE SECOND DISCUSSANT

48. The second discussant noted that the United States was a leader, in many aspects, of both the world economy and trade. As the United States Government had reiterated its commitment to multilateral trade liberalization in the document prepared for this review, what was the relationship between this leadership role and the trade liberalization objective? In particular, what actions had been taken by the government towards this objective over the past two years? What were the plans for future trade liberalization aside from the ones under the Uruguay Round? What trade policy objectives, such as the reduction of trade imbalances, which could explain the direction of U.S. trade practices?

49. United States trade policy was effective and several factors contributed to this effectiveness. Many countries relied increasingly on the U.S. market and frequently wanted to maintain their market shares at all costs. In addition, the comprehensive collection of trade laws gave specific powers and authority to the administration in conducting trade policy, whilst defining mandatory procedures for the identification of the sources of country and commodity specific trade problems. This might explain the United States' recourse to specific trade instruments and measures.

50. Regional trade arrangements - the Andean TPA, NAFTA and the Enterprise for the Americas Programme - were a new priority for United States trade policy. In contrast to other agreements, the North American Free Trade Agreement encompassed trade, investment, intellectual property protection as well as a dispute settlement mechanism. This and other arrangements merited praise if they were market-oriented means to spread the scope of and accelerate world-wide trade liberalization. Given the timing of these recent initiatives, s, had the various preferential trading arrangements affected the balance of concessions offered in the Uruguay Round by the involved trading partners?

51. Differential tariff treatment, in the context of regional trading arrangements, had been one of the most effective instruments of U.S. trade policy, given the size of, and degree of competition in, the U.S. market. There were substantial differences between m.f.n. rates (and a fortiori non-m.f.n. rates) and the rates applied to certain preferential sources. How significant might trade diversion become after the implementation of certain of these arrangements? Could not their implementation erode the basic m.f.n. principle of GATT?

52. With respect to the use of non tariff measures, recent changes in trade policy implementation gave conflicting signals as to the direction of medium-term policy. For example, although a tariff quota had replaced sugar quotas, other non-tariff measures were still maintained on historical

grounds. In the light of recent USITC estimates that consumer losses of about US\$1.4 billion were caused by import restraints on sugar, dairy products, peanuts, cotton and meat, the question arose how consumer gains were taken into account in the decisions to retain import restrictions.

53. Restrictions on imports of yellow fin tuna were attracting world-wide attention. Did the prohibition on imports from intermediary countries set the tone and the future direction of U.S. trade policy? Also, if these import restrictions remained in force once a preferential trade arrangement was concluded between the countries involved, how would the arrangement handle them?

54. In concluding, he noted the United States dedication to transparency in policy formulation and implementation and invited its commitment to the principle of transparency and to the TPRM process.

V. STATEMENTS AND QUESTIONS BY MEMBERS OF THE COUNCIL

55. The representative of Canada welcomed the timely opportunity provided by the TPRM to measure the United States' trade policy implementation against its commitment to a strong and effective multilateral trading system, and reiterated Canada's strong support for the TPRM. The Secretariat's report was a comprehensive and systematic, albeit somewhat incomplete, assessment of U.S. trade policies.

56. The United States made intensive use of anti-dumping and countervailing duty laws. Canada was deeply concerned that these laws were being misused and abused in order to harass foreign competitors. Since the last review, seven Panels had been established to examine U.S. anti-dumping and countervailing duty practices, and all the reports issued to date had found the U.S. actions to be GATT inconsistent.

57. The United States had invoked spurious claims of the need to guarantee due process to explain delays of up to three years in the conduct of administrative reviews. These delays caused uncertainties for all exporters and penalized those that had reduced or removed dumping margins. Also, the absence of an effective sunset mechanism resulted in the retention of findings sometimes for many years - in some cases up to nearly twenty years - after the original implementation, as witnessed by the 1974 anti-dumping duty on equine racing plates.

58. Canada noted that U.S. standards for initiating trade remedy actions were so lax as to be meaningless. In the case of the current anti-dumping and countervail action against magnesium from Canada, the U.S. authorities had explicitly refused to verify the standing of petitioners, although three quarters of the industry had refused to sign the petition. Another sign of this problem was the large number of initiations in relation to cases completed with a positive outcome for the domestic industry; in the case of actions against Canadian exporters, the ratio was more than two to one. More generally, over the past 10 years about 30 per cent of the anti-dumping cases which had reached the final injury stage had met with a no injury determination, thus reversing the USITC's preliminary finding. Aside from burdening exporters, this pointed to serious shortcomings in the procedures. Canada hoped that assurances would be given by the United States that changes would be implemented.

59. As regarded determinations, certain key ones were described as arbitrary and capricious. For example, the current government-initiated investigation against allegedly subsidized softwood lumber from Canada was the third since 1983, despite changes in Canadian policy and statements within the past year by senior officials of the U.S. Department of Commerce that no subsidies existed. In addition, export restrictions in one Province were considered a subsidy in the current preliminary

determination, although the United States maintained its own export restrictions on logs, recently strengthened and extended.

60. The United States appeared to be drifting steadily towards managed trade. The representative of Canada highlighted the distorting effect of bilateral administrative pre-arrangements which inflicted damage on other competitive suppliers. While sector-specific agreements were often conceived as transitional measures, they were proving extremely difficult to eliminate: numerous grey-area measures had been concluded during the last decade, including VRAs on steel, machine tools, electronic products, video-cassette recorders and bovine meat. Another recent measure was the clear preference to be given by Japanese affiliates in the United States to the American auto parts industry, following President Bush's visit to Japan in January 1992.

61. In Canada's view, a number of U.S. Customs interpretations, ranging from matchbox covers to manhole covers, demonstrated that rules of origin, marking and labelling requirements, were being misused to restrict the access of Canadian goods to the U.S. market. This sort of action threatened to undermine the multilateral principles of the GATT.

62. Section 301 of the U.S. Trade Act had been used twice recently against Canada (softwood lumber and beer). This instrument provided for the unilateral determination by U.S. authorities of the appropriateness or GATT consistency of another country's trade policy, and established arbitrary deadlines for retaliation, which was clearly in contradiction with the principles of the GATT on dispute settlement. When would the United States take action to bring this legislation within the internationally accepted parameters of GATT rules?

63. The current coverage of government procurement in the Tokyo Round Agreement was viewed as clearly insufficient. In the case of the United States, the Agreement covered only 10 to 15 per cent of government procurement. Contracts set aside for small businesses were closed to foreign bidders. "Buy American" and other procurement restrictions were being applied more and more restrictively. Examples included Canadian exports of mass transit equipment, affected by the tightening of the Intermodal Surface Transportation Efficiency Act, and the increasingly restrictive interpretations given to the Berry and Byrnes-Tollefson amendments in the field of Defence appropriation. A significant example of the latter for Canada was the inclusion of certain inflatable boats in the prohibition of naval vessels built abroad from U.S. government procurement. Moreover, lack of transparency and predictability in government procurement discouraged U.S. distributors from carrying products which might eventually be excluded from Government projects. In addition, U.S. government statistics did not accurately reflect the value of small business

contracts, the market for which was closed by the United States to foreign bidders.

64. Issues of concern in agriculture included guaranteed, above-market producer prices and export subsidies, which harmed Canadian and other efficient producers by driving world prices down. The 1990 Farm Bill had not changed the system and had even broadened the scope of support. The provision for a US\$1 billion increase in export subsidies in 1992 if the Uruguay Round were not concluded, was of particular concern. Finally, Canada regretted that health and sanitary requirements were increasingly being used as an artificial trade barrier.

