

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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MINUTES OF MEETING

**Held in the Centre William Rappard
on 27 October 1993**

Chairman: Mr. A. Szepesi (Hungary)

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1. Former Yugoslav Republic of Macedonia
- Request for observer status (L/7308)

The Chairman drew attention to the communication from the Former Yugoslav Republic of Macedonia in document L/7308, in which that Government had requested observer status in the GATT and had provided a description of its current economic and trade policies. He proposed that the Council agree to grant the Former Yugoslav Republic of Macedonia observer status.

The Council so agreed.

The representative of the Former Yugoslav Republic of Macedonia, speaking as an observer, expressed his Government's gratitude to the Council for having granted it observer status. His Government wished to establish mutually beneficial relations with the GATT, and hoped that it could obtain the status of a contracting party in the near future. As a land-locked country, his country could achieve sustainable development only through coexistence and economic cooperation with its neighbours and other countries. Its economic policy was aimed essentially at the creation of an open, market economy and it planned to reach this goal by allowing market forces to regulate relations between economic entities, by increasing exports of goods and services and by liberalizing imports. His Government hoped that its accession to the GATT in the near future would prove to be a constructive development, both for itself and for the international community.

The Council took note of the statement.

2. Accession of Belarus
- Communication from Belarus (L7297)

The Chairman drew attention to the communication from Belarus concerning its interest in acceding to the General Agreement pursuant to Article XXXIII (L/7297).

The representative of Belarus, speaking as an observer, said that since being granted observer status by the CONTRACTING PARTIES at their Forty-Eighth Session in December 1992, his Government had held meetings with contracting parties, the Director-General, and other officials from the Secretariat. These meetings had helped his Government obtain a better understanding of GATT rules and norms, and to start the harmonization of its external trade relations. In June 1993, his Government had organized, together with the GATT, a seminar for specialists from relevant governmental agencies and from the business and academic communities on the broad issues relating to the GATT and its instruments. The seminar had highlighted the importance of the issues involved and the usefulness of Belarus joining the GATT. Following the seminar, his Government had established a plan for starting the necessary preparatory work for accession. A report on its trade policy had also been prepared, and Belarus had already started incorporating GATT norms into its external trade agreements. Much work had been done in the area of economic reform and trade liberalization. Belarus had moved from a virtually complete state monopoly to a liberalized system, giving all economic participants, regardless of their form of ownership, the right to engage independently in foreign trade. There was a steady trend toward the liberalization of licensing and export quotas, and abandoning non-tariff instruments for regulating foreign trade in favour of tariffs. While much remained to be done in order to meet the requirements of GATT membership, his Government had the will to do so and hoped that contracting parties would give their full support in this undertaking. Belarus looked forward to a constructive dialogue during its accession process with all interested contracting parties, and hoped that its request would be considered positively by the Council at the present meeting.

The Council took note of the statement and agreed to establish a working party with the following terms of reference and composition:

Terms of reference

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

Membership

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

The Council authorized its Chairman to designate the Chairman of the Working Party in consultation with representatives of contracting parties and with the representative of Belarus.

3. Accession of Croatia
- Communication from Croatia (L/7298)

The Chairman drew attention to the communication from Croatia concerning its interest in acceding to the General Agreement pursuant to Article XXXIII (L/7298).

The representative of Croatia, speaking as an observer, said that since its independence, Croatia had, to the best of its ability, applied existing GATT rules and principles in its national legislation. This had been a consequence of Croatia's decision to respect all international obligations of the former Socialist Federal Republic of Yugoslavia, of which Croatia was a legitimate successor, and the outward orientation of its economy and trade. His Government had undertaken serious efforts to stabilize the economic situation in the country and to prevent further erosion of the economic structure. Croatia had recently adopted a plan, with large support, including from the main international financial institutions, the essential features of which were overall stabilization and the reduction of inflation, while expanding the process of structural adjustment and transformation of state and public properties. The initial achievements had been encouraging, and his Government was committed and determined to pursue this political and economic programme, with the hope that it would also stimulate and attract wider international interest and support. A new Customs Law and Foreign Exchange Law had been introduced, while a Foreign Trade Regime Act had been submitted for legislative approval, a procedure which was expected to be completed by the end of the year.

