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CANADA

MINUTES OF MEETING

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

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I. INTRODUCTORY REMARKS BY THE CHAIRMAN

1. The Chairman recalled the objectives of the Trade Policy Review Mechanism, as decided by the Contracting Parties on 12 April 1989 (L/6490). The Council would base its discussion on two reports, one by the Government of Canada (C/RM/G/25) and the other by the GATT Secretariat (C/RM/S/25A and 25B). As in previous cases, the Secretariat had sought clarification from the Canadian Government on the factual information contained in its report.

2. Canada was one of the four trading entities subject to review every two years and was undergoing this process for the second time since the inception of the TPRM. Participants were therefore encouraged to focus mainly on the more recent changes in Canada's trade policies and practices. In this context, the Chairman suggested the following two themes:

(i) The evolution of Canada's general economic environment and of its trade policy objectives since the first TPRM report. This should include macroeconomic policies and their effects, and Canada's approach towards multilateral and regional trade liberalization.

(ii) Development in the use of trade and trade-related measures and policies, whether under the Canada-U.S. Free Trade Agreement, under its GPT scheme, or on an m.f.n. basis.

3. Two contracting parties, Australia and Hong Kong, had given advance notice of questions they wished to raise during the meeting. It was understood that these points would not in any way limit the scope of the discussion.

4. The Chairman thanked Ambassador Alastair Bisley and Ambassador Ernesto Tironi for their readiness to contribute, in their personal capacities, as discussants to the meeting. He invited the representative of Canada to give his introductory statement, followed by the two discussants.

II. OPENING STATEMENT BY THE REPRESENTATIVE OF CANADA

5. Canada welcomes this opportunity under the Trade Policy Review Mechanism to have the Council review its trade policy. Canada believes that the establishment of the TPRM has significantly enhanced the ability of the GATT to promote transparency by providing a means of comprehensively reviewing the trade policies of each contracting party.

6. The world economy is rapidly changing. Barriers to the movement of goods, services, capital and information are coming down. Industry is restructuring around the world to take advantage of new opportunities. The message of these events is quite clear: by taking advantage of these changes, countries can look forward to gains in efficiency, productivity and sustained wealth creation. Countries which ignore or resist these forces do so at potential great cost to their citizens and their future well being.

7. In this context, trade is vital to our well being, and its contribution to Canada's development is self-evident. Canada has an open economy with a large amount of foreign trade relative to its Gross Domestic Product. Over one-quarter of our GDP and three million jobs are directly dependent on exports. Much of that trade, in excess of 70 per cent, is with the United States. For Canada, access to technology and maintenance of open and competitive world markets for Canadian exports of goods and services are of critical importance. This interrelationship between economic prosperity and an open world trading system makes trade policy a key component of Canadian economic policy.

8. Canadian trade policy, along with other structural policies such as those on competition, intellectual property, and investment, are geared to set or influence the terms and conditions for competitiveness in the domestic market, as well as to facilitate Canada's competitive position in world markets.

9. The general objectives for Canadian trade policy have not changed since the first review. These are:

- the development of a stronger, more competitive, non inflationary domestic economy, with the resulting increased wealth shared by all Canadians from all regions of the country; and
- the promotion of a more stable and open international trading environment within which competitive Canadian and foreign firms alike are encouraged to plan, invest and grow with confidence.

10. The test of these policies is how they contribute to a productive and dynamic economy that can adapt to global shifts in comparative advantage, in which Canadians are productively employed in rewarding and satisfying jobs, and in which Canadian consumers can choose from a wide variety of goods and services at competitive prices.

11. The future prosperity and viability of the Canadian economy can be best assured by making Canada's competitive position a priority for economic policy-making. Step by step since 1984, the Government has implemented a comprehensive programme of economic renewal. The building blocks of the agenda have been, first, the restoration of macroeconomic balance by reducing fiscal deficits through cuts in discretionary spending and selective tax increases, and controlling and lowering the rate of inflation; and, second, reorientating structural economic policies toward the promotion of sustainable, medium-term growth.

12. Canada has made substantial progress since 1984 by cutting the public deficit to GDP ratio almost in half from 8.7 per cent to 4.6 per cent. As well, a wide range of fundamental reforms have been carried out to improve the framework of Government policies affecting the efficiency and the productivity of the economy. The programme is comprised of major initiatives in the fields of tax reform, trade and investment, deregulation and privatization, training, science and technology, and the introduction of a modern Competition Act in 1986. The approach underlying these reforms has been a consistent and systematic commitment to the pursuit of economic efficiency through the reduction of distortions and barriers to the operation of markets at home and abroad without - this point needs to be stressed - undermining the social safety net that protects disadvantaged people and regions. This strategy of reliance on market mechanisms will stimulate the process of longer-term wealth creation through innovation and research and development.

13. Among the specific trade policy reforms and actions currently being pursued are:

- the successful completion of the Uruguay Round of trade negotiations; this is the highest priority on the Government's trade agenda;
- the negotiations with the United States and Mexico toward a comprehensive and trade liberalizing North American Free Trade Agreement (NAFTA); as announced in February 1991, Canada is vigorously pursuing these negotiations for which it has set consistency with GATT obligations as one of the key objectives;

- the unilateral elimination, on an m.f.n. basis, of tariffs on a range of consumer products, in February 1992; this measure affects CAN\$1 billion in trade;
- an easing of restrictions on foreign investment in the oil and gas sector;
- the launching, in October 1991, of the Government's 'Prosperity through Competitiveness Initiative' as a broadly based domestic consultation process, with the goal to develop a national action plan to strengthen Canada's ability to adapt, to compete and to prosper;
- the acceleration of tariff reductions under the Free Trade Agreement with the United States affecting around CAN\$6 billion of two-way trade; and
- the introduction of a Goods and Services Tax which eliminated several trade-distorting features of the previous manufacturer's sales tax.

14. In summary, since 1984 the Government of Canada has been steadfast in implementing an agenda for economic renewal. Canada has made a substantial downpayment on a better economic performance in the 1990s and beyond. On the microeconomic front, progress has been made in reducing the rôle of government, putting in place needed structural reforms and encouraging more rapid adjustment to competitive challenges. On the macroeconomic front, inflation and interest rates are down sharply, and will fall further, and the fiscal structure is in place to eliminate new borrowing by the mid-1990s. The payoff is the creation of an essential foundation for the confidence, at home and abroad, that will ensure sustained growth.

15. As to the Secretariat report, Canada considers it an objective review of developments and trends in Canadian trade policy over the past two years. The report's overall assessment is positive. The Secretariat recognizes that trade is vital to the Canadian economy and to the well-being of all Canadians. Over the last ten years, the total volume of trade (exports plus imports) has expanded faster than world merchandise trade, making Canada the seventh largest trading nation in the world. It also recognizes that the multilateral trade negotiations, the Canada-U.S. Free Trade Agreement and the NAFTA, deregulation, privatization, tax reform and investment liberalization are likely to increase the Canadian economy's flexibility and competitiveness, and to boost imports.

16. The Secretariat report acknowledges Canada's rôle and strong support for multilateral trade liberalization as manifested in its active participation in the Uruguay Round. As already noted, the Uruguay Round is Canada's top trade priority, recognizing the importance of a successful conclusion to continued prosperity.

17. All Canada's trading partners which are contracting parties to the GATT, or indeed any country with which Canada has negotiated a bilateral trade agreement, receive the benefit of m.f.n. treatment. We negotiated a Free Trade Agreement with the United States under terms that are fully consistent with the GATT. The FTA has not created barriers to access for third countries to Canadian markets.

18. The content of the Secretariat report differs from the 1990 review in two areas. The present report contains a section on competition policy. The description correctly points out that Canada has a workable and forceful competition policy, which serves to ensure economic efficiency through open markets, including an open trade policy, and which does not provide broad loopholes based on social, strategic or cultural considerations. The report mentions a number of private and public monopolies in Canada, including provincially-owned utilities. However, it fails to mention that these monopolies are subject to rigorous oversight by public regulatory agencies.

19. The report also contains a lengthy section on foreign investment. In fact, this second review of Canadian trade policy sets a precedent with respect to investment policy in the Trade Policy Review Mechanism, a precedent Canada welcomes. Its open policy with regard to foreign investment is well known among foreign investors, and is reflected in the strong inflow of direct investment. In 1991, the flow of net foreign direct investment to Canada amounted to CAN\$5.9 billion, second only to the previous high of CAN\$6 billion attained in 1990. As noted earlier, the Government of Canada has moved decisively in liberalizing foreign investment regulations in the energy sector. This and other initiatives are clear indications that Canada merits the continuing confidence of foreign investors as an attractive and rewarding destination for foreign investment.