65. The representative of the European Communities found the Secretariat's report a little too friendly toward the United States. He had eight points to make. First, in the macro-economic area, the continuing large current account deficit of the United States was diverting investment capital away from other regions of the world which badly needed it. Although the trade deficit had been declining, it remained large and threatened to increase when the economy recovered. In this context, he recognized efforts made by the United States to contain pressures for action in the trade field, but considered the bilateral activity of the United States, the risk of renewed VRAs on steel, and the volume of anti-dumping and countervailing investigations, as problems which should not be hidden.

66. Second, the EC was very concerned about unilateralism in U.S. trade policy. One of the unique features of that policy was legislation that permitted unilateral action which was inconsistent and in clear contradiction with the multilateral trading rules. The use of this legislation had been more restrained during the period under review, and some threats against the EC in the field of telecommunications had been suspended pending the Uruguay Round. Nevertheless, the EC had just recently been threatened, in relation to government procurement, with the application of unilateral sanctions by the United States in January 1993 unless the EC's policy was changed; this was clearly illegal.

67. The fact that the tuna embargo case involved environmental considerations did not, in his view, excuse an illegal trade measure, especially when applied towards countries not involved in the activity that the environmental legislation was designed to control. Recent proposals for modifications of this law were welcome.

68. Third, despite the declared objective to open markets for the benefits of all contracting parties, doubts were legitimate as to whether or not bilateralism was always achieving this aim. For example, the Structural Impediment Initiative with Japan, which had led to a flurry of bilateral arrangements on cars, car parts, access to construction,

contracts and tenders, the computer and the semi-conductor industries, might well involve discrimination against other contracting parties, since some agreements would not allow other suppliers than those of the United States. The bilateral agreements with the Republic of Korea on telecommunications would probably not be of benefit to all contracting parties either; nor would the agreements on intellectual property with the Republic of Korea and China, which specifically gave protection to U.S. enterprises and inventors. Whilst expressing his concern about these approaches, he expressed hope that they would be solved by the Uruguay Round.

69. Fourth was the area of foreign investment. This involved another special feature of United States trade policy: the fact that the GATT was binding committing on the Administration but not on the legislature. The EC very greatly hoped that GATT principles, and in particular the new Treaty resulting from the Uruguay Round, would be endorsed by Congress. Although the strong policy statements made recently by the Administration on investment were welcomed, concern had to be expressed about the Administration's ability to resist pressures for "America first" (or even "America only"). In particular, new reporting requirements for foreign investors in the United States were a source of concern, as was the proposed new legislation which would differentiate between domestic and foreign investors in research and development activities and in protection from anti-trust attack.

70. Fifth, the new thrust towards North American free trade and free trade in the Americas was to be welcomed, provided that the procedures and substance of GATT rules were observed. In this respect, the Secretariat's conclusion that "the size of the economies involved point to a possibility that free trade arrangements could, through trade diversion, adversely affect third countries" was a little too severe in the light of Article XXIV, given that these free trade arrangements might contribute to a higher level of world trade growth through the dynamic effects of regional integration.

71. Sixth, the Communities had very major concerns regarding barriers in the field of government procurement, the Secretariat's analysis of which was not sufficiently comprehensive. Among these were problems of the set-asides and defence procurement, where the EC could agree with the concerns expressed by Canada: The U.S. procurement market was not open, and barriers were going up, not coming down.

72. Seventh, and despite a certain reticence, the EC representative mentioned the field of agriculture, in particular several of the various restrictions on the import side, such as sugar, meat and dairy products, as well as high tariffs on tobacco. He noted that, as regarded exports, the "artillery" was still in place, with "ammunition" being "stockpiled" to a

very large degree. In this context, he urged a conclusion of the Uruguay Round, which would also help the EC to make the reforms of agricultural policy which were necessary. He also noted that the United States' PSE in agriculture, though at 30 lower than the OECD average, was still very much higher than the 0 - 10 range which was appropriate for a very competitive agricultural exporter.

73. Eighth, although the United States GSP system was described as being very comprehensive and useful for developing countries, it had many product exemptions in textiles, clothing and footwear. Developing countries could be suspended from eligibility on non trade-related grounds and products could be removed gradually from the eligibility list as GNP per capita increased in the country, or through the fixing of ceilings by the application of competitive need criteria. As a result, the system was patchy and unpredictable, the share of imports eligible for GSP treatment in total imports was not very high (5.23 per cent), and the share actually benefitting from it was low (2.13 per cent). Although he recognized that a large proportion of total U.S. merchandise imports came from developed countries, these points indicated that U.S. GSP system was not as useful and comprehensive as had been suggested.

74. Finally, the EC representative welcomed the undertaking made by the United States in the context of the Uruguay Round, and conditional on the Round, not to use Section 301 authority without first completing the GATT dispute settlement process. He was looking to the conclusion of the Round so that this offer could become a fact.

75. In conclusion, he agreed with the representative of the United States that the multilateral trading system had to be maintained and reinforced, the Uruguay Round concluded as soon as possible, that trade in textiles should be liberalized and agricultural trade policy reformed, and finally that Section 301 be used with greater and greater restraint.

76. In a second intervention, the representative of the European Communities pointed out the regrettable increasing tendency in U.S. trade policy to apply user fees, as witnessed by Customs user fees, harbour maintenance fees and cotton import fees. The first was a profit making activity, in which foreigners pay for the functioning of U.S. Customs; the second had cost the EC US\$100 million in 1991, which meant that foreigners were paying an estimated 40 per cent of the cost of maintaining U.S. harbours; the cotton import fee was an administrative burden, as the cotton percentage of any product containing cotton had to be calculated.

77. In the area of government assistance, the major indirect government assistance through the "Fisc" system supported research and development which was largely federally funded for defence purposes but had a clear

impact on civil production. For example, the aerospace industry had been subsidised by over US\$20 billion over the past ten years.

78. The Jones Act was an out of date embargo, not in the interest of the United States or of its trading partners. Maritime transport should be included in the services negotiations.

79. The representative of Sweden, speaking on behalf of the Nordic countries, welcomed the renewed commitment of the world's largest individual merchandise importer to building a transparent, liberal trading system, and welcomed the support given by the U.S. administration to the successful completion of the Uruguay Round. The United States remained in many respects an open market, with low and bound tariffs and - except in agriculture, textiles and clothing - relatively few quantitative restrictions and subsidies.

80. He welcomed the decline in the share of imports covered by VRAs. However in the case of steel, 76 per cent of imports were subject to VRAs in 1990. What were the views of the U.S. delegation on this issue? Would the steel VRAs be extended, particularly if the Multilateral Steel Agreement was not concluded by 31 March?

81. Referring to the Japanese industry's targets for imports of U.S. auto parts and cars, he asked how these undertakings should be seen in a GATT perspective. Was it correct to classify them as "grey area" measures? What could be done to ensure that they would not have an discriminatory impact on third parties?

82. As small economies, which were very dependent on a well functioning multilateral trading system, the Nordic countries considered that bilateral and unilateral actions resulted in discrimination and unpredictability. Thus concern was even greater given the United States' enormous importance in world trade and the responsibility this entailed. There was a tendency for the United States to interpret general rules to the advantage of domestic industries. The mere existence of Section 301 was also a cause of concern, although its use had been moderated over the past two years. He joined previous calls for a clear-cut commitment by the United States on this issue.

83. Several Panel reports affecting the United States had not been adopted or implemented, including one concerning the revocation of an anti-dumping duty on products from the Swedish stainless steel maker Sandvik. The U.S. government had rejected the recommendations of the Panel, claiming that they were too specific, but no alternative solution had been offered, aside from a possible future legislative adjustment when the Uruguay Round package would be brought before Congress. To what extent

was the compliance with the recommendation of the Panel dependent on the outcome of the Round? Was this procedure not questionable?