In the face of significant economic problems as a result of its economic transformation, and even more so as a result of war and aggression, which was unfortunately continuing, Croatia's strategy was to develop a market economic system compatible and responsive to international rules and standards. Croatia's accession to the GATT was of essential importance, and his Government therefore requested that the Council approve its application. Croatia recognized that its application came at a time when contracting parties were engaged in the final stages of very crucial and complex negotiations in the Uruguay Round, which would have a bearing on its accession negotiations. However, it hoped and expected that there would not be any negative implications on its accession negotiations and on the period therefor. With regard to procedures, Croatia believed that the recent accession negotiations with Slovenia could serve as a useful model. As a new state, Croatia would require technical advice and support during its negotiations, particularly from the Secretariat. In this regard, he noted that

generous offers had been extended and that the Secretariat had already proceeded to organize some training courses.

The Council took note of the statement and agreed to establish a working party with the following terms of reference and composition:

Terms of reference

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

Membership

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

The Council authorized its Chairman to designate the Chairman of the Working Party in consultation with representatives of contracting parties and with the representative of Croatia.

4. EEC - Member States' import régimes for bananas
- Panel report (DS32/R)

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

The representative of Costa Rica, speaking also on behalf of Colombia, Guatemala, Nicaragua and Venezuela, noted that the Panel report on import régimes for bananas in the Community's member States had remained unadopted for several months now. The only way to reaffirm the credibility and dignity of the GATT was to strengthen its rôle as guarantor of the principles and rules governing international trade, which could only be achieved through respect for the rules and mechanisms recognized by all. Refusal to respect the Panel's recommendations would open the door to uncertainty in trading relations and would undoubtedly lead to a weakening of the entire system. Council members were aware of the correct and clear conclusions reached by the Panel, and he would therefore simply reiterate that its report should be adopted immediately and its recommendations implemented by the Community.

The representative of the European Communities said that at the July Council meeting, his delegation had spoken precisely and at length on the contents of the Panel report. Nothing new had happened since then to change the Community's position.

The representative of Jamaica, speaking on behalf of the ACP contracting parties, recalled that at previous Council meetings, their Governments had made it abundantly clear that they could not accept the conclusions and recommendations of this Panel. Their position had not changed, and was unlikely to do so in the future. He would repeat that the ACP contracting parties did not accept the report and were opposed to its adoption. Any further debate on this matter in the Council would merely be a repetition of well-known and previously stated arguments and positions. The Council's time and effort would be better spent by deleting this item from its agenda in the future.

The representative of the United States said that the Panel report was a clear, well-reasoned effort which all should recognize as constituting a valuable contribution to the eventual resolution of an extraordinarily contentious dispute. For this reason alone, the Panel report should be adopted. The United States knew as well as any other contracting party that it was not pleasant to lose the argument in a panel proceeding. However, most of the unpleasantness associated with losing usually came in the implementation phase, and here it was difficult to understand the Community's position, because the specific measures at issue in the original dispute no longer applied. Moreover, the United States doubted strongly that the Community wished to preserve its ability to reintroduce its member States' measures in the future. Why, then, could the Panel report not be adopted? Some of the exporting countries which had benefited from the member States' régimes at issue in the Panel report were unhappy too. But did they expect that the specific measures would be reintroduced by the Community? Although these countries did not like the fact that the Panel had found — naturally enough — that the Lomé Convention provisions could not be interpreted as overriding pre-existing GATT obligations, had they really expected another outcome? The United States believed that adoption of the Panel report would be good for the system. It would not be good for the system to delete this item from the Council's agenda for the future, as suggested by Jamaica. Indeed, the Council should return to it time and time again because it was an important issue. He could see no good reason to oppose the report's adoption, nor any direct commercial impact at this stage associated with the report's condemnation of non-existent practices. As his delegation had stated in the past, the United States felt very strongly that this report should be adopted.