20. Canada's main instrument for protection is the tariff system. Canadian tariffs are generally low and most are bound. In 1991, the average rate of duty on total Canadian imports was 3.3 per cent. The average rate of duty under dutiable tariff lines stood at 9.5 per cent. Over 94 per cent of Canadian imports fell under bound tariff items, and 71 per cent of Canadian tariff lines were duty-free on an m.f.n. basis, while 65 per cent of imports entered Canada duty-free.

21. The Secretariat report mentions that the pattern of Canada's tariff application is complex; and a number of contracting parties had complained about the complexity of Canada's tariff régime during the 1990 review. Canada's tariff may in fact be viewed as complex. This reflects the historical development of Canada as a trading nation. Over the years, Canada has negotiated access to foreign markets. Conversely, many countries, including many that are represented here today, sought and received preferential access to Canadian markets. These arrangements cannot be set aside to merely simplify Canada's tariff régime. However, successful completion of the Multilateral Trade Negotiations - including the zero for zero proposals - will contribute to simplifying our tariff system. It should also be noted that one element of this complexity - the General Preferential Tariff for developing countries - has been implemented pursuant to the Enabling Clause of the General Agreement itself, and the scheme as well as particular aspects of it, such as its rules of origin, the lack of any special safeguard as well as its steadily expanding country and product coverage, have been welcomed by beneficiaries.

22. One of Canada's primary objectives in the current Uruguay Round has been to improve overall market access for Canadian goods and services. Tariff and non-tariff barriers in foreign markets have acted to restrict exports of Canadian primary products as well as manufactured goods and services. A successful conclusion to the Uruguay Round will enable Canadian producers to take advantage of economies of scale and expand their range of products and markets. Moreover, Canada is firmly committed to a substantial and balanced outcome in the market access negotiations of the Uruguay Round, which would reduce further the current levels of our m.f.n. tariffs. In particular, Canada, along with several other GATT participants, is pressing for total elimination of tariffs and non-tariff barriers in certain sectors including resource products as part of an overall package of trade liberalizing measures in the Round. In essence, Canada would like to replicate as much as possible at the multilateral level the kind of market access opportunities as are available to us through our Free Trade Agreement with the United States. This would help us to balance what we acknowledge is a large concentration of our exports in the U.S. market, a concentration which has built up over the years reflecting Canada's relatively better access to that market as opposed to others where trade barriers such as tariff escalation have hindered exports, especially of processed and finished goods.

23. Canada's agricultural trade policy reflects a balance between the interests of the export and the domestically oriented sectors. As well, it recognizes the realities of regional diversity and the diverse interests of the primary and processing sectors, and of consumers.

24. In 1990, the Canadian Government launched its agri-food policy review. Following the completion of that review, some policy changes have been made and others are in the planning stage. The principal aims of these changes are greater market responsiveness, promotion of self-reliance, recognition of Canada's regional diversity and striving for environmental sustainability.

25. Canadian agricultural trade policy is based upon the premise that the global marketplace will provide enhanced opportunities for trade development. It should not be an area of conflict. The need to reduce measures that distort international trade and to establish a comprehensive set of equally applicable rules for international trade in agriculture products is a Canadian priority, and is reflected in our positions on agriculture in the multilateral trade negotiations. Success in these negotiations will mean an effective brake on the cutthroat competition that has plagued world grain markets for much of the past decade. Disciplines on export subsidies will help restore the incomes of Canada's grain farmers, whose difficult - in some cases desperate - situation has necessitated the large outlays on income support which are described in the Secretariat report.

26. Canada continues to believe there is a legitimate rôle for import quotas under GATT Article XI, but on the basis that the Article should be clarified and strengthened so as to avoid some of the abuses of the past and clear up the ambiguity that has been identified by GATT panels. The Canadian approach to the strengthening and clarification of Article XI is consistent with the Uruguay Round objectives of greater market access, predictability and equity of agricultural trade rules. The Canadian position is shared by a number of GATT members.

27. In the area of safeguards and remedial trade measures, the Secretariat report accurately reflects a good track record for Canada over the past two years. Canada has not taken any safeguard actions under Article XIX since 1988 and has completely phased out previous measures. Canada did not initiate any countervailing investigations during the review period. Moreover, Canada has not attempted to manage international trade through such instruments as voluntary export restraints.

28. Canada has continued to take action to deal with injurious dumping. It does so in accordance with its legislation, the Special Import Measures Act, which is fully consistent with GATT obligations. The past few years have seen a gradual but significant decrease in dumping petitions and investigations. We trust this reflects a decline in injurious dumping practices. Canada is one of the few countries to operate a sunset clause on the findings of injurious dumping and the collection of anti-dumping

duties. Under this clause, an injury decision automatically expires after five years, unless a formal review finds that the remedial action should be continued. In the two-year period 1990-91, 75 injurious findings were rescinded or allowed to expire under this provision, while 19 were maintained. In addition, the inclusion of a public interest provision is a special feature of the Canadian anti-dumping law. In this regard, the notice of inquiry to determine the existence of material injury issued by the Canadian International Trade Tribunal invites any interested parties to submit their observations pertaining to the public interest. These features of the Canadian anti-dumping régime have proven their merit; they should be adopted by others.

29. The Secretariat has noted that Canada continues to operate a restrictive régime with respect to textiles and clothing. It should be borne in mind in this respect, however, that the bilateral restraint agreements which Canada has reached with its trading partners are not intended to roll back the rate of growth of imports but, rather, to ensure that the rate of growth of imports is commensurate with an orderly adjustment process. Indeed, Canada has endeavoured in its agreement with exporting countries to provide opportunities to increase such exports. Moreover, despite the existence of restraints, the share of the Canadian market held by manufacturers in Canada has continued to decline. The Secretariat report has noted this development as well. In the context of the Uruguay Round, Canada remains committed to the development of measures that would return trade in this sector to the GATT within a framework of strengthened rules and disciplines.

30. The Secretariat has noted the initiatives undertaken to date to improve the cohesiveness of the national market. Canadians recognize that greater internal mobility of goods, services and people will enhance the competitiveness of the Canadian economy, generate economic growth and promote export potential. On the other hand, in reference to monopolistic powers by provincial marketing agencies for alcoholic beverages, the Secretariat states that Canada is able to impose trade measures on a provincial basis. However, this is misleading. Canada does not impose trade measures on the basis of provincial boundaries, nor does it have any specific authority to do so in its trade remedy laws. In the case cited, the Canadian International Trade Tribunal determined that the British Columbia market for packaged beer represented a separate regional industry. As you know, the GATT Anti-Dumping Code provides for considering production in one particular region separately from the rest of the national territory.

31. Further progress in liberalizing Canada's internal market has become a part of the process now underway to renew the Constitution. While it is

too early to predict the outcome of these deliberations, it is anticipated that they could have profound implications for the terms and conditions within which our economy operates, and in particular the responsibilities of the federal Government and the provinces. Canadians are confident that the outcome will be a strong and vibrant Canada capable of competing effectively in the global marketplace and providing a prosperous future for all Canadians.

32. The relationship between environmental and trade policies has become a key issue. Coinciding with this meeting, Heads of State and Government are preparing to meet in Rio de Janeiro to begin the process of ensuring that further economic development will take place in an environmentally sustainable way. The trade and environment relationship has emerged as an important theme, giving rise to many questions about the rôle of GATT and the application of GATT principles and provisions to environmental issues. Canada places high priority on the work of the GATT Working Group on Trade and Environment as the key forum for an objective analysis of the underlying issues and clarification of the relevance and appropriate use of trade measures for environmental purposes.

33. The future trade policy agenda includes challenges in a number of other areas as well. Foremost among these are the completion and implementation of the Uruguay Round and NAFTA negotiations. Canada also looks forward to bringing world agriculture trade under the General Agreement, implementing the agreements on services, Trips and Trims, and to the establishment of a Multilateral Trade Organization.

34. In addition to those remarks, a number of technical corrections and updates to the documentation has been provided to the Secretariat in written form, to enable it to incorporate these points in the final published version.

III. STATEMENTS BY THE DISCUSSANTS

35. The first discussant (Ambassador Bisley) informed the Council that he wished to focus on specific issues emerging from the Secretariat report. Although Canada was the fourth largest entity in world trade, its trade in industrial goods was highly concentrated, both sectorally and geographically. The United States accounted for 72 per cent of Canada's external trade and exports of motor vehicles to the United States alone exceeded the value of Canada's overall exports to other developed economies. Nearly half of Canada's exports consisted of agricultural and mineral products, and, apart from trade with the United States, levels of intra-industry exchange were low. Within the agricultural sector, there was a marked contrast in levels of protection between the grains sector and other sectors, such as dairy, producing primarily for domestic consumption.

36. Noting that Canada was currently undergoing a recession for both cyclical and structural reasons, he invited the Canadian delegation to comment on the economic situation and outlook. He was also interested in Canada's view of the strengths and weaknesses of its intensive trade links with the United States.