84. Regarding the United States' frequent use of anti-dumping and countervailing duties. He deplored the absence of an injury review mechanism and the threat of frivolous petitions. Dumping margins established had severe trade chilling effects and tended to develop into "grey area" measures.

85. Additional questions sent in writing to the U.S. delegation related to proposed changes in rules of origin, the use of "Buy American" practices in government procurement, the suggestion by the U.S. Attorney General that U.S. competition law could apply to alleged business cartels in foreign countries, and the GATT legality of the proposed Gibbons Bill, which would allow U.S. authorities to impose certain restrictive measures if they determine that a subsidized ship was entering a U.S. port.

86. The representative of Switzerland noted that nothing had really changed in the United States' trade policy since the last review. The Administration remained committed to economic liberalism and to the principles of GATT. Enormous effort had been devoted to the Uruguay Round, and growing protectionist pressures to be resisted.

87. Examples of these pressures were recent proposals, in Congress, to widen the interpretation of the Exon-Florio amendment on national security to include "economic security", or the "preservation of the technological and economical basis" of the country. Were there in these proposals any provisions likely to affect trade?

88. He shared previous speakers' reservations regarding recent bilateral and regional proposals and agreements, as well as on the compatibility of unilateral (Section 301) measures with the multilateral dispute settlement mechanisms. In the application of Section 301, what meaning should be given to "unjustifiable", "unreasonable" and "discriminatory" trade practices? Switzerland also wished to know whether there were any provisions which could affect trade in the legislative proposals under discussion concerning the strengthening of provisions of the Omnibus Trade Act of 1988 relating to merger, acquisition or takeover by foreigners of American companies. In addition, what significance should be given to a statement by a government member on the need to extend the application of domestic laws extra-territorially, a break with the restrictive approach followed since 1988?

89. The representative of Japan began by asking what were the main trade liberalizing steps taken by the United States since its previous review two years earlier. He also asked what steps had been taken to address the concerns noted by the Chairman at the previous review. He looked forward

to the United States' responses to the questions raised by the discussants and delegations, including his own, at this current review.

90. The multilateral trading system was currently at a critically important stage. On the one hand, expectations had been mounting for a successful conclusion of the Uruguay Round, and for the GATT to consolidate

and sustain the economic and trade reforms undertaken in various parts of the world, including Asia. On the other hand, there was increasing concern about the erosion of GATT principles by regionalism, bilateralism, unilateralism or various forms of managed trade.

91. He also stressed the United States' dependence on and responsibility towards the multilateral trading system, and called for significant offers to reduce tariffs and non-tariff barriers in the Uruguay Round, as well as for a cessation of unilateralism, "buy American" practices and tendencies towards managed trade: a clear-cut commitment not to act unilaterally, or threaten to do so, in disregard of international rules.

92. In Japan's view, measures regarding investment should not be discriminatory as between members and non-members of regional arrangements. The rules of origin should be applied in a transparent, predictable and fair manner, and the results of the Uruguay Round should be fully incorporated in any regional arrangement. Arbitrary establishment of such rules under the U.S.-Canada Free Trade Agreement would restrict trade with third countries, and therefore might place the FTA in conflict with the GATT.

93. The tendency towards managed trade reflected domestic economic problems, such as the budget deficit. Appropriate macro-economic policies would restore the trade balance, not targets for bilateral deficit reduction or sectoral market shares, which run contrary to principles of free trade and reliance on market forces. Concerning government procurement practices, the United States should give a clear signal to the American people not to engage in practices which discriminated against foreign suppliers. Agreeing with remarks made by others on measures in favour of the environment, he noted that the export prohibition on logs under the 1990 Mini Trade Act was not consistent with the GATT. Moreover, the import restrictive measure on fish caught by drift-net under the Dolphin Protection Consumer Information Act, implemented since December 1991, was highly questionable under GATT rules.

94. The United States had declared that Section 337 of the Tariff Act of 1930 would be amended as the results of the Uruguay Round were implemented. In the meantime, there had been 23 investigations on alleged infringement of U.S. patents since the last review, violation of Section 337 had been determined in four cases, and exclusion orders had been issued in three of

the four instances. This did not contribute to the credibility of the GATT dispute settlement mechanism. The United States should cease such activities.

95. Reports indicated that the U.S. Justice Department would amend the guidelines for the application of U.S. anti-trust laws so that they could apply to extra-territorial activities which hindered the exports of American companies. This was contrary to the accepted principles of international law, and a major source of concern for the Japanese government. Finally, he reiterated calls made by others for clear and unambiguous rules on anti-dumping.

96. The representative of Mexico welcomed the positive macro-economic evolution in the United States, which would help to reduce both international tensions in the trade area and protectionist pressures. Was this also the view of the U.S. delegation, or would these pressures continue and perhaps become concentrated in certain sensitive sectors?

97. United States policies had a liberal orientation, as witnessed by its dedicated and positive participation in the Uruguay Round. He welcomed the extension of the "fast track" procedures, and shared a positive view on the trade creative effects of regional trade agreements currently being negotiated.

98. Mexico emphasized its concerns regarding potentially increased export subsidies under the Agricultural Act of 1990. Was U.S. legislation concerning such increases mandatory, or could it be a discretionary matter of policy for competitiveness reasons?

99. Also of special concern was unilateralism in U.S. trade policies especially Section 301, Special 301, Super 301 and policies regarding telecommunications and government procurement. With respect to the latter, how likely was it that the share of U.S. government procurement covered by the Tokyo Round Code would increase significantly from its current level of ten per cent?

100. He asked what measures the United States envisaged to ensure that export restrictions on "dual purpose" products respected the rights of the contracting parties which used them solely for civilian purposes? What did the United States think about the Secretariat's view that there was a close relationship between the frequency of anti-dumping investigations and the conclusion of VRAs and similar arrangements? What would be the future of the soon-to-expire VERs on steel?

101. Was Section 8e of the Agricultural Marketing Agreement Act of 1937 covered by the "Grandfather clause"? If so, did this clause encompass products which had been added in recent years, such as kiwis, nectarines,

plums, pistachios and apples? Finally, given the number of GATT inconsistencies discussed by previous speakers, were there currently any intentions to modify anti-dumping legislation and regulations, so as to reduce the likelihood of such inconsistencies?

102. The representative of India considered that the trade policies and practices of the United States had a significant impact both on world trade flows and on the evolution of national and international trade policy. These policies therefore gave rise to wide and deep interest. India recognized the support provided by the United States to the multilateral trading system. This support had contributed to the rapid expansion of world trade, from which both the United States and its partners had benefitted. Apart from significant exceptions, the United States had liberal and transparent trade policies.

103. One disturbing trend in U.S. policy since the last review was an apparent shift away from trade conducted on an m.f.n. basis towards reliance on regional arrangements and free-trading blocs. U.S. trade policies would become more complex and transparent in their implementation.

104. The decrease in the number of investigations under Section 301 and Special 301 over the last two years was, regrettably, not the result of realizing the undesirable consequences of such unilateral measures. The threat of use of these provisions remained, with all the consequences (unpredictability, breach of multilateralism) previously mentioned.

105. He deplored the persistent link between GSP concessions and changes being pursued by beneficiary countries in the areas of investment policy, intellectual property rights, workers rights and increased access to U.S. exports of services. While he recognized that the scope of GSP treatment had been widened since the last review, and that the grant of preferences under the GSP remained an autonomous and unilateral measure, the conditionality attached to such principles negated the fundamental principles of the enabling clause, and remained a potential source of unpredictability and instability for trading partners.

106. Concerning use of anti-dumping and countervailing investigations as a means for protection, the Secretariat report highlighted the strong correlation between the frequency of these investigations and the existence of VRAs, and gave credence to the view that these measures had been indiscriminately used to grant protection to domestic industries. In addition, the procedural requirements of the Anti-dumping and Countervailing Codes were not being followed rigorously.