The representative of Brazil said that his Government's position on this issue had been stated at several earlier occasions. Brazil supported adoption of this Panel report, and would add, for the record, that non-adoption of panel reports represented a serious threat to the credibility of the dispute settlement mechanism and therefore to the GATT itself. Brazil urged the Community to abide by its GATT obligations. Only through the recognition by all contracting parties of the need to respect multilaterally-agreed rules could the multilateral trading system survive and be strengthened.

The representative of Argentina said that Argentina's position on this matter had been expressed clearly each time it had been discussed in the past. Argentina was unable to understand why the Panel report could not yet be adopted, and believed that this issue was of sufficient political and economic importance to continue to appear on the Council's agenda. It would not disappear simply because it did not appear on the agenda. Argentina wished to reiterate its appeal to the collective responsibility of all contracting parties to avoid recourse, in this and in future cases, to GATT-inconsistent solutions or to the inappropriate use of legitimate GATT rights — such as those in Article XXVIII. To do so would be to make a parody of the GATT system.

The representative of Japan joined previous speakers in urging adoption of the Panel report, which was sound and well-reasoned. Early adoption of the report was important for the credibility of the GATT dispute settlement system, which all should endeavour to foster.

The representative of Peru joined previous speakers in supporting adoption of the Panel report.

The representative of the Philippines, speaking on behalf of the ASEAN contracting parties, supported adoption of the Panel report on a matter of principle.

The representative of St. Lucia, referring to the United States' question as to why the Panel report could not be adopted if the measures at issue in the dispute no longer applied and were therefore of no further commercial consequence, said that the converse question could also be put. In other

words, why press for adoption of the Panel report if the measures in question no longer existed and were no longer commercially significant?

The representative of Mexico expressed agreement with the previous speakers that had asked for adoption of the Panel report, and urged the Community to comply with its GATT obligations.

The representative of St. Vincent and the Grenadines associated her delegation with the statements by Jamaica and St Lucia, and called on the Council to reject the Panel report, which she described as technically and legally deficient.

The Chairman suggested that the Council's debate on this matter at the present meeting be concluded at this point. He proposed that the Council take note of the statements and agree to revert to this item at its next meeting.

The Council so agreed.

5. Japan - Restrictions on imports of certain agricultural products
- Follow-up on the Panel report (BISD 35S/163, DS25/2, 3 and 4)

The Chairman recalled that the Council had considered this matter at its meeting in September. It was on the Agenda of the present meeting at the request of Australia.

The representative of Australia recalled that at the September Council meeting, his delegation had provided details of the Article XXII:1 consultations held with Japan regarding the latter's implementation of the Panel report on its restrictions on imports of certain agricultural products (BISD35S/163). Since then, Australia had held further discussions with Japan on this issue, and considered that Japan could make a contribution to repairing the long outstanding breach with its GATT obligations in parallel with the Uruguay Round negotiations. It was disappointing that there had been no indication thus far that Japan had established a clear process for moving towards full GATT-consistent arrangements in dairy and starch products. In view of the Uruguay Round timetables, Australia was prepared to defer recourse to Article XXIII:2 procedures, but urged Japan to be more forthcoming on this issue and to come forward with a programme for repairing its breach of its GATT obligations.

The representative of Japan said that, as his delegation had stated at the September Council meeting, access for dairy products and starch, along with other items, had been negotiated in the context of the Uruguay Round negotiations, and Japan expected, therefore, that the dairy products and starch issues would be settled in a mutually satisfactory manner as a part of these negotiations.