37. Despite its bilateral ties, Canada remained a strong supporter of the multilateral trading system. The external framework of multilateral rules and disciplines seemed to provide a necessary counterbalance to regional integration: for example, through Canada's continued reliance on GATT dispute settlement procedures in its relations with the United States. Given the size of both economies, it was particularly interesting and important to clarify the impact of the Canada-U.S. Free Trade Agreement on the multilateral system. In this context he focused on:

- the potential for trade diversion at the expense of more efficient suppliers;
- the likelihood that sector-specific rules, including those on motor vehicles, could result in less efficient investment patterns;
- whether regional trade liberalization was seen as a pacemaker or a substitute for global liberalization; and
- the relationship between bilateral and multilateral dispute settlement procedures, including their implications for third parties.

38. More specifically, he considered it pertinent to discuss (i) the ramifications of Canada's bilateral and sector-specific approach towards trade liberalization in manufacturing, starting with the Auto Pact in the mid 1960s; and (ii) the incorporation of GATT provisions in regional trade

agreements and the extent to which the FTA might serve as a model for other agreements.

39. Turning to institutional questions, the discussant noted that, although the federal Government was responsible for trade policy, activities by provincial authorities had indirect effects on trade. Provincial liquor board practices had led to disputes under the GATT and the FTA. He wondered if Canada's present legal structure was sufficient to ensure compliance with GATT commitments. As an example, he noted that there were no notification or consultation mechanisms for provincial support to industry. He also sought clarification on whether, and to what extent, the disciplines applied to provincial activities under the Free Trade Agreement differed from those under the GATT. With regard to domestic transparency, he noted that the Government had decided to abolish the Economic Council of Canada, and asked what mechanisms now existed for an independent review of Canada's economic policies.

40. A variety of positive developments had taken place since the first review of Canada. These included deregulation and privatization, for example in the oil and gas and telecommunications sectors; liberalization of foreign direct investment; improvements in competition policy; sparing use of anti-dumping actions and rescinding of old measures under a sunset provision; harmonization of Government procurement procedures at federal and provincial levels; and lower levels of federal subsidies to industry. However, a number of areas of concern remained, including a complex tariff structure; discriminatory procurement practices; possible distortions, particularly in the procurement area, resulting from ownership links between equipment manufacturers and telecommunications carriers; trade frictions arising from the rules of origin under the FTA in sectors such as textiles and motor vehicles; the use of unilateral restraints in the textiles and clothing area; application of anti-dumping measures as a possible substitute for safeguard actions under GATT Article XIX (footwear); and differing policy approaches towards international competition within agriculture, as exemplified by the dairy and grains sectors.

41. The second discussant (Ambassador Tironi) wished to comment on recent policy changes in the areas of trade in goods and services, and investment and to assess these in terms of openness, measured objectively through quantitative indicators. With regard to trade, he proposed using the ratio of imports to GNP. However, he felt that the reports did not contain sufficient information for a thorough analysis of all three areas.

42. Restrictions on foreign investment had been removed in sectors such as oil and gas. While certain limitations remained on foreign investment

in some sectors, he concluded that, on the whole, and on the basis of increased investment inflows in the last few years, in this area the Canadian economy showed greater openness.

43. A number of policy changes affecting trade in goods had been implemented since the first TPRM review. These included the introduction of new restrictions under the MFA; changes in the list of controlled imports; tariff eliminations under the Canada-U.S. Free Trade Agreement; the bilateral abolition of import licenses for wheat and wheat products under the Agreement; halving of the number of anti-dumping measures between 1989 and 1991; and a considerable reduction in federal subsidies to industry. However, additional support programmes had been launched at the provincial level for industry, and in the agricultural sector. Canada continued to maintain a complex tariff, with rates differentiated by country of origin. High duties and quantitative restrictions were imposed on imports of textiles, clothing and footwear. The dairy and poultry sectors were under strict supply-management policies.

44. The ratio of Canada's imports to GNP had increased slightly between 1989 and 1991, from 20.0 to 20.3 per cent. This led him to conclude that the country had only slightly increased its commercial openness since the first review. In addition, the result suggested that the above policy changes had had little impact on the openness of the Canadian economy. However, he acknowledged that various factors had been at work in this context. For example, the negative income effects of the Canadian recession might have outweighed the positive price effects of bilateral trade liberalization on import demand.

45. Finally, he invited the Canadian delegation to comment on any plans to simplify the tariff régime; to specify the criteria used for granting tariff exemptions; to explain why, in view of the fiscal deficit, the Canadian Government had not decided to reduce support to agriculture and certain agro-industrial sectors; and to clarify whether Canada pursued any policies with the aim of moderating the growth of bilateral trade with the United States and its over-reliance on the U.S. market.

IV. STATEMENTS BY MEMBERS OF THE COUNCIL

46. Council members complimented Canada and the GATT Secretariat for the quality of their reports, which were considered to be highly informative and a good basis for the discussion. The discussants were thanked for their pointed and constructive introduction to the debate.

47. The representative of the European Communities welcomed the references by the Canadian delegation and the discussants to the inherent linkages between trade policy and macroeconomic developments. Since the first TPRM report, Canadian policies had in general been on a positive trend, geared to enable the country to face the challenges of the 21st century. Both the EC and Canada had launched major projects to forge an integrated internal market. In this context, similar problems had to be solved, for example the assignment of policy competence to federal and sub-federal institutions.

48. Referring to specific issues, he invited the Canadian delegation to comment on the achievements, so far, of the 'Prosperity Initiative' in removing barriers to interprovincial trade; a possible conflict between Canada's policy approaches towards regional and multilateral liberalization and the criteria used for choosing between these approaches in the event of bilateral disputes; the consistency of Canada's policies in the grains sector and its participation in the Cairns Group with its dairy régime and its negotiating position on Article XI; and the effects of exchange rate developments on bilateral trade with the United States. Furthermore, he asked about the possible impact of the TPRM review on policy making in Canada.

49. The representative of the United States recalled that Canada and his country maintained the most intensive bilateral trade relations worldwide. It was reassuring that the Secretariat report had confirmed Canada's commitment to the multilateral trading system, even though Canada had some difficulties with the implementation of Panel findings. He welcomed positive developments in the areas of Government procurement and subsidization that had been described by the Secretariat. However, persistent problems in certain procurement markets had been understated in the Secretariat report. These included buy-national or buy-local requirements by Crown Corporations and Canadian-content provisions under a "rationalization" programme for office equipment. Such restrictive practices in areas not currently under the GATT Code on Government Procurement showed the need to negotiate a much broader Code coverage. Other U.S. concerns were related to lack of progress in liberalizing agricultural markets, except for a few modifications under the FTA; Canada's continued issuance of compulsory licenses for pharmaceuticals;

and discriminatory practices by certain provincial liquor boards, in spite of the findings of the 1988 GATT Panel on beer.

50. With regard to the Canada-U.S. Free Trade Agreement, it was particularly noteworthy that the Secretariat report on Canada was far less critical than its previous report on the United States. Apparently, the Secretariat had adopted a more positive approach towards GATT consistent regional agreements, including the forthcoming NAFTA; and he welcomed this change.

51. Certain exporters to North America had alleged they were affected by trade diversion under the FTA. Such trade losses might have resulted from the recession or from changing cost structures in the exporting countries; they could not be attributed to the FTA. He could not understand why the rules of origin under the Agreement had given rise to concern; any free trade area or customs union needed such rules in order to define the products eligible for duty-free treatment. The rules under the FTA were liberal and allowed for substantial inputs of foreign parts and components.

52. Canada had a fundamentally open economy with high levels of import penetration and export orientation. Contrary to certain developing countries which, in their own interest, had recently opened up highly protected markets with a view to promoting growth, he felt that further liberalization in countries like Canada could be expected only through a multilateral undertaking. Canada, through its support for the Uruguay Round, had made considerable efforts with this in view. However, the emphasis was mainly on non-agricultural issues. Referring to the perceived need to protect cultural activities, the United States representative felt that Canadians should be allowed to assess the inherent value of such activities without Government interference. In view of a worldwide trend towards political, economic and cultural integration he wondered whether policy intervention in this area merely amounted to protection of commercial interests.

53. The representative of Australia commended Canada for many positive trade policy features and trends, including its active rôle in the GATT and the Uruguay Round. Improvements since the first report included autonomous tariff eliminations; a decline in the number of outstanding anti-dumping actions; cuts in federal subsidization to industry; and efforts towards defusing trade-related policies by the provinces. However, no profound reforms had been implemented and certain well-known problems persisted. These included the complexity of the tariff régime; a low share of imports from developing countries; the insulation of some agricultural sectors from international market signals, for example through the operation of supply management schemes; extensive subsidization of wheat producers

which, though provoked by international market distortions, had compounded the problems for other suppliers; leeway for the provinces to implement their own policies in trade-related areas and a high level of subsidization at provincial level; Canada's difficulties in implementing Panel recommendations; a high degree of preferential trade; and disadvantages for third parties under certain provisions of the FTA, such as the requirement to terminate duty remission schemes.