107. In specific sectors, high tariffs on textiles and clothing, footwear and tobacco, and tariff peaks as high as 42 per cent, were of continuing concern. Quantitative restrictions under the MFA were another effective

barrier to access to the U.S. market. This was particularly disturbing at a time when a number of countries, including India, had initiated wide-ranging trade liberalization programmes, whose success depended to a large extent on unhindered access to the United States.

108. He called for a rapid conclusion of the Uruguay Round, on the basis of balanced and equitable results, which would translate into greater and more stable access for developing countries to the United States market.

109. The representative of Cuba reminded Council members that his country had expressed, during the first review of U.S. trade policies, its view that the trade and financial blockade maintained by the United States against Cuba was a clear violation of GATT principles.

110. He saw no positive changes in U.S. trade policy vis-a-vis Cuba since the last review. On the contrary, the United States had not only maintained its unfair blockade for over thirty years against his country, but had also attempted to convince other countries to join it. The blockade had deprived Cuba of between US\$15 and US\$30 billion. The Cuban people suffered the consequences of this action, which the United States attempted to describe as an embargo, not a blockade.

111. Two documents (A/46/193/Add.7 and A/46/599)¹ showed the true nature of this blockade and the efforts made by the United States to prevent other countries from entering into agreements with Cuba in such areas as aviation networks, joint ventures in tourism, nickel and petroleum, and agreements on the use of Cuban oil refining facilities. Further evidence that a blockade was in place were the facts that, for sugar and nickel, guarantees had to be provided by U.S. trading partners that no imports into the United States could have originated in Cuba, and that commercial transactions with firms Germany, Sweden, Japan, France and Argentina had been blocked by the United States.

112. Equally, draft U.S. laws on "democracy in Cuba" presented in 1991 and 1992, proposed that American firms in other countries should not trade with Cuba and urged allied countries to take part in the "embargo", and to refrain from assisting Cuba, under threat of becoming ineligible for any debt reduction programme, or for participation in any free trade agreement with the United States. The blockade was part of a wider attempt to prevent Cuban people from fully exercising their right to sovereignty and independence, and was an affront to the principles of free trade and to the

¹Documents submitted to the United Nations General Assembly in September 1991.

right of each country to pursue its own trade policy; indeed, even the EC and Canada had registered objections to the United States for this reason. The United States did not follow trade policy so much as it traded to impose its political views.

113. The representative of Chile was pleased that the documents for the second review now contained an analysis of marketing orders. He noted that the United States intended, through its policies, to liberalise and expand international trade, but it was actions rather than intentions that mattered. It was, in fact, very difficult to tell whether U.S. trade policy had or not become more protectionist since the last review. Seriously restrictive policies included: The 1990 Farm Act, which contained the threat of increased subsidies; the 1990 Omnibus Budget Reconciliation Act, which limited the Administration's capacity to conclude international agreements or to apply autonomous liberalization measures; and the possibility of resort to unilateral measures such as Section 301. Given their administrative cost to the U.S. consumer, as well as their effect on third countries, was it really still worthwhile to apply such measures?

114. Continued and important use of anti-dumping and countervailing measures generated both uncertainty and additional legal costs, which very often prevented producers, particularly small ones, from exporting to the U.S. market. Chile shared the concern of other countries in regard to the use of methods for determining dumping which were neither automatic or objective. The application of marketing orders had regrettably been extended in March 1991, to include kiwis, and soon plums and nectarines. These barriers to trade violated the GATT and inhibited the freedom of choice of the U.S. consumer. The tendency towards managed trade was also deplored. Trade disputes with such an important partner as Canada were perhaps a result of the high degree of regulation which had been achieved in U.S. trade policy.

115. On the other hand, Chile applauded the efforts of the U.S. administration to resist protectionist pressures, especially those from the textile and agricultural industries, as well as the extension of the "fast track" procedure. Plans to bring Customs user fees, sugar quotas and the superfund tax into line with GATT principles were also to be welcomed, as was the decision to reincorporate Chile in the GSP list. However, the United States should bind its contractual commitment for the products covered by the programme.

116. The United States' initiative for a bilateral free trade agreement compatible with GATT was welcome as a way to achieve global trade liberalization. In this respect, he asked what was the U.S. experience on negotiating such agreements jointly with a developed and a developing country, and what had been the major difficulties and benefits encountered? In what way could the discretionary and frequent nature of their

restrictive trade measures be reduced, particularly as regarded trade with Chile, aside from the proposed multilateral commitments? Progress had not been sufficient. The United States could do more, as a leading trading nation.

117. The representative of Colombia considered that a successful Uruguay Round was a way to limit future increases in protectionism by the United States. On the other hand, the dichotomy between expectations for recovery in the United States and the sluggish actual situation, which might lead to pressures for stimulus and protection. He welcomed regional and bilateral agreements to liberalize trade.

118. He also deplored non-implementation of Panel reports. He shared worries voiced by other speakers about remaining unilateral measures, Section 301 (although the absence of recourse to Super and termination of Section 301 was welcomed), the non-implementation of a Panel concerning the use of Section 337, and hoped that these measures would be abolished.

119. There was also a dichotomy between the United States' participation in the Uruguay Round, notably on agriculture, and recent trends in U.S. agricultural policy. Higher and less bound tariffs on agricultural than on industrial goods, tariff peaks, in particular on tropical products such as tobacco and cocoa, were also a matter of concern to Colombia, so was tariff escalation on textiles, clothing and leather products, although 1986 tariffs did not exceed 8 per cent, and rates were bound at applied levels. Other concerns included the persistence of Section 22, the maintenance of numerous - often ancient - anti-dumping and countervailing duty orders, and the non-implementation of Panel reports.

120. The representative of New Zealand agreed with previous comments made on anti-dumping and countervailing measures, "special 301" provisions, the operation of "grey area" measures and VRAs which had on occasion affected New Zealand. However, in his view the most important policy commitment in the reprinted under review was that the United States Administration continued to give top trade priority to the successful completion of the Uruguay Round negotiations. This was indeed necessary from a domestic point of view, as the weak domestic economy needed an expansion of external demand, which would not be encouraged by a meagre outcome to the Round.

121. The so-called "trigger" for increased export subsidy programmes was a daunting prospect for a small efficient producer, which competed on world agricultural markets without any form of export subsidy, and a symbol of the deterioration in the world trading environment which might occur if the difficult issues of the Round were not solved.

122. The United States was the main outlet for New Zealand exports of beef and veal, and a major market for cheese and fish. Maintained and improved

access was vital for the health of those industries. However, according to the USITC, estimates of tariff equivalents on beef had risen from 1.6 per cent in 1987 to 6.1 per cent in 1988.

123. He welcomed the resolute opposition from the administration and Congress to recent proposals in the dairy sector, which would have seriously disrupted the international dairy market and New Zealand's exports. Further restraint was needed: In 1987, U.S. exports of butter, dry milk and cheese amounted to 42 per cent of New Zealand's total (and unsubsidized) export revenue from these products. Sales under export credit guarantee programmes GSM102 and GSM103 significantly even exceeded sales under the Export Enhancement Programme. Such programmes made it impossible for unsubsidized suppliers to enter the market; indeed the use of such credit guarantees by the United States and other suppliers, in conjunction with other export subsidy programmes, had effectively excluded New Zealand from the market for dairy products. Moreover, despite assertions that the United States did not maintain any state trading enterprise, it appeared to New Zealand that the Commodity Credit Corporation was indeed a state trading enterprise, as it regularly exported products at lower price than the cost of their acquisition, i.e. was dumping on a regular basis.