The representative of New Zealand said that, as his delegation had also indicated at the September Council meeting, this matter was of importance to New Zealand as well. Like Australia, New Zealand had held further discussions with Japan on the implementation of this Panel report. New Zealand believed that the Uruguay Round provided an opportunity for Japan to take steps to bring its import arrangements with regard to dairy and starch products into conformity with its GATT obligations, and urged Japan to continue its efforts to that end. Discussions with Japan were continuing, and New Zealand hoped to be able to report to the Council in the near future that this issue would be resolved satisfactorily.

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

6. Status of work in panels and implementation of panel reports
- Report by the Director-General (C/186)

The Chairman drew attention to the report by the Director-General in document C/186.

Mr. Hoda, Deputy Director-General, introducing the report on behalf of the Director-General, said that the report was intended to reflect the current status of dispute settlement in the GATT and recorded all disputes in which an action had taken place within the past twelve months. Disputes had been classified within three main stages: the pre-panel stage, consisting of consultations and conciliation proceedings; the panel stage; and the implementation stage. It was interesting to compare the status of disputes in each of these stages in the current twelve-month period with those in the previous twelve-month period. Requests for consultations had greatly increased — rising from eleven to twenty-six in the current report. This increase was shared by each of the three agreements giving rise to these requests — the General Agreement itself, the Anti-Dumping Agreement¹, and the Subsidies Agreement². The number of new panels established during the period had remained stable at eight, with half of those having been established under the General Agreement. The number of adoptions had fallen steeply to one, from six in the previous period. There were presently twelve outstanding requests for the adoption of panel reports. At the implementation stage, little had changed. There were still twelve disputes in which implementation issues had been raised during the current period, compared to eleven in the previous period. In five of these, implementation had been conditioned on the conclusion of the Uruguay Round. The previous Director-General had commented on several occasions on the large number of disputes in which the implementation of an adopted panel report had been questioned repeatedly. The present Director-General could not but express his concern as well on this point; contracting parties could only be expected to negotiate in full confidence the acceptance of new obligations if their negotiating partners observed fully their existing obligations.

The Council took note of the statement and of the Director-General's report in C/186.

7. Monitoring of implementation of panel reports under paragraph I.3 of the April 1989 Decision on improvements to the GATT dispute settlement rules and procedures (BISD 36S/61)

The Chairman recalled that this item was on the Agenda pursuant to paragraph I.3 of the April 1989 Decision, and that in the course of informal consultations held in 1992 and the early part of 1993 it had been understood that it would continue to appear on the agenda in its present form. He drew attention to a recent communication from the United States (DS23/12) on the status of implementation of the Panel report on US measures affecting alcoholic beverages (DS23/R).

The representative of the United States said that, as reflected in document DS23/12, his Government had unfortunately not yet implemented fully the Panel report on US measures affecting alcoholic and malt beverages. The United States wished to assure contracting parties, however, that the small and non-detailed report in DS23/12 in no way reflected a lack of commitment on its part to bring its practices fully into conformity with the findings of this Panel as soon as possible.

¹Agreement on the Implementation of Article VI (BISD 26S/171).

²Agreement on Interpretation and Application of Articles VI, XVI and XXIII (BISD 26S/56).

With regard to the Panel report on the United States' denial of m.f.n. treatment as to non-rubber footwear from Brazil (DS18/R), a resolution of the issue was still under consideration by his authorities. He was hopeful, however, that a decision on this matter could be made before the end of 1993, and that his delegation would be in a position to make a more forthcoming report at the next Council meeting.

The representative of Canada thanked the United States for its report in DS23/12. Sixteen months had passed since the adoption, in June 1992, of the alcoholic and malt beverages Panel report, and twenty months since the United States had first been made aware of the Panel's findings. The United States had had ample opportunity to consult with its state officials, and to implement the Panel's recommendations at both the federal and state levels. However, only one state had thus far passed legislation to bring one excise tax measure into compliance, which meant that at least 38 states, one protectorate and the federal Government had yet to introduce measures to bring themselves into compliance with the Panel's recommendations. The United States had now informed the Council that most state legislatures had adjourned for 1993, making it impossible to bring the remaining inconsistent state measures into compliance in 1993. While Canada was very disappointed with the lack of action on the part of the United States, it had noted the latter's statement that this should not be understood as implying a lack of commitment to the implementation of the Panel report as soon as possible. Canada renewed its request that the United States take steps to ensure that its federal and state measures were brought fully into compliance with the Panel's recommendations. If there were no progress, Canada would be forced to examine options for achieving full implementation.