54. It was regrettable that the GATT working party on the FTA, as in other cases, had failed to reach definite conclusions on the GATT consistency of the Agreement. Australia hoped that the forthcoming NAFTA Agreement would have no adverse effects on third countries and expected the participants to notify it as soon as possible to the GATT.

55. The representative of the Republic of Korea noted Canada's rapidly growing importance as a trading partner of the Asian-Pacific region, including his own country. His general impression of Canada's trade policy was favourable. Positive elements included a strong competition law and the country's active participation in the Uruguay Round, particularly with regard to creating a new Multilateral Trade Organization and strengthening the provisions of GATT Article XI. While acknowledging current efforts to address environmental policy concerns, he emphasized the need to find trade-neutral, non-discriminatory remedies.

56. Reforms were needed in the tariff area, with the aim of reducing the complexity of the tariff régime and removing tariff peaks on products such as man-made fibres, clothing and footwear which were also excluded from Canada's GPT. Federal-provincial relations were a complex issue and practices at the provincial level, including certain registration requirements for traders and discriminations in public procurement, could amount to serious import barriers. Though the total number of anti-dumping actions had decreased, Korea was concerned about Canada's continued use of such measures, many of which affected more efficient Asian suppliers. Two actions against Korean producers even dated from the mid-1970s.

57. Since the entry into force of the Free Trade Agreement, Korea had experienced a continuous fall in its exports to North America. The forthcoming phasing-out of Canada's duty drawback and remission programmes on motor vehicles under the Agreement would favour American producers, contrary to the spirit of GATT Article XXIV:4. The NAFTA Agreement might even aggravate existing access problems, for example through discriminatory local content requirements and further trade diversion in the textiles area. While he accepted that the basic objective of free trade agreements was to provide for preferential treatment among participants, he was concerned about the restrictive application of instruments such as ru⁷ : of

origin. Korea's recent performance in North American markets might have been affected by a variety of factors, but trade diversion under the FTA had played a rôle. Finally, the Korean representative said that he fully shared Canada's assessment of the value of TPRM reviews; they enhanced transparency and contributed to a more open multilateral trading system.

58. The representative of Norway, speaking on behalf of the Nordic countries, appreciated Canada's rôle in the Uruguay Round, the emphasis placed on strengthening and clarifying GATT rules and disciplines, and the Government's resolve in resisting domestic policy pressures for increased protection. This positive record contrasted with areas such as a highly intricate trade régime, non-transparent federal-provincial relations in trade-related areas, and restrictive provisions on Government procurement and local content. He wondered why Canada and the United States had brought so many bilateral disputes to the GATT in recent years, despite the existence of the FTA.

59. The representative of Mexico underlined the importance of exogenous developments - stronger US growth, improved international commodity prices, reduced export subsidies for cereals - to economic recovery in Canada. Referring to the TPRM report by the Canadian Government, she endorsed the view that regional liberalization was complementary to, but could not substitute for, an open multilateral trading system. While acknowledging certain positive trade policy changes in Canada, she felt that additional efforts were needed to harmonize provincial policies, remove interprovincial trade barriers, clarify federal-provincial competences, and liberalize access to public procurement, including for products of interest to developing countries. In the investment area, she noted that Canada maintained certain restrictions in sectors such as mining, transport, fishery and financial services.

60. Overall, a comparison with the first review of Canada showed that no major policy changes had occurred. For example, while new countries had been added to the list of GPT beneficiaries, the scheme continued to exclude agricultural products, textiles and clothing, which were also subject to tariff peaks. Import restrictions persisted in a number of areas, including dairy products, chicken, eggs, textiles, clothing, footwear and travel articles. While positive trends were discernible in the field of anti-dumping and countervailing actions, and in competition policy, she saw further scope for strengthening Canada's competition law and deregulating sectors such as telecommunications. New measures had been taken in agricultural sectors, not least grains, and the subsidy equivalents were high for a country of Canada's competitiveness. However, she was aware of the international problems in this area. Canada's tariff

system on fruit and vegetables, with its seasonal and variable components, generated market distortions and uncertainties.

61. The representative of Chile pointed to certain positive changes in Canada's trade and investment régime since the first TPRM report. However, her country was also concerned about continued access problems, resulting from the complexity of Canada's tariff régime, the existence of seasonal tariffs on almost all fruit and vegetables, additional standard-related barriers and restrictions on consignment selling in these products, and federal-provincial coordination problems in areas with an impact on trade. She invited the Canadian delegation to comment on the policy principles governing Canada's recourse to bilateral and multilateral dispute settlement procedures and on the legal scope for the provinces to launch trade-related initiatives. In addition, she sought clarification on Canada's negotiating position on agriculture in the Uruguay Round and the future rôle of supply management mechanisms. Appreciating the importance attached by the Canadian authorities to competition policy, she wondered whether Canada and the United States intended, on the basis of competition rules, to develop a substitute régime for anti-dumping under the FTA.

62. The representative of Hong Kong said that the second cycle of TPRM reports should focus on two main issues: progress made by the contracting party in liberalizing trade in a multilateral context and, second, its response to concerns expressed during the first review. Regional integration had been the focal point of recent Canadian trade policy and he felt that previous misgivings, related to the possibility of trade diversion under the FTA and the precedence of bilateral rules over the GATT, had not been dispelled. Widening tariff margins between intra-area and external trade in sensitive items, such as textiles, could increasingly affect third countries and the uncertainties resulting from two competing dispute settlement fora - GATT and/or FTA - could cast doubt on Canada's commitment to the multilateral system. Like the Secretariat, he feared that the NAFTA could further compound the complexity of the Canadian import régime in areas such as tariffs, rules of origin, dispute settlement, and might not be consistent with the work done in the Uruguay Round. He therefore urged Canada to ensure that the forthcoming agreement would complement the multilateral trading system. He was also concerned about the absence of clearly defined federal-provincial competences in trade-related areas. This was particularly relevant in the context of the Uruguay Round negotiations where participants were expected to accept obligations and make commitments in fields such as services; some of these commitments would eventually have to be implemented at the provincial level. He was interested therefore to hear how the Canadian Government would ensure compliance.

63. Referring to Canada's approach to calculating dumping margins, the Hong Kong representative drew attention to the methodology used; only those shipments of a product were taken into account for which dumping had been established, any negative margins were ignored. Such an approach was biased towards the finding of dumping or increasing the size of the overall dumping margins. He saw this as one of the unsatisfactory elements left unresolved in the text on anti-dumping and hoped that the question could be addressed in future.

64. While appreciating Canada's support for the Uruguay Round and its opposition to unilateral and managed trade, he saw a need for the Canadian Government to place more emphasis on multilateral trade liberalization.

65. The representative of India acknowledged certain positive trends in Canadian trade policy and mentioned in particular the reduction of outstanding anti-dumping actions, federal subsidies to manufacturing industries and the extension of Canada's GPT scheme. However, he also indicated continued concern about the low market share of developing country suppliers in Canada and high tariffs on textiles, leather and footwear products, which also continued to be excluded from GPT. In addition, he saw an increasing tendency towards introducing new quantitative restrictions under the consultation provisions of Canada's bilateral MFA arrangements. This was particularly noteworthy as the Secretariat report had traced positive development, in terms of productivity, output and employment, in the Canadian textiles and clothing industry. While he did not question the consistency of Canada's current restrictions with MFA provisions, he wondered whether, in view of the industry's economic performance, it was necessary to regulate this area as rigorously as had been done. Referring to some remarks during the discussion, that the Secretariat report did not touch upon the area of trade in services, he emphasized that the present mechanism was restricted solely to the area of trade in goods and did not extend to or include trade in services.

66. The representative of Hungary considered Canada's approaches towards regional and multilateral trade liberalization as mutually reinforcing. Over the past years, Canada had not only implemented the FTA and participated in the NAFTA negotiations, but also re-emphasized the importance of the multilateral system. Its markets were open in general, the level of tariff bindings was high and the regulatory framework was transparent, though somewhat complex. The recent inclusion of Hungary under Canada's GPT scheme had facilitated market access for a number of products. The short time since the first report and the ongoing negotiations in the Uruguay Round might help explain a lack of progress in such areas as the complexity of Canada's tariff system and its tariff

peaks. Hungary shared Canada's hope that the negotiations would help create a more open and market-oriented environment for agricultural trade. However, a major reform package required all participants, including Canada, to be prepared to pursue a consistent approach and to abolish distortive trade policies.