124. The representative of Hungary supported previously expressed views on the harmful effects of unilateralism. Threats of recourse to section 301 investigations were contrary to the United States' strong attachment to the maintenance and expansion of an open, rules-based, multilateral trading system. She also shared concerns expressed regarding the substantial export subsidies granted through the EEP, which had adverse effects on world prices and agricultural trade. A specific agricultural problem was that under the present system, country-specific quotas determined and dominated access opportunities for imports. In particular it had not been possible for Hungary to obtain an import quota tailored to the demands of Hungarian cheese exporters, despite efforts and requests.

125. The Hungarian authorities highly appreciated the 1991 Trade Enhancement Initiative for Central and Eastern Europe, which would increase access to the U.S. market. Increased quotas on certain textiles and the possibility of shifting unused steel allotments to other product categories had proved to be beneficial. The extension to Hungary of the U.S. GSP scheme was to be welcomed, but the scheme needed to include more products.

126. On the whole, recent developments in U.S.-Hungarian trade flows reflected the increase in Hungary's imports following trade liberalization. It was to be hoped that measures by the United States would now help to restore the bilateral trade balance, and that the United States would disinvoke the application of Article XXXV of the General Agreement vis-a-vis Hungary as soon as possible.

127. The representative of Hong Kong stated that while exports of the United States to industrialised countries grew by about 3 per cent in 1991, they recorded double digit growth in Hong Kong and in a number of developing countries. This strong performance was partly the result of open or liberalising trade policies pursued by these developing countries. This would, it was to be hoped, have a positive bearing on the formulation and implementation of U.S. policies and help the Administration fend off protectionist pressures by pointing to the real benefits of freer trade.

128. Hong Kong was concerned that the proliferation of regional and preferential arrangements involving the United States was giving rise to complex rules and measures, in such areas as dispute settlements and rules of origin, which were inconsistent with work in the Uruguay Round and other areas. It was particularly disturbing that rules under the Canada - U.S. Free Trade Agreement were accorded precedence over those of the GATT.

129. The representative of Hong Kong reiterated the concerns voiced by others regarding unilateral trade action (especially Section 301), bilateralism and managed trade, anti-dumping and the use of Section 337. As regarded anti-dumping specifically, Hong Kong considered that the uncertainty before and during an initiation, as well as the persistent uncertainty about the annual review, could have a devastating effect on exports. In particular, the fact that Hong Kong industries, which received no subsidy and operated under tough competition, could still be targeted for anti-dumping action was proof that something was fundamentally wrong with this instrument.

130. The representative of Hong Kong also referred to the U.S. prohibition on imports of tuna, in the context of an increasing concern about the use of protectionist trade measures for environment reasons. He concluded by urging the United States and other major trading partners to take exemplary steps to conclude the Uruguay Round, and in the meantime to demonstrate its full commitment to the principles of the MTS.

131. The representative of the Republic of Korea expressed his government's concern about the increasing tendency towards regionalisation, and particularly the use of complex tariff and non-tariff measures which differed from those of the GATT in such areas as rules of origin, custom user fees, quantitative restrictions, government procurement standards, safeguard measures and dispute settlement procedures: this could undermine the multilateral trading system. He reiterated points made by previous speakers regarding unilateralism (which he identified as the issue of greatest concern for the CPs) and particularly Section 301; anti-dumping actions; Section 337 on intellectual property rights (which Korea requested the US to bring as soon as possible into conformity with GATT); managed trade (on which greater reliance had been placed); extra-territorial

application of anti-trust laws; and the recent unilateral and extra-territorial measures taken on environmental grounds.

132. Korea welcomed the U.S. endeavour to conclude a multilateral steel arrangement as a substitute for VRAs on steel, a long lasting grey area measure. This arrangement would need to be consistent with the overall trend toward trade liberalization, provide safeguard devices to prevent the abuses of anti-dumping, and ensure trade benefits to participants.

133. The representative of Australia noted that whilst U.S. tariffs were generally low, certain sectors were still heavily protected by a range of tariff and non-tariff barriers. Australia continued to be concerned that the sugar programme, despite modification as a result of a panel case, remained unduly restrictive and open to question on GATT grounds. Although imports of sugar had increased in 1989/90, the quota for 1991/92 had been reduced by 43 per cent.

134. The extension of VRAs on cars, vans and machine tools, and the plans of 30 major steel producers to file AD and CVD cases once the current steel VRAs expired gave concern. In the light of the new arrangement on semi conductors, with its controversial 20 per cent foreign share "target", the question arose whether U.S. trade policies had moved further towards "managed trade".

135. Government procurement on goods requested greater openness given the high share (90 per cent) subject to to the "Buy America" Act of 1933. In addition, the federal department of transportation had provisions limiting the availability of federal funds unless steel and manufactured products were produced in the United States.

136. Anti-dumping actions had been used more intensively by the United States than by most other contracting parties. The administration of these actions in itself could be viewed as a non-tariff barrier, given the litigation required prior to the establishment of a prima facie case, and the uncertainty generated for exporters.

137. Australia was concerned by continued support to the agricultural sector. The effects of U.S. agricultural price and income supports and previously mentioned trade measures, together with those of the EC and Japan, were a major target of the Cairns group. Australia was determined to pursue this. Also of concern was the "trigger" established for increased agricultural subsidies.

138. Australia was pleased that the President had refused a blatantly protectionist bill on textiles, apparel and footwear. On the other hand, a newly established programme on cotton, which introduced special import quotas, and subsidies to domestic users and exporters when the U.S. price

exceeded a representative world price, was in effect an inbuilt export enhancement programme for cotton. It had contributed to a significant lowering of world cotton prices since its introduction on 1 August 1991.

139. Finally Australia expressed concern regarding potentially discriminatory measures at the national and sub-national level, arising from an exemption on excise applied to small U.S. producers of wine and beer; this was the basis of a GATT Panel case and separate representations by Australia, Canada and the EC.

140. The representative of Brazil hoped that the dramatic changes in the world, in particular the removal of the threat of a global military confrontation, would allow a more rational allocation of resources to the benefit of all. The United States must set the example, particularly as regarded the observance of international norms and the maintenance of the multilateral trading system. The United States had worked to conclude the Uruguay Round successfully and to bring agriculture under GATT rules, but the major increase in the EEP and the "trigger" for further subsidies were discouraging signs of an increasing resort to trade distorting policies. "Subsidy wars" had not only short term effects (through market losses) but also long-run effects (via rural unemployment and the erosion of productive activities) on Brazil and other producers.

141. The United States Andean Trade Preference Act was to be commended for helping Andean countries in their struggle against drug trafficking. However, barriers to trade perhaps had a role to play in pushing farmers into illicit crops. Continuing protectionist policies might throw more traditional farmers in other developing countries into illicit trade.

142. As a country subjected in the past to unwarranted actions under Section 301, Brazil was concerned that commercial disputes be resolved in accordance with the dispute settlement procedures in an reinforced MTO, rather than through the unilateral exercise of retaliatory power. Nor could Brazil understand how "managed trade", and in particular the quotas rising from bilateral negotiations, could be to the advantage of third countries and the multilateral trading system as a whole.

143. He noted that 26 per cent of U.S. textile imports came unrestrained from the EC, whereas imports from the developing countries were restrained under the MFA; this imbalance between developed and developing countries seemed to be special and differential treatment turned upside down.

144. The Administration's determination not to renew the VRAs on steel was to be acknowledged, but it was not clear whether the new regime would be more stable and liberal. The contents of the draft Multilateral Steel Agreement should conform with the relevant provision of the Uruguay Round Final Act.

145. Brazil naturally worried to be included among the countries which were heavily affected by U.S. countervailing measures, and to notice that four of the five countries in that same situation were developing ones.