The representative of Brazil noted with appreciation the United States' statement regarding the implementation of the non-rubber footwear Panel report. Brazil had been trying to avoid addressing in the Council the relationship between this report and the report of the Panel on the same underlying facts established under the Subsidies Code³ (SCM/94), because it could be argued that subsidy matters were best dealt with in the Committee on Subsidies and Countervailing Measures. However, it had been called to Brazil's attention with some insistence that the matters were related and that this relationship should be addressed. It would therefore do so. In Brazil's view, the dispute settlement systems under both the General Agreement and the Subsidies Code were designed to resolve concrete problems. The United States had been found, by the Panel established under the General Agreement, to have discriminated against Brazil on the basis of the same facts as those considered by the Panel established under the Subsidies Code, although, as Brazil had always claimed, on a ground not addressed by the latter Panel. This discrimination referred to the m.f.n. principle, the pillar of the GATT, which the Panel under the Subsidies Code had not addressed even though it had been invoked by Brazil. Perhaps the Panel had been right in not addressing the issue, even though invoked by Brazil and even though the Subsidies Code had a provision on non-discrimination. Perhaps, also, that Panel had not had the competence to do so. However, the Panel established by the Council undoubtedly had such competence, and had found that Brazil had in fact been discriminated against. In Brazil's view, that made all the difference. The Council had adopted this Panel's report more than a year earlier, and though Brazil had not requested the Panel for specific remedies in order that the United States might choose the best way to bring itself into conformity with the basic principle of the GATT, the United States had done nothing thus far. Brazil believed that implementation of this Panel report would resolve the concrete issues in this dispute, and that the United States should act on the real issues by implementing the report.

The Council took note of the statements.

³Agreement on Interpretation and Application of Articles VI, XVI and XXIII (BISD 26S/56).

8. United States - Legislation concerning the use of imported tobacco by domestic cigarette manufacturers (DS44/1, 2 and 4)

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

The representative of Brazil, speaking also on behalf of Argentina, Canada, Chile, Colombia, El Salvador, Guatemala, Thailand, Venezuela and Zimbabwe, recalled that at its meeting in September, the Council had been informed of their Governments' requests for Article XXIII:1 consultations with the United States concerning its import restrictive legislation on tobacco (DS44/1, 2 and 4). The United States' acceptance to hold consultations had been welcomed as a positive step, and a first meeting had been held on 4 October. On that occasion, their Governments, acting jointly and severally, had presented a series of questions on the new tobacco legislation. It had been agreed by all parties that the questions would be transmitted to the United States in writing so that comprehensive, complete and detailed answers could be provided. Those questions had been sent to the Office of the United States Trade Representative in Geneva on 12 October, and remained unanswered thus far. The production and export of tobacco was of importance to their countries, and they looked forward to receiving the written answers from the United States. Their Governments expected that the consultation process could constitute an opportunity for the United States to bring its legislation into conformity with its GATT obligations.

The representative of the United States said that on 4 and 14 October, the United States had held Article XXIII:1 consultations on its tobacco legislation with eleven contracting parties. It had made an effort to hold these consultations as soon as possible following the receipt of the individual requests. In those consultations, the United States had provided copies of the new legislation and had received questions on the mechanics and implications of the new legislation. His authorities were currently working on providing a comprehensive written response to those questions, and his delegation anticipated circulating at least some of the written answers to the parties to the consultations in the following days.