67. The representative of Switzerland praised Canada as a firm advocate of the multilateral trading system. This was evidenced, for example, by low tariff averages and the country's active participation in the Uruguay Round. Support for regional industries, sometimes at the expense of foreign competitors, could be viewed in the context of Canada's current macroeconomic difficulties. Certain tariff and non-tariff barriers, including technical regulations and investment-related requirements, had been applied with a view to strengthening the domestic industrial base. Canada's recourse to new restrictions under the MFA since the last report underlined the importance of integrating the textiles and clothing sectors into the GATT. Constitutional constraints, combined with domestic policy pressures, had led the Canadian Government to make best use of the flexibility provided under the GATT in implementing its international obligations; the dairy régime was an example. Referring to specific points, the Swiss representative sought further information on Canada's policy approach towards defending cultural identity and on the measures envisaged under its new legislation on trade sanctions.

68. The representative of New Zealand fully endorsed both Canada's commitment to work towards an early and successful conclusion of the Uruguay Round and its basic negotiating objectives. Yet he did not share the view that Article XI could be strengthened in the negotiations. Also, New Zealand could not conceive of any exemptions from tariffing quantitative restrictions in the Round. Canada's multi-layered trade policy approach, with its internal, bilateral and multilateral levels, was sometimes difficult to understand. However, Canada was making considerable efforts to liberalize interprovincial trade and to create a single, integrated market by 1995. Also, despite the FTA, Canada had continued to play a leading rôle in the Uruguay Round and to resort to GATT provisions. He welcomed regional trade agreements, including the NAFTA, provided they were outward-looking and GATT consistent. As indicated in the Working Party, New Zealand was concerned about certain provisions of the FTA, for example bilateral safeguards in the beef sector. He invited Canada to comment on the economic effects of the Agreement so far, in terms of trade, employment and structural adjustments. With regard to recent policy trends, it was particularly commendable that the Canadian Government had not yielded to strong domestic pressures but kept important agricultural markets open; beef and horticultural products were cases in point.

69. The representative of the Czech and Slovak Federal Republic welcomed his country's inclusion in Canada's GPT scheme. He expected that this would have a favourable trade impact. While acknowledging the decline in anti-dumping activities in recent years, he expressed concern about actions, notably on waterproof rubber footwear, where prolonged application of anti-dumping duties could create a permanent obstacle to trade or, in other footwear categories, where Czech and Slovak producers were facing a threat of action despite their very low import share.

70. The representative of Brazil noted that the Secretariat report had revealed many positive features and trends in Canada's trade policy. There were also, however, worrying aspects such as the marked decline in trade with Latin America, whose import share had dropped from 5.7 to 3.4 per cent over the past decade. Although Canada operated a relatively liberal and rational trade régime, Brazil was affected by almost all defensive trade policy measures, including anti-dumping and countervailing actions, and restrictions on textiles and clothing. The latter measures contrasted with an excellent export performance of Canadian producers in recent years. On the import side, the shares of developing country producers in Canada's textiles and clothing markets compared very unfavourably with those of the United States, which had risen since 1986, and the EC. Referring to agriculture, he noted that international market distortions had pushed Canada into high levels of protection which, in turn, had contributed to the current subsidy war. He trusted that Canada's stress on the importance of the GATT-based trading system and its advocating of multilateral trade liberalization in the Uruguay Round could be viewed as a definitive commitment to the text on agriculture of the Draft Final Act and to a more equitable trading system in agriculture as a result of a successful outcome of the Round.

71. The representative of Japan encouraged Canada to continue to play an active part in the multilateral trading system and the Uruguay Round. He reiterated the need for the FTA and the NAFTA to be in full conformity with GATT provisions, in particular Article XXIV, and not to result in restrictive or exclusive regionalism; to take fully into account trade and investment benefits of third countries; and to contribute to the expansion of world trade. The NAFTA Agreement should be reviewed in the GATT as soon as it was concluded. Japan's concerns about the FTA, as expressed in the GATT Working Party, still applied. For example, rules of origin needed to be predictable, transparent and fair. Changes in these rules should not be allowed to place burdens on companies already established in a market and to inhibit liberal economic interchange. Nor should they be used with a view to increasing local content.

72. He invited the Canadian delegation to say how regional and multilateral agreements could be made complementary and consistent, in particular in areas such as dispute settlement and rules of origin, and how the regional agreements would be brought into conformity with an extended GATT after the Uruguay Round. In addition, he sought clarification on the potential for trade diversion under the FTA as well as on specific trade policy issues, including federal-provincial coordination mechanisms and farm subsidies. In the latter area, he fully agreed with the Canadian Government's TPRM report, which had identified export subsidies as the main problem. Commenting on developments, or the lack thereof, since the first TPRM report, he expressed continued concern about the complex structure of the Canadian tariff and Canada's compulsory licensing system for pharmaceuticals. In contrast, he acknowledged a decrease in anti-dumping actions, not least reflecting the operation of a sunset clause.

73. In general, he felt that the Canadian market was relatively open, though there was scope for improvement. Referring to a statement by the U.S. representative, he noted that economic theory also suggested in this case, and not only with regard to hitherto highly protected markets, that continued efforts towards liberalization would be in the country's own economic interest.

74. The representative of Argentina fully endorsed the comments by the Canadian delegation on the usefulness of TPRM reviews. The Mechanism improved transparency and contributed to a better understanding of a contracting party's economic and trade policies, and their impact on the multilateral system. Referring to the second discussant's approach to measure a country's trade performance by import penetration ratios, he acknowledged the advantages of such indicators. It was questionable, however, whether a two-year period was long enough to provide reliable results; short-term comparisons were strongly influenced by factors such as the current recession. He would expect longer-term time series to point to increased openness in the Canadian economy.

75. The reports by the Secretariat and the Government of Canada had called attention to certain structural problems and distortions, as indicated, for example, by high fiscal deficits over the past decade. However, Canada had made considerable efforts to correct these imbalances and to spur investment and growth. He pointed to intensified federal-provincial coordination with a view to strengthening the country's internal market, and to Canada's participation in the multilateral trading system. However, these efforts had not so far led to lasting solutions to various problems highlighted during the first review. These problems - including high tariffs on textiles and clothing, the complexity of Canada's tariff structure, low shares of trade with developing countries, and

restrictions on agricultural trade - also needed to be seen in the light of the Uruguay Round. While they were part of, and had an effect on, Canada's trade and economic policies, they were also linked to a successful outcome of the Round and required Canada's full participation in all areas of the negotiations.

V. COMMENTS AND RESPONSES BY THE REPRESENTATIVE OF CANADA

76. The representative of Canada noted that, had the Uruguay Round already been completed, the trade policy review would have looked somewhat different. As a result of the Round, he expected liberalization to move forward particularly in areas such as intellectual property, agricultural support, tariffs, and areas addressed by panel reports. An end to export subsidy competition between major agricultural traders would allow Canada significantly to reduce support to farmers which, in turn, would immediately improve its fiscal position. In addition, a major revision to Canada's Constitution, currently under consideration, was expected to affect the division of powers between federal and provincial governments as well as arrangements for coordination and consultation among the different levels of government.

77. He disagreed with the observation by some participants that Canada's trade régime had remained static since the previous review. In fact, a number of significant trade liberalizing measures had been taken, which was particularly noteworthy during a period of trade negotiations. Since the Canadian economy was already characterized by low levels of protection, the scope for comprehensive trade policy reforms, as pursued by some other contracting parties, was limited. He felt that, on a short-term basis, it might be misleading to measure moves towards trade liberalization by import penetration ratios or similar indicators. The crucial issue was whether policies had been changed.

78. The Government's 'Prosperity through Competitiveness Initiative' consisted of a process of research and consultation with the private sector which, it was hoped, would lead to strengthened policies. Discussions focused on how policies and structures in areas such as education, training and research and development could be adapted to improve competitiveness.

79. Turning to the area of textiles and clothing, he emphasized that restrictions under the MFA were designed to ensure that the rate of growth of imports was commensurate with an orderly adjustment process. The share of imports in the sector had continued to increase, and developing countries currently accounted for nearly 90 per cent of the volume of clothing imports. Shifts in market shares had occurred only between developed country suppliers. The safeguard provisions of the MFA had been used sparingly and only when there was a need to remedy actual or threatened market disruption. As had been mentioned in the Secretariat report, the Canadian International Trade Tribunal had issued recommendations to bring tariff levels into line with those of Canada's major trading partners; these recommendations would be addressed in the market access negotiations. As part of a balanced outcome of the

Uruguay Round, the Canadian Government remained fully committed to integrating the textiles and clothing sectors into GATT on the basis of strengthened rules and disciplines.