146. Largely on account of Brazil's fundamental economic liberalization, the trade surplus with the United States had declined from US\$5.5 billion in 1988 to an estimated US\$1 billion in 1991; this was almost a quarter of the decline in the overall U.S. deficit. Nevertheless, previously mentioned restrictions to market access were still applied to a great variety of Brazil's export goods. A recent survey carried out by the World Bank had revealed that relatively high tariffs affected 30 per cent of Brazilian exports to the U.S. and that non tariff barriers applied to about 26 per cent of these exports.

147. Brazil welcomed the agreement between the MERCOSUR and the United States in the Enterprise for the Americas Initiative, and appreciated President Bush's stated intention to "seek deeper tariff reductions in the round on products of special interest to our neighbours in Latin America and the Caribbean". This, however, had up to now proved to be an elusive, if not an impossible, target. Instead Brazil had been presented with proposals running counter to both GATT practices and the theory of comparative advantage, such as the "zero for zero" in market access. Brazil hoped that from now to the conclusion of the Uruguay Round the U.S. would display the generous vision requested of a world leader, thus helping to translate into practice the ideals of a freer and more stable world trading system.

148. The representative of Argentina noted the globalization of the U.S. economy, its impact on world trade and the importance this entailed. He recalled the recent conclusions of the TPRM on his own country, that without an opening of the international trading system it was impossible for countries with open economies to cope with closed policies.

149. Concerns about unilateralism (and in particular Section 301), bilateralism, the extensive use of anti-dumping and countervailing laws, persistent VRAs (especially in the case of steel), the threat of agricultural subsidies (Section 22, tariff peaks) were shared with previous speakers. What were the autonomous liberalization measures which the United States could envisage to take, before the conclusion of the Uruguay Round, in line with its leadership of world trade?

150. The representative of Pakistan shared previously expressed concerns on unilateralism, bilateralism, regionalism, tariff escalation, frequent initiation of AD and CVD investigations, use of rules of origins, and threats to trading partners to accept their own views.

151. Free trade operated to the benefit of the strongest. Unfortunately, in precisely those areas where developing countries had an comparative advantage, markets were either closed or less open, with frequently changing rules.

152. Trade barriers protected the United States market from imports from a whole range of developing and industrialised countries. In practice, the effective rate of protection against imports from developing countries was twice that estimated for developed economies. According to a World Bank study, an annual loss of US\$75 billion for developing countries was caused by these restrictions. For textiles alone, phasing out of the MFA could increase developing country exports alone by US\$24 billion a year.

153. Thirdly, there was a dichotomy between the United States' stated commitments to multilaterally agreed principles and the actual operation of its trade policy. Whilst a strengthened safeguards mechanism was being negotiated in the Uruguay Round to eliminate existing grey area measures and prohibit any new ones, new barriers were being encouraged by the United States. How could this situation be repaired?

154. The representative of Morocco, while sharing points made by previous speakers, particularly in the field of agriculture, underlined his country's profound attachment to the Trade Policy Review mechanism, which allowed small trading nations to follow the evolution of the trade policies of the contracting parties which contribute most to world trade.

VI. FURTHER STATEMENTS

155. The representative of Canada said that he did not wish to call into question the value of the FTA. It was a large trading relationship: whilst Canada's exports accounted for 18 per cent of United States' imports, exports to Canada represented 21 per cent of total United States' exports. Certain United States' trade policies, however, had a chilling effect on ability to do business. The problems which had been raised in Canada's first intervention were issues that Canada and the United States had been unable to resolve bilaterally, such as anti-dumping and countervailing measures.

156. The representative of Japan asked what had happened to tariffs, agricultural support and government procurement in the two years since the first review. In his mind, the United States was claiming justification for its practices on the grounds that other countries were doing the same thing. He thought the United States should show more leadership, for example by dismantling "buy American" measures, even if such moves were not entirely matched by other countries, given its important rôle in the world economy.

157. The representative of the United States considered that the important point was to negotiate the reduction of agricultural subsidies and the reduction of governmental barriers to trade. The United States was not seeking a findings that "two wrongs make a right". Since the last TPRM, U.S. trade policies had remained relatively stable. The main liberalization would have to come through negotiations in the Uruguay Round, not autonomously from the United States.

158. The representative of Chile pointed out that anti-dumping investigations in themselves could be just as harmful as their final results. For the representative of Hong Kong the purpose of the TPRM review was to assess whether a country had taken any action on the points raised by its trading partners during the last review.

159. The representative of India noted that the "Special" and "Super" 301 provisions had been brought on to the statute book when the Uruguay Round negotiations on intellectual property rights, services and TRIMS were already underway. Despite statements by the United States that actions covered areas where there were no rules in the GATT, the use of these actions sought to change policies of contracting parties not through negotiations, but under the threat of unilateral pressure. He therefore demanded that no further action be taken under these provisions. Secondly, most of the sectors in which developing countries were competitive had high tariffs and tariff peaks in the U.S. market. Special responsibility therefore devolved on the United States for lowering tariffs and other

barriers in areas such as textiles and clothing, particularly bearing in mind the wide-ranging reforms carried out by developing countries.

160. The representative of the European Communities expressed satisfaction for the fruitful discussion, which had helped clarify issues such as GSP, government procurement and agricultural support. The unilateral actions and Section 301, despite their GATT-illegal nature, had regrettably met no condemnation from the Secretariat. The first discussant welcomed the United States' renewed commitment to the multilateral trading system and to the Uruguay Round. This was the only solution to a number of concerns about U.S. trade policies. The second discussant considered that the shift towards bilateralism was an ad hoc solution to issues which could have been solved better by a multilateral approach.

VII. RESPONSES BY THE REPRESENTATIVE OF THE UNITED STATES

161. The representative of the United States thanked the participants for the very detailed examination given to the U.S. report. He did not agree with some comments suggesting some bias in the Secretariat's report in favour of the United States, and suggested a comparative assessment of the four major participants.

Protectionism and market access

The United States was very responsive to the concerns raised about the growth of protectionist tendencies in the United States. Certain elements in the U.S. economy were protectionist in nature. The comments which had been made on U.S. trade policy should be broadly circulated in the United States, in order to rebuff the constant lobbying for greater protection by domestic constituencies, and in order to show the benefits of a liberal economy, not just in the United States but throughout the world.

163. He agreed with the importance of providing greater access for developing countries, and with the disproportionate effect of certain elements of U.S. trade policies on them. Many of the most protected sectors of the U.S. economy were of special concern to the developing world. As those were the countries whom the United States were asking to liberalize, their recent steps towards greater market oriented policies must be answered by the United States, if the march towards trade reform and American-style capitalism was to continue. The Uruguay Round was an indication of the United States' desire for this kind of response to the developing world.

Macro-economic imbalances

164. The United States recognized that its aggregate trade deficit resulted from macro-economic rather than trade policy factors, and would continue to resist efforts to link bilateral trade imbalances with the threat of U.S. trade retaliation. In case of economic recovery, it was unlikely that a resurgence in the trade deficit would translate into greater protectionist pressures, because a recovery should stimulate job and income growth, relieving some of the pressures currently experienced.

165. Strong growth in U.S. exports in the last six years had dramatically increased the number of jobs depending on export sectors, and Americans understood more and more that closing markets would sacrifice U.S. jobs.

166. The idea that the United States' budget deficit was stripping capital from poorer developing countries was not considered valid. Investment flows were market determined, the patterns of national trade surpluses and deficits shifted over time, and efforts to reduce the U.S. consumption to

savings ratio could have some detrimental effects on trade. He agreed that overall, macro-economic policy had to be balanced if future current account imbalances were to be avoided.