The representative of the European Communities said that the Community was also an exporter of tobacco to the United States, with quantities exported having increased in recent years. The new US measures therefore represented a major setback for the Community. Like others, the Community believed that these measures were not in conformity with the United States' GATT obligations, in particular with Article III:5. The Community had held consultations with the United States on 14 October, in the course of which a list of questions had been submitted to the latter. The Community hoped that a reply to those questions would be forthcoming as soon as possible.

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

9. Philippines - Restrictions on imports of agricultural goods
- Communication from the United States (L/7312)

The Chairman drew attention to the communication from the United States in document L/7312.

The representative of the United States said that during the past year, the United States had consulted often and at senior levels with the Philippines about its concerns regarding the latter's "Act Providing a Magna Carta for Small Farmers." None of these bilateral discussions had resulted thus far in progress toward resolving the United States' concerns. While the United States hoped for an

acceptable resolution of the outstanding differences through these consultations, it felt that it was important nonetheless to raise this issue in the Council. The United States had applauded the Philippines' earlier commitment to liberalizing quantitative restrictions on the import of certain commodities. However, the "Act Providing a Magna Carta for Small Farmers", which had been passed by the Philippines Congress in February 1992, and implemented by the Philippine President's executive order in February 1993, was an unwelcome step backward. The Magna Carta specifically prohibited importation of agricultural products produced in "sufficient quantity" in the Philippines. The Philippine Department of Agriculture had certified that corn, corn substitutes, poultry and poultry products, hogs and hog products fell into the "sufficient quantity" category. The Magna Carta was already having a negative impact on US agricultural trade interests, especially in areas like feedgrains and poultry products. Consumers and efficient farmers in the Philippines were losers as well. The Magna Carta thus delayed much needed and desirable change in Philippine agriculture.

The Magna Carta and the implementing order were not consistent with the Philippines' international obligations. Nor did they fit into trade expansion discussions underway in the Uruguay Round. The United States believed that the Philippines should achieve its objectives through GATT-consistent ways and without resorting to legislation like the Magna Carta. Adding to the United States' concern was the potential expansion of the Magna Carta list to include other products like processed potatoes and possibly even beef. The United States reiterated its disappointment over the Magna Carta, as well as its expectation that the Philippines would soon do everything in its power to ensure that its trade régime was in conformity with its international obligations. Otherwise, the United States would have to ask for formal consultations to address its concerns.

The representative of the Philippines said that her delegation would convey to its authorities the sentiments expressed on this matter at the present Council meeting, and noted that the United States had not ruled out further discussion between their two Governments. The impression that the Magna Carta was solely a trade legislation had to be corrected. The Magna Carta was a comprehensive piece of legislation designed to alleviate the plight of small farmers in the Philippines, and afford them the opportunity to become more productive. It contained provisions on the strengthening of farmers' organizations, the development of infrastructure and the assurance of farm inputs, machinery and equipment. It also detailed what needed to be done and how with respect to water management, irrigation, agricultural credit, wage incentives, price support, and research and extension services. It did, however, also allow the use of trade measures to complement development efforts. The Magna Carta did not in any way represent a reversal or a step backward in the Philippines' policy of trade liberalization. Instead, it could be qualified as a pause in the course of structural reform, for, as one had seen in recent developments in other parts of the world, it was prudent not to pursue blindly the cause of trade liberalization and to forsake unwittingly the plight of precisely those that were intended to benefit from the fruits of liberalization and structural reform. A pause was not the same as a reversal, more so when the pause was allowed by the flexibilities within the GATT system.

The Philippines had invoked, and continued to invoke, certain flexibilities in the General Agreement even before the Magna Carta had been passed into law. However, as her Government had indicated previously, the long-term thrust continued to be trade liberalization. The debate on this matter in her capital would not be easy, because the Philippines, as a poor developing country, did not have the means to bankroll its farmers in the way that other contracting parties could easily do. At the same time, the Philippines also faced outright and, more importantly, disguised and unjustifiable barriers to its exports, such as the US tobacco legislation considered under Agenda item 8. The Uruguay Round was therefore critically important for all participants, because it would provide the impetus for reform and liberalization which all needed. All should concentrate on this exercise and conclude it

by December. By then, the sentiments expressed by the United States, and possibly other delegations, might have been fully addressed.