80. Referring to dispute settlement systems under the GATT and the FTA, he noted that disputes involving provisions unique to the FTA would be settled under the FTA. For disputes involving GATT provisions incorporated in the FTA, the complaining party had the option of either the FTA or the GATT. Decisions rendered under the FTA were in no way binding on, nor did they otherwise affect the rights of, other GATT contracting parties. As had been pointed out by many participants, both Canada and the United States had continued to use the GATT dispute settlement system since the formation of the Free Trade Agreement.

81. Concerning the application of the GATT to provincial governments, the federal Government continued to take the view that its obligation under Article XXIV:12 was to take such reasonable measures as might be available to it and which were compatible with the constitutional and political system of Canada, to ensure that provincial practices and measures were in conformity with its obligations under the General Agreement. It was subject to this provision, and in accordance with its constitutional power to regulate trade and commerce, that the federal Government had signed the GATT. With respect to the compliance of sub-federal governments, there was no difference in the constitutional status of federal obligations under bilateral and multilateral agreements.

82. The draft text on Article XXIV:12, negotiated in the Uruguay Round, contained further detailed provisions on the relationship between different levels of government in international trade matters. Canada had agreed in the Round that the dispute settlement provisions, i.e. compensation or withdrawal of concessions, would also apply when the international trade dispute stemmed from non-compliance by a province. He emphasized that provincial practices examined by GATT panels and found inconsistent with Canada's obligations would be brought into conformity.

83. With respect to provincial procurement, Canada was an active participant in the negotiations on broadening the coverage of the GATT Code but was awaiting signals from other participants to do away with "buy national" requirements. He confirmed that Canadian law permitted certain provinces to maintain a registration requirement for the sale of upholstered and stuffed articles. The provinces were responsible for health and safety protection and firms needed to register in order to certify that only new materials were used which met hygiene standards.

84. Turning to anti-dumping, the Canadian representative noted that, under Canadian law, price undertakings could only be accepted prior to a preliminary determination of dumping. However, upon completion of the Uruguay Round, Canada had expressed its willingness to amend its legislation so that price undertakings would only be sought or accepted once there had been a preliminary affirmative determination of dumping and of injury caused by such dumping. It was true that non-dumped goods were excluded from the calculation of dumping margins. This was in line with GATT Article VI, which clearly stated that in order to offset or prevent dumping, a contracting party could levy on any dumped product an anti-dumping duty no greater than the margin of dumping in respect of such product. As to the hypothetical case of a very small share of dumped imports in total shipments of a product, he pointed to Section 35(1) of the Special Import Measures Act which stated that the Deputy Minister might terminate an investigation if the volume of dumped imports was negligible. Furthermore, small volumes of dumped imports were much less likely to lead to positive injury determinations by the Canadian International Trade Tribunal.

85. Referring to complaints about certain long-lasting anti-dumping actions, he emphasized that all measures were entirely in accordance with Canada's obligations under the Anti-Dumping Code. Moreover, they had been imposed pursuant to a full investigation in each case and not by way of anti-circumvention measures. Annex II of the report by the Canadian Government described in detail the procedures for conducting investigations, including the operation of the five-year sunset provision. Regarding the possibility of replacing anti-dumping provisions under the FTA or NAFTA by rules on price discrimination under competition law, he said that this was one of the options for a substitute régime for trade remedies. However, this was not a policy of the Canadian Government.

86. Turning to federal and provincial support to industry, he noted that the data referred to by the Secretariat included a number of non-commodity subsidies and subsidies for non-business services which were not usually considered as industrial assistance. A degree of harmonization had been achieved with respect to federal and provincial coordination. Federal and provincial Ministers had agreed in principle to the elimination of remaining barriers to interprovincial trade by 31 March 1995. In addition, individual applications for assistance under federal programmes were evaluated in light of the potential recipients' eligibility for assistance under provincial programmes.

87. Federal and provincial support for industry was moving towards providing business with better infrastructure, a better trained labour force and improved government services. Direct financial support to

business had largely shifted from grants to repayable contributions and loan guarantees. Nevertheless, provinces could support industry in order to safeguard employment, particularly in disadvantaged regions. Federal support for business had declined from CAN\$5.6 billion in fiscal year 1984/85 to CAN\$2.6 billion in 1991/92. It was unlikely that the provinces had increased spending in this area to materially offset federal cuts.

88. As a result of the termination of the duty drawback programme for the auto sector under the FTA, duties paid by processors in Canada or the United States on third country materials and components would not be refunded or exempted after 1 January 1994, if the finished goods were exported to the other party. This was irrespective of whether or not the goods met the rules of origin under the FTA. The provision did not discriminate against third country goods. Under the production-based automotive duty remission programmes, duty-free privileges were extended on a multilateral basis to Canadian-based companies that had participated in the Auto Pact. The non-admission of new members had similarly been applied to both Canadian and foreign-owned firms. Assessing the expected trade effects of the termination of the duty remission schemes would depend on the source of imports and the rates of duty in effect at that time. According to the most recent import statistics, annual shipments under the schemes ranged from CAN\$3.0 million (cruiser remission order), to CAN\$15.0 million (export-based duty remissions on automotive parts), to CAN\$16.5 million (front end loader remission order) to CAN\$47.5 million (textiles remission order) and to CAN\$61.2 million (production-based duty remissions on automotive parts).

89. The purpose of the rules of origin applied under the FTA, and potentially the NAFTA, was to ensure that the benefits of the agreements accrued to the signatories. This was common to all free trade areas and not restrictive for third parties.

90. The objective of the FTA was to enhance overall trade and not to increase bilateral trade at the expense of third countries. Data covering the period since the entry into force of the Agreement did not suggest that trade with third countries had suffered. In addition, economic analysis conducted during the negotiations had shown that the expected overall gains in third countries' trade with Canada should more than compensate for any trade diversion that might occur.

91. The Canadian representative reiterated that, in agriculture, his Government saw a legitimate rôle for a strengthened and clarified Article XI. In its offer in the Uruguay Round, Canada was prepared to establish minimum access commitments for products under supply management and to reduce ordinary customs duties by an average of 36 per cent on

quantities within the minimum access commitments. Export assistance for dairy products and deficiency payments on industrial milk would also be subject to the disciplines and reductions proposed in the Draft Final Act of the Uruguay Round. He emphasized that a Uruguay Round result in this area must reflect the interests of all GATT members, and not just of the largest participants.

92. Assistance to agriculture had increased in recent years because the Canadian Government could not allow its farmers to be driven out of traditional markets as a result of the export subsidy practices of one large contracting party and the retaliatory actions of another. Agricultural support programmes aimed to provide income protection rather than to influence particular commodity prices. Hence, they were more trade neutral. The long-term income stabilization programmes involved cost-sharing between governments and producers; Canada was prepared to make appropriate changes to bring them fully into line with agreed rules emerging from the Uruguay Round. Spending on support for grains and oilseeds for the period September 1991 to June 1992 was estimated at CAN\$3,145 million; producer contributions were expected to amount to CAN\$580 million.

93. Under the Agricultural Products Standards Act, restrictions on consignment selling of perishable fruits and vegetables had been in place since the 1930s. These were designed to prevent the liquidation of stocks at distress prices in volatile markets of short duration. The measures were applied on an m.f.n. and national treatment basis; inter-provincial consignment selling was also prohibited.

94. As indicated in his introductory remarks, the complexity of the Canadian tariff was a result of various negotiations with other countries, many of them pre-dating the GATT, in which preferential access was sought and given. Simplification of the tariff would be achieved through successful market access negotiations in the Uruguay Round, notably through agreement on the "zero for zero" proposals. Referring to the exclusion of some sensitive products from the General Preferential Tariff, he said that the original purpose of preferential tariff schemes had been to help developing countries overcome competitive disadvantages and to penetrate developed markets for manufactured goods. Most of the items excluded from the GPT were agricultural goods or products, such as textiles, clothing and leather goods, where developing countries had proven to be very competitive.

95. The Canadian representative then turned to Canada's current recession and its impact on trade. Cyclical factors such as tightening monetary conditions, a slowdown in domestic demand and the onset of the recession in

the United States had had a severe impact on the Canadian economy. The effects of the recession were compounded by structural factors: growth in unit labour costs in manufacturing, low commodity prices and a resource crisis in the Atlantic fishery. The private sector had undertaken extensive restructuring in an effort to improve productivity which, unfortunately, had slowed employment growth. In the medium term, cyclical factors would drive the recovery. Short-term interest rates had fallen significantly, reflecting success in reducing domestic inflation, currently the lowest among the G7 countries. Domestic demand and business confidence were increasing. The United States' economy was also showing signs of a rebound. The restructuring of the Canadian economy was expected to aid its recovery and position Canadian businesses for the more competitive conditions of the 1990s.