Free Trade Agreements

167. The impact of the 1985 FTA with Israel on the trade of both countries had been impressive, with two-way trade now at about US\$6 billion, three times the level recorded seven years ago.

168. The United States-Canada agreement had been a huge overall success so far. Total merchandise trade had risen from US\$131 billion to US\$175 billion, and trade in services and investment had also grown impressively. The Agreement would not lead to trade diversion or have a negative impact on third countries' interests. Instead, an important rationalization was beginning in North-American industry, with greatly increased specialisation. Business people had actually asked for the pace of integration to be accelerated.

169. Canada's US\$91 billion exports to the United States in 1990 constituted the largest single export market between any two contracting parties, and were ten times the level of U.S. exports per capita to Canada. This was evidence of the benefits to Canada of this agreement. There were nine anti-dumping orders in effect on Canadian exports to the United States, about 1 order for every US\$10 billion of imports from Canada, covering about US\$700 million worth of imports. There were eight similar orders on U.S. exports to Canada.

Unilateralism

170. Concerns expressed on threats of unilateralism would probably be resolved by the Uruguay Round through greater multilateral discipline. Most U.S. laws which had been criticized in this context, such as "Special 301" on intellectual property, were not covered by the GATT, and their use did not put the United States outside the rules of the GATT. The United States wanted to see intellectual property covered [by the GATT] in a unitary system.

Government Procurement

171. Procurement policies were not covered adequately by GATT rules, and an expansion of the Government Procurement Code was strongly hoped for. Restraint had been exercised in the use of "Title 7" procurement law, and the United States continued to prefer negotiated results.

172. The Government Procurement Code was limited in scope, coverage and membership. Discriminatory procurement practices were pervasive around the

world and sometimes took the form of explicit preferences, offset requirements, or even less transparent measures. A change in U.S. practices, although highly desirable, would imply broadly accepted international obligations.

173. The Secretariat report somewhat misrepresented the amount of open U.S. procurement, as not all of the share of procurement not covered by GATT rules was subject to "Buy American" restrictions. These did not apply to services contracts, which account for about half of U.S. procurement. As a result of the Code, "Buy America" preferences were waived for Code Signatories for almost all Government procurement by federal agencies and Departments except for national security purposes and for areas not covered by the Tokyo Round.

174. The United States currently accounted for about 70 per cent of total procurement opportunities under the Code. An expansion of the scope of the Code was highly encouraged, despite a strongly held view that there was a serious imbalance in opportunities in its current form. The remaining Executive Branch agencies had been offered, as well as Departments not yet covered, federal Government electrical utilities, services contracts, and procurement below threshold down to a level of US\$50,000. Offers had also been made to cover a significant amount of sub-federal government procurement.

Managed trade

175. Managed trade was not a desirable economic policy. But the legitimate issue in examining any sectoral arrangement was whether it sought to restrict trade or expand opportunities for others. The beef and citrus arrangements with Japan and Korea provided new market access to competitive producers of these products. A similar outcome was expected of the recent arrangements on semi-conductors, computers and auto parts. The 20 per cent market share in the United States semi-conductor arrangement with Japan was not a formal target, but an expectation by industry of a reasonable foreign share of the Japanese market under conditions of open competition. It was not a guarantee, ceiling or floor.

Agriculture

176. Export subsidies in general had no redeeming quality. In industrial trade, they had largely been eliminated. In agriculture, the EEP was implemented in 1985 to challenge unfair trade practices by others, and to pressure major partners to negotiate seriously on bilateral and multilateral agricultural issues. Without an adequate multilateral agreement in agriculture, Congress would continue to mandate U.S. export subsidies, in order to make agricultural exports competitive with those of the European Community. The GATT "trigger" sent a clear message to trading

partners: a Uruguay Round agreement or a continuation of subsidy competition in agriculture.

177. The 1990 Farm Bill built on the more market-oriented approach of the 1985 Farm Bill. Both Bills lowered target prices and payment acres. For example, the 1985 Bill reduced support prices for major crops by about 10 per cent, and the 1990 legislation froze support at these lower levels. The new five-year package would cost an estimated US\$41 billion compared to the US\$80 billion dollars of the 1985 legislation. Farm income could no longer be supported in ways which did not recognize the ramifications of a large federal budget deficit, increases in productivity, or the interactions between domestic policy and international markets. U.S. producer subsidy equivalents were low by OECD standards. Were other members fully prepared to undertake that kind of a reform of agricultural subsidies?

Steel

178. The United States' representative hoped that a multilateral steel agreement was close to conclusion. It would lead to more open steel trade worldwide. Trade relations in the steel sector would be very difficult without a multilateral undertaking on subsidy practices.

The GSP scheme

179. The U.S. GSP Programme, in determining eligibility, took into account whether a product had exceeded its competitive need limit; the level of various factors, including development of the beneficiary as well as a country's practices relating to trade, intellectual property, investment and worker's rights. It was not a permanent bilateral assistance programme, and its objectives included encouragement to economic and trade reform. The United States GSP programme had actually expanded since the last TPRM review, both in product and in country coverage. In contrast to some other GSP schemes, the United States programme was totally duty free and included over 500 agricultural items. Competitive need limitations were applied to ensure that smaller beneficiaries enjoy the bulk of the benefits. About 43 per cent of all imports from GSP-eligible countries entered the United States duty free.

Anti-dumping policies

180. Anti-dumping policies affected 1/3 of 1 per cent of imports. The trend towards increased initiation in 1990 had not continued in 1991. The number of final decisions leading to imposition of duties had decreased significantly since the last TPRM review. There were only eight orders imposed in 1990 and eleven in 1991, compared with 36 in the earlier period. Anti-dumping action was authorized under Article VI of the GATT.

The high costs were caused by the substantial procedural safeguards contained in U.S. law, including the automatic right to appeal decisions, the right to full hearings, and to full access to the information of other parties. The proposals in the Uruguay Round for anti-dumping reform would make anti-dumping policies more costly, as a large number of procedural complexities would be added to investigations worldwide. The growing number of disputes was not so important as their outcome. Of the five disputes cited in the Secretariat report, only one so far had been completed; time would tell what the other four revealed about U.S. anti-dumping practices.

Foreign Direct Investment

181. In December 1991, the President had issued a policy statement on foreign direct investment which reaffirmed the unequivocal, long standing support of the United States for a policy of free and open foreign investment among all nations. The United States was the largest single market for foreign investment. Concerns with respect to provisions in U.S. laws regarding investment. The Administration had been careful to ensure that provisions in U.S. laws regarding investment and national security were used only to deal with risks to vital national security interests. The ~~Exxon~~-Florrio Act, despite numerous petitions, had resulted in a decision by the Government in only one case, to restrict a piece of equipment relating to the defense establishment.

Tariffs

182. The United States' trade-weighted average tariff rate was low, at 5.1 per cent overall, and three per cent for agricultural goods. If the U.S. proposals in the Uruguay Round were accepted, 46 per cent of total U.S. imports would be duty free. At the moment, 80 per cent of tropical products entered duty free. The United States was willing to negotiate further tariff cuts, notably on tariff peaks, in the Uruguay Round.

183. Answers to questions about competition policy, the extra-territorial application of anti-trust laws, machine tools and steel would be provided in writing.

VIII. CONCLUDING REMARKS BY THE CHAIRMAN OF THE COUNCIL

184. The Council has now conducted the second review of the United States' trade policies and practices. This is the first of the second series of reviews under the TPRM. These final remarks summarize, on my own responsibility, the salient points of this review. In formulating my observations, I have sought to focus on the evolution and direction of the United States' trade policies and practices in the last two years. The full record of the discussions will be reflected in the minutes.