The representative of the European Communities said that while the Community could understand the Philippines' intention of supporting its small farmers, it was surprised by the import restriction measures it had announced in February 1992. The Community strongly supported the United States' position on these restrictions, which were clearly inconsistent with the Philippines' GATT obligations. They were, in addition, in contradiction with the standstill commitment agreed to in Punta del Este. The Community requested that the Philippines bring its measures into GATT conformity.

The Council took note of the statements.

10. EFTA - Bulgaria Free-Trade Agreement
- Communication from Sweden on behalf of the EFTA States (L/7257 and Add.1)

The Chairman recalled that at its meeting in July, Austria, on behalf of the EFTA countries and Bulgaria, had informed the Council of the EFTA-Bulgaria Free-Trade Agreement and also that the text of the Agreement (L/7257 and Add.1) had been communicated to contracting parties. He proposed that the Council agree to establish a working party to examine this Agreement, with the following terms of reference and composition:

Terms of reference

"To examine, in the light of the relevant provisions of the General Agreement, the EFTA-Bulgaria Free-Trade Agreement, and to report to the Council."

Membership

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

Chairman

The Council would authorize its Chairman to designate the Chairman of the Working Party in consultation with the delegations principally concerned.

The Council so agreed.

11. Training activities
- Report by the Director-General (L/7305)

The Chairman drew attention to the report by the Director-General in L/7305.

Mr. Hoda, Deputy Director-General, introducing the report on behalf of the Director-General, said that during 1993, in addition to two regular trade policy courses, one in French and the other in English, a Special Trade Policy Course for Eastern and Central European and Central Asian countries had been organized for the third consecutive year with financial support from Switzerland. The Secretariat remained fully conscious of the importance of its training activities, responding to the

continuing needs of developing countries, especially those which had recently acceded or were in the process of negotiating their accession, and those seeking a better understanding of the GATT and the multilateral trading system.

The countries of Eastern and Central Europe, and the newly-independent countries of Central Asia, were at various stages in the process of transition from centrally-planned to market economies. Progressive integration into the multilateral trading system would be an important part of the transformation of these economies. It was self-evident that, in this process, these countries needed, and would continue to need in the coming years, technical assistance and support to enhance their understanding of the GATT and of the functioning of the multilateral trading system. In this context, Switzerland's initiative to propose and to finance Special Trade Policy Courses for the Eastern and Central European and Central Asian countries had been extremely opportune and appropriate. In 1993, the Special Course had included participants from most of the newly-independent countries in Eastern Europe, the Caucasus region, and Central Asia, namely Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Slovenia and Uzbekistan. The Secretariat hoped to continue to have the support of contracting parties to provide training facilities to the countries with economies in transition in the coming years.

He expressed the Director-General's sincere appreciation and gratitude to the Swiss Government for its continued financing of the Special Trade Policy Courses for Eastern and Central European and Central Asian Countries, and of the Workshop on Negotiating Techniques. He also expressed the Director-General's gratitude to the Governments of Belgium and France and to the Commission of the European Communities for their cooperation and support in organizing and hosting the study tour for the participants of the Trade Policy Course in French in 1993, and to the Governments of Norway, Sweden and Finland for having organized and hosted the study tour, also in 1993, for the participants of the Trade Policy Course in English. Finally, he expressed the Director-General's warm appreciation and gratitude to the Permanent Missions in Geneva and the international organizations and bodies which had continued to extend their cooperation, and make valuable contributions, to the GATT's training activities.