96. The recent fall in the real value of Canada's total trade was a result of the recession and not policy-induced. The mere existence of the FTA did not guarantee that trade would increase year after year. Canada remained optimistic about the long-term economic effects of the agreement and expected that Canadian businesses would take advantage of the opportunities arising from freer trade.

97. Government funding for the Economic Council of Canada had been eliminated in view of the limited government resources available to arm's length research and advice. Also, since the creation of the Council, there had been considerable growth in the number of qualified organizations and individuals outside government conducting independent research on economic issues.

98. The recently adopted Special Economic Measures Act enabled Canada to impose economic sanctions promptly and effectively when such measures were decided by an international organization or an association of states to which Canada belonged. He noted that economic sanctions would remain an exceptional measure but they were an essential foreign policy instrument.

99. Canada's support for cultural industries was designed to ensure that Canadian writers, musicians and artists continued to have access to the Canadian market. Canada shared languages with other countries having much larger cultural industries. Allowing unrestricted foreign acquisitions of Canadian cultural enterprises, such as book publishers or film distributors, would thus risk creating a situation in which Canadian creators of cultural products would find no distributors when easy and assured profits were available from the distribution of foreign cultural products. The strength of Canada's conviction was reflected in the fact that it had not agreed to negotiations in this area in either the FTA or the NAFTA.

100. As to pharmaceutical patent protection, the Government fully endorsed the proposals contained in the Draft Final Act of the Uruguay Round that would allow pharmaceutical patent owners to enjoy the full term of protection now provided to patent owners in all other sectors.

101. Finally, the Canadian representative offered some comments on the effectiveness of the TPRM. The Mechanism had been designed to provide transparency and an opportunity for constructive discussions with a view to encouraging Contracting Parties to orient their policies more towards the objectives of GATT. It was still too early to try to identify causal relationships or to make measurements of effectiveness. However, since the TPRM received considerable attention from senior officials and the press, one could assume that policy makers were influenced by these reviews and by similar processes which forced them to place their actions in an international context. He felt that the Mechanism should be continued with all the seriousness and dedication it deserved.

VI. FURTHER COMMENTS

102. The first discussant recalled the doubts, expressed during the debate, about whether the period since the first TPRM report was sufficiently long to allow policy reforms to bear fruit. The shortness of time might also argue against the use of indicators which were expected to reflect changes in the openness of an economy, even though such measures might in principle be a good starting point for further analysis. In addition, several Council members had expressed the view that, because the Uruguay Round was still underway, no important changes could be expected. However, this implied a particular understanding of the motives governing trade policy reforms which might warrant further reflection.

103. He felt that a broad consensus had emerged on reforms likely to be needed. Among the instruments affecting m.f.n. trade, Canada's complex tariff régime had attracted the most severe criticisms. Further problem areas included Government procurement, Canada's two-track approach in agriculture, and its restrictions on textiles and clothing. All these issues could be addressed in the Uruguay Round. With respect to agriculture, he was disappointed, however, given the importance attached by Canada to the Round, that it had adopted a stance that could jeopardize a balanced outcome.

104. Many interventions had also focused on the implementation of the FTA, possible changes in the NAFTA context, and on federal-provincial relations within Canada. Concern had been expressed about new trade barriers under the FTA, for example those resulting from the abolition of duty drawback and remission programmes and from the rules of origin. While it was unlikely that the Uruguay Round could have a direct bearing on these issues, the results of the tariff negotiations could, however, significantly affect the extent to which regional agreements diverted trade.

105. Finally, he considered this TPRM meeting a very timely exercise and he felt encouraged by the comments made by the Canadian delegation on the usefulness of such reviews for domestic policy making.

106. The second discussant reiterated the importance of objective yardsticks to measure trade liberalization. If these suggested that no significant changes had occurred, as in the case of Canada since 1989, the causes needed to be discussed; and he agreed that Canada's recession as well as the unfinished state of the Uruguay Round had been important factors. However, he wondered whether the Round should be used as a pretext to delay important policy reforms over years. As to the Free Trade Agreement, statistical evidence suggested that, overall, third countries

had not been adversely affected. This was not least due to the existence of external rules and disciplines, within the GATT, and to the signatories' commitment to comply with their obligations.

107. Several delegations took the floor again (United States, European Communities, Hong Kong, India, Japan, Republic of Korea). The points made are incorporated in the statements recorded above.

108. Following the Council meeting, the delegation of the European Communities transmitted additional comments in writing, relating to a possible extension under Canada's forthcoming telecommunications law of current foreign ownership restrictions to carriers with an own infrastructure in Canada; Canada's net exports of many dairy products, including not only milk powder but also condensed and evaporated milk; and restrictive licensing requirements on wheat-containing products which were considered a potentially serious trade barrier. The Canadian authorities subsequently responded in writing with a view to clarifying these points.

VII. CONCLUDING REMARKS BY THE CHAIRMAN OF THE COUNCIL

109. The Council has now conducted the second review of Canada's trade policies and practices. These remarks, made on my own responsibility, summarize salient points raised during the discussion. They are not intended to substitute for the Council's collective evaluation and appreciation of Canada's trade policies and practices. Details of the discussion will be reflected in the minutes of the meeting.

110. In his opening statement, the representative of Canada said that Canada's economic and trade policy objectives - to achieve a stronger and more competitive domestic economy within a more stable and open international trading environment - had not changed since the first review. A comprehensive programme of economic renewal had been implemented, based on the restoration of macroeconomic balance and the reorientation of structural policies to promote sustainable growth. Canada's specific trade policy aims were, first and foremost, the successful completion of the Uruguay Round; secondly, vigorous pursuit of the NAFTA negotiations consistent with GATT obligations; and liberalization of other conditions for trade and investment. Canada had already eliminated tariffs on a range of consumer products in February 1992 and, through the introduction of the Goods and Services Tax, had done away with trade-distorting features of its previous internal taxation.

111. Canada's main protective instrument was the tariff; most rates were low and bound. The complexity of Canada's tariff was partly the result of historical developments relating to preferential access. Successful conclusion of the Uruguay Round would contribute to simplifying the system. Within the Round, one of Canada's main objectives was to improve overall market access for Canadian goods and services. In this connection, Canada sought total elimination of all trade barriers in certain sectors, including resource products. Multilateral liberalization would help to balance the concentration of Canada's trade in the United States market. Canada's aims in the agricultural trade negotiations were to reduce conflicts and distortions and, in particular, to achieve effective disciplines on export subsidies. At the same time, Canada believed there was a legitimate rôle for Article XI import quotas, if the conditions for their application were strengthened and clarified. Canada attached great importance to the clarification and appropriate use of trade measures for environmental purposes.

112. Since the last review, Canada had not taken any new safeguard measures under Article XIX, nor had it initiated any countervailing investigations. Canada did not seek to manage international trade through such instruments as voluntary export restraints. In dealing with injurious

dumping, Canada adhered strictly to GATT obligations and was one of the few countries to operate a "sunset clause" and public interest provisions. Canada's bilateral restraint agreements on textiles and clothing were intended to ensure that imports grew in an orderly manner; Canada remained committed to the reintegration of textiles and clothing into GATT under the Uruguay Round. The constitutional developments now underway should bring about changes in the relationship between the federal Government and the provinces which should increase the openness of the Canadian market.

113. Council members welcomed Canada's strong attachment to the multilateral trading system and the top priority given by Canada to a successful completion of the Uruguay Round negotiations. Canada had continued in the direction of opening its economy over the past two years, despite the recession. Federal public support to industries had been reduced. New sectors had been opened to foreign investment. Canada's competition law, strengthened in the mid-1980s, had been applied with resolve. Efforts were also being made to improve federal-provincial co-ordination in areas such as Government procurement and farm subsidies.

114. Few new major trade policy initiatives had been taken by Canada since the last review. This might partly be ascribed to the unfinished state of the Uruguay Round. However, the general trend of Canada's trade policies was positive. Some unilateral tariff reductions had been made; the country coverage of the GPT scheme had been extended; the number of anti-dumping measures and new initiations had declined; and no new safeguard measures or countervailing actions had been taken. Members also appreciated Canada's resistance to industry pressures for increased trade restrictions in areas such as horticultural products and beef. These elements might not in the short run be reflected in import penetration ratios.

115. In the event of trade frictions and conflicts, including those with the United States, Canada had continued to use transparent multilateral mechanisms, rather than unilateral measures or informal arrangements. A number of bilateral disputes arising under the FTA with the United States had been brought to GATT, rather than taken up in bilateral fora. In this connection, some members raised questions regarding the interaction of dispute settlement procedures established under the FTA with those of the GATT, including the representation of third party interests.