185. In his introduction, the United States representative stated that his Government's primary trade policy objective in the past two years had been to secure a successful outcome to the Uruguay Round, which would reduce trade barriers and modernize the trading system. Merchandise trade accounted for 17 per cent, and overall international transactions for almost 30 per cent, of the United States' GNP. A strengthened multilateral trading system, based on effective rules, was crucial to the U.S. economy.

179. In his view, the United States' two free trade agreements were fully consistent with GATT provisions and other preferential arrangements had been granted GATT waivers. The United States had also adopted a cooperative approach in bilateral trade disputes, and had brought disputes to the GATT where relevant rules existed. In relation to the use of Section 301 authority, the United States favoured an agreement in the Uruguay Round for strengthened and efficient dispute-settlement rules, which would enable it to use existing legislation consistently with these procedures.

180. United States anti-dumping procedures were implemented in a transparent way and their aim was to safeguard the benefits of liberal trade. Sectoral market opening initiatives with major trading partners benefited other contracting parties through non-discriminatory application. For steel, international consensus was recognized as necessary to curtail unfair trading practices and permit the application of GATT rules. The United States was open to consultations and surveillance in the framework of the multilateral trading system and welcomed scrutiny in the TPRM, the central element of multilateral surveillance.

181. Council members emphasised that the United States, the world's largest single trading entity, had a major responsibility for the soundness of the multilateral trading system. In this context, it had played a leading rôle in the Uruguay Round negotiations. The resistance by the U.S. Administration to protectionist pressures in a time of economic slowdown was welcomed. It was recognized that the U.S. market was generally open, with most tariffs low and bound.

182. Export growth had been a factor in preventing the recent slowdown in the United States economy from turning into a deeper recession, and provided a base for recovery. While the current account deficit had declined, fears were expressed that recovery might lead to an import surge, stimulating further protectionist pressures. The U.S. Administration was urged to use appropriate macro-economic measures to address economic imbalances.

183. Participants expressed serious concern about the continuing use of unilateral trade measures, or threats thereof, by the United States. However, they welcomed the U.S. commitment, in the context of the Uruguay Round negotiations, that the United States would seek recourse to the new multilateral procedures for the resolution of disputes.

184. Among discernible trends in the last two years, participants identified increasing attention given by the United States to regional trading initiatives. Some participants saw these arrangements as contributing to the openness of the multilateral trading system. Others expressed concern at the increased focus given to such agreements, mentioning, in particular, the consequent reduction in m.f.n.-based trade and their potential trade-diverting effects. All stressed the need to ensure full consistency of these agreements with GATT rules.

185. Questions were raised and concerns expressed on several specific points. These included:

- the existence of high tariff peaks, notably on tobacco, textiles, clothing and footwear;
- unpredictable customs procedures, particularly in interpreting rules of origin;
- the application of anti-dumping and countervailing measures, particularly the uncertainty, harassment and costs caused for foreign competitors;
- the use of "managed trade" practices, particularly in the steel, automotive and semi-conductor sectors. In this context, some members asked what provisions might replace the existing VRAs on steel when they expire;
- "trigger" provisions under the 1990 Farm Act, which considerably expanded the scope for export subsidization;
- the GATT justification of the extension of agricultural marketing orders to new products;

- the relatively closed market for Government procurement, especially as a result of the definition of the national security criterion and where small firms are involved.
- unpredictable administration of the GSP scheme, inadequate product coverage, and non-trade criteria used in some cases to determine eligibility;
- extra-territorial application of U.S. trade legislation, particularly in the fields of anti-trust procedures and environmental laws;
- lags in adoption and implementation of GATT panel findings;
- "dual use" export restrictions on certain products;
- unequal treatment of foreign companies in certain aspects of U.S. regulations on foreign direct investment.
- the embargo maintained by the United States against one contracting party, which also had a negative impact on this country's trade with third parties;

186. In response, the representative of the United States acknowledged and shared participants' concerns over increasing protectionist pressures. He recognized that the U.S. tariff contained high peaks in certain areas, although only 4 per cent of tariff lines were over 20 per cent, and that many of the highly-protected areas of the U.S. economy were those of interest to developing countries. He also acknowledged that, by and large, no autonomous liberalization had been undertaken in the last two years, but that the United States was ready to address the concerns in the Uruguay Round.

187. The United States recognized that trade deficits could not be addressed through bilateral actions, but rather through balanced macro-economic policies. The fact that export growth had contributed strongly to domestic job opportunities had reinforced the United States' commitment to an open multilateral trading system.

188. In response to concerns about regionalism, he stated that the free trade agreements with Israel and Canada were already proven successes, even though full liberalization had not yet been achieved. The Canadian agreement was leading to much greater rationalization and specialization in North American industries. The United States believed that the process of integration would also assist greater overall trade liberalization.

189. He recognized participants' concerns over unilateral actions by the United States. However, many areas in which Section 301 action had been

taken were not currently covered by multilateral rules. In the same way, Government procurement was inadequately covered. The United States was committed to the expansion of the coverage of the multilateral system to include a unitary dispute-settlement mechanism covering all areas of international trade.

190. Managed trade was not seen as a desirable policy, and the United States would continue to resist its use. U.S. sectoral agreements had served to open markets for other suppliers: for example, under the agreements with Japan and the Republic of Korea. He stressed that the reference to a 20 per cent share in the Japanese semi-conductor market was nothing more than a statement of expectation for a reasonable foreign share of the Japanese market; it was not a specific share for the United States.

191. Export subsidies on agriculture had no redeeming value. The U.S. subsidy programmes were regarded by them as a necessary step to promote reform in this sector through negotiations under the Uruguay Round. Without an agreement on agriculture in the Uruguay Round, the U.S. Congress would undoubtedly continue to mandate agriculture export subsidies. In the same vein, the "trigger" clause in the 1990 Farm Bill was meant to send a clear signal: either a Uruguay Round agreement or a continuation of subsidy wars.

192. The United States' GSP scheme had increased in scope and coverage since the last review. Its aim was partly to encourage trade and economic reforms in beneficiary countries. Some 47 per cent of non-oil imports from GSP beneficiaries entered the United States duty free.

193. Anti-dumping actions affected only 0.3 per cent of United States imports. U.S. actions were fully consistent with its GATT obligations. The cost to traders was directly related to the transparency and "due process" nature of the system.

194. Regarding foreign investment, the Administration's goal was a free and open market. National security provisions were being applied with great care and such Congressional pressure as there was for discrimination was opposed by the Administration.

195. In conclusion, the Council welcomed the importance attached by the United States, and its positive approach, to the TPRM process. It was recognized that the United States had, in the past two years, continued to support the multilateral trading system and, at a time of economic difficulties, largely resisted pressures for greater protection.

196. Nevertheless, few fundamental changes had taken place in the United States' general trade policy framework. Many of the developments which had occurred continued the trends, seen in the first Trade Policy Review,

towards greater use of bilateral or unilateral measures, unilateral interpretations of multilateral trade rules, or managed trade. Subsidized exports of agricultural products had also increased. Serious consequences for the trading community resulted, not least from uncertainty regarding access to the U.S. market and effects on third markets. It was also seen as imperative that, in pursuing regional trading objectives, now a more obvious third "leg" of U.S. trade policies, the United States adhere fully to the letter and spirit of GATT provisions.

197. The rapidly-growing contribution of external transactions to the U.S. economy made an open, smoothly functioning multilateral trading system vital to the United States' trading partners and, equally, to the United States itself. In asserting these points, the Council emphasized that the interests of the United States and all its trading partners would be best served by a speedy and positive conclusion to the Uruguay Round, providing for a balanced, equitable trade liberalization package over all sectors and for all participants and the creation of a stable, transparent and rule-based multilateral trading system.