116. The Canada/United States Free Trade Agreement had given greater weight to bilateral trade in the Canadian economy and further increased its dependence on economic developments in the United States. The complexity of certain provisions, including rules of origin, had restrictive effects on trade with and investment by third countries. Textiles, clothing and

automobiles were particularly mentioned in this connection. The phasing out of duty drawback and remission schemes on automobiles could also increase trade diversion in the sector. The extension of regional free trade through the NAFTA Agreement might create additional frictions. Members stressed that the NAFTA Agreement must be fully consistent with the General Agreement. It was imperative that the Agreement be outward-looking and trade-creating in nature.

117. Participants noted that important segments of Canadian agriculture, in particular grains, had suffered in recent years from the slump in world markets, mainly as a result of aggressive subsidization by large trading partners. This had led the Canadian Government to launch new, costly stabilization programmes for grains producers. Overall support had therefore increased to a relatively high level. Some participants indicated inconsistencies between Canada's interest in an open trading environment in sectors such as grains and its desire to maintain restrictive supply management schemes for dairy and poultry.

118. A number of members questioned the consistency of provincial policies with federal trade policy objectives and Canada's international commitments. Particular mention was made of industrial subsidization, liquor board and Government procurement practices at provincial level.

119. Council members noted that Canada's tariff régime had remained virtually unchanged since the first TPRM review. Its complexity could be further compounded by the results of the ongoing NAFTA negotiations. Tariff peaks continued to hamper access in sectors such as textiles and clothing, leather and footwear, ships and boats. Given the exclusion of these areas from Canada's GPT scheme, developing countries were facing particularly high tariff barriers. This could help explain the continuing very low share of developing country suppliers in Canada's imports.

120. Participants raised concerns and sought clarification on a variety of specific issues, including:

- the Canadian Government's 'Prosperity Initiative';
- seasonal tariffs on fruit and vegetables;
- provincial registration procedures for traders;
- recurrent findings of injury under anti-dumping procedures;
- a potential bias towards findings of dumping in injury determinations stemming from the way in which margins were calculated;
- possible replacement of anti-dumping procedures in the free trade area;

- the implications of continued recourse to compulsory licensing for pharmaceuticals;
- "buy national" conditions for procurement by Crown corporations at federal, provincial and local levels;
- Canadian-content provisions under the "rationalization" programme in the field of office equipment;
- the framework for international sanctions provided by the Special Economic Measures Act;
- the abolition of the Economic Council of Canada, the country's independent policy review body;
- restrictions on consignment selling of perishable goods;
- the introduction of new restrictions under the MFA consultation clause in the context of growth in the Canadian textile and clothing industries;
- protection of cultural industries; and
- the impact on bilateral trade of developments in the Canada/US exchange rate.

121. In response, the representative of Canada noted that a review of Canada's trade policies would have presented a very different picture if the Uruguay Round had been successfully concluded. This would be particularly true in areas such as tariffs, agricultural support and intellectual property. In contrast to some observations made in the debate, quite significant trade liberalization measures had been taken since the last review. Moreover, Canada's economy was already significantly open, with low levels of protection. The 'Prosperity through Competitiveness Initiative' at this stage involved research and consultations with the private sector on a new, broader policy agenda.

122. In the textiles and clothing sector, restraints under MFA agreements were designed to ensure that the rate of growth of imports was commensurate with an orderly adjustment process. The share of imports in the Canadian market had increased and that of developing countries in the volume of imports was stable; shifts in market shares had occurred between developed country suppliers. Safeguard measures under the MFA had been used sparingly. Sectoral tariffs would be addressed in the market access negotiations, based on recommendations by the Canadian International Trade Tribunal. Canada remained fully committed to the integration of this sector into the GATT under the Uruguay Round.

123. Dispute settlement procedures under provisions unique to the FTA were brought to the bilateral forum, while disputes involving GATT provisions could be pursued under either the FTA or GATT procedures. Both Canada and USA continued to have frequent recourse to the GATT dispute settlement

process. Bilateral conclusions were not binding on third parties and did not abridge their rights under the GATT.

124. In terms of Canada's accession to GATT, the federal Government would continue to take such reasonable measures as may be available to it and which are fully compatible with the constitutional and political system of Canada, to ensure the conformity of provincial practices and measures with its GATT obligations. There was no difference between the constitutional status of federal obligations under bilateral and multilateral agreements with respect to compliance by sub-federal governments. Canadian provincial practices with regard to alcoholic beverages, determined by the GATT panel to be inconsistent with Canada's GATT obligations, would be brought into conformity. Provincial or sub-national entity coverage was an important aspect of the current negotiations on Government procurement; Canada had also indicated its willingness to include Crown corporations in an overall package. Registration requirements in certain provinces for the sale of upholstered and stuffed goods were designed to ensure observance of health and safety standards set by the provinces.

125. Under current Canadian anti-dumping law, price undertakings by exporters could only be accepted prior to a preliminary determination of dumping by the deputy Minister. Canada was willing, upon the successful completion of the Uruguay Round, to amend its legislation so that price undertakings would be sought or accepted only once a preliminary determination had been made. Calculations of dumping margins were based on shipments of dumped goods, consistently with Article VI of the GATT. Section 35(1) of the Special Import Measures Act provided for termination of an investigation if the volume of dumped imports was negligible. A substitute régime for trade remedies within the FTA or NAFTA based on competition policy was one possible option, but was not Canadian policy.

126. Some harmonization of federal and provincial assistance in the industrial sector had been achieved in principles agreed in May 1992. Remaining barriers to inter-provincial trade were to be eliminated by March 1995. Direct financial support to business had largely shifted from grants to loan guarantees; federal support for business had declined by CAN\$3 billion in the last six years.

127. The termination, from 1 January 1994, of the duty drawback programme for the auto sector under the FTA would not discriminate against third country goods. However, the trade effect of the termination of duty remission schemes would depend on the source of imports and the rates of duty. Canada's overall objective in the FTA was to enhance trade generally, not to increase bilateral trade at the expense of third

countries. Available data did not suggest that trade for third countries had suffered.

128. In agriculture, Canada believed that there was a legitimate rôle for a strengthened and clarified GATT Article XI. The need for increased assistance to Canadian agriculture was provoked by price deterioration, particularly for grains and oilseeds. New Government support programmes provided income protection rather than commodity-specific price support. Restrictions on consignment selling of perishable fruits and vegetables were designed to prevent distress sales and were applied on an m.f.n. and national treatment basis.

129. The complexity of the Canadian tariff would be greatly simplified as a result of Uruguay Round negotiations on market access. As to the exclusion of agricultural products, textiles, clothing and leather goods from the GPT, tariff preferences had originally been designed to help developing countries overcome competitive disadvantages. In the aforementioned sectors, developing countries had become highly competitive.

130. The recession in Canada had resulted from a slowdown in domestic demand and the onset of recession in the United States, compounded by structural factors. Extensive restructuring by the private sector to improve productivity had, unfortunately, slowed employment growth. Such restructuring, as well as low inflation and positive cyclical factors, were expected to improve Canada's competitiveness in future years. Deterioration in Canada's trade was strictly a result of the recession and the Canadian Government remained optimistic about the long-term economic effects of the Free Trade Agreement.

131. Responding to specific concerns, the representative of Canada said that the Special Economic Measures Act enabled Canada to implement internationally agreed economic sanctions, as an exceptional trade measure. Measures relating to cultural industries were intended to ensure that Canadian writers, musicians and artists continued to have access to their own domestic market. The Canadian government fully endorsed the Uruguay Round proposals to allow pharmaceuticals patent owners to enjoy the full term of protection. Financial constraints had led to the elimination of Government funding for the Economic Council of Canada.

132. Finally, the Canadian representative gave strong support to the Trade Policy Review Mechanism, which was designed to increase transparency and help influence contracting parties to move their trade policies in directions more in line with the objectives of the GATT. The process deserved continued seriousness and dedication.

133. In conclusion, the Council recognized Canada's major rôle in the multilateral trading system. It welcomed the steps taken by Canada since the last review to move further in the direction of greater liberalization and increased access to the Canadian economy, but noted that areas of high tariff and non-tariff protection remained, particularly in product groups of interest to developing countries. While recognizing the linkage between success in the Uruguay Round and the process of furthering and consolidating Canada's trade and economic liberalization, the Council emphasized the benefits of autonomous liberalization for Canada.

134. The Council encouraged Canada to continue harmonization of federal and provincial policies affecting trade. The Council called attention to the effects of remaining restrictions on inter-provincial trade and establishment for external investment and trade flows. The Council expected that Canada's undertakings in the Uruguay Round would contribute to greater openness in this area.

135. The Council welcomed Canada's commitment to the GATT system as the foundation for its bilateral and regional trading arrangements. It noted that GATT provisions had been used under the FTA by both Canada and the United States. The Council emphasized the need for the FTA, and the future NAFTA Agreement, to be trade-creating and fully consistent with GATT.