The Chairman, on behalf of Council members, expressed appreciation for the trade policy courses organized by GATT and stressed the importance thereof in preparing government officials from developing as well as other countries for the future conduct of trade policy and international trade relations. He also expressed contracting parties' appreciation of these courses, of the contribution of the Government of Switzerland for financing the special course for Eastern and Central European and Central Asian countries, and of the contribution of the Governments that had hosted study tours, as well as of the cooperation of the Permanent Missions and international organizations that had participated in the courses.

The Council took note of the statements and of the report (L/7305).

12. Tunisia - Temporary suspension of bound duties
 - Request for a waiver under Article XXV:5 (C/W/758, L/7311)

The Chairman drew attention to Tunisia's request for a temporary waiver from its obligations under Article II (L/7311), and to the draft decision which had been circulated to facilitate the Council's consideration of this matter (C/W/758).

The representative of Tunisia said that Tunisia had acceded to the General Agreement in 1990 as part of a programme of economic reform and structural adjustment begun in 1986 with the support of the World Bank and the International Monetary Fund, in conformity with GATT principles and with Tunisia's fundamental objective of integrating its economy into the world economy. The implementation of this ambitious liberalization programme would soon reach a decisive phase with the opening of a large part of national production, which was still in a stage of infancy, to foreign competition. The main component of this liberalization exercise was the dismantling of non-tariff measures and their conversion into tariffs, while maintaining the present level of protection, with the objective of ensuring that the customs tariff progressively became the main instrument for protection, in line with GATT philosophy. The first stage of this programme, from 1986 to 1988, had involved the liberalization of imports of raw materials, goods and equipment not produced domestically. The percentage of tariff lines relating to such products which had been liberalized had increased from 23 to 54 per cent during the period. The second stage of the programme had involved liberalization of products for which "like products" were produced domestically. For these, liberalization, in terms of tariff lines, had increased from 30 per cent of local production in 1991 to 48 per cent in 1992, and would soon reach 62 per cent. Despite the already high liberalization of local production, Tunisia intended to pursue its programme with a view to opening roughly 85 per cent of domestic production to foreign competition. In terms of value, imports of liberalized products had represented 23.6 per cent of total imports in 1986, 63 per cent in 1989, 75 per cent in 1991 and 85 per cent in 1992. However, the continuation of the liberalization programme depended on the implementation of appropriate and GATT-consistent adjustment measures because certain sensitive areas of production were faced with particularly acute difficulties. For this reason, Tunisia requested that its obligations under Article II be waived to enable it suspend bound duties on a limited number of products.

In order to ensure maximum transparency and to conclude successfully its tariff readjustment exercise, his Government had drawn up two separate lists of products. The first consisted of products to be renegotiated in conformity with the relevant provisions of Article XXVIII:1. Consultations with contracting parties had already been initiated in this regard, and Tunisia hoped to finalize this process in cooperation with its partners. The second consisted of a limited number of products for which Tunisia envisaged a temporary increase in tariffs, and in respect of which it was seeking a waiver pursuant to Article XXV. He emphasized that the proposed tariff increases on these products would be temporary and that they would be phased out over the following three years. He urged contracting parties to adopt the draft decision in C/W/758 so as to enable his Government to proceed with the implementation of the proposed tariff increases within the framework of financial legislation that would enter into force on 1 January 1994.

In conclusion, Tunisia was determined to continue its liberalization and reform process, which was crucial to the success of its development programme. Tunisia's accession to GATT, its commitment thereto and to the Uruguay Round negotiations were the best illustration of his country's determination. His delegation stood ready to provide any further information or clarification concerning its waiver request.

The representatives of Morocco, the United States, Singapore on behalf of the ASEAN contracting parties, Canada, Australia, the European Communities, Turkey, Switzerland and Sweden on behalf of the Nordic countries welcomed the explanation provided by Tunisia with regard to its waiver request, and acknowledged the importance of the economic reform programme being undertaken by Tunisia, which aimed, inter alia, at further liberalizing its market.

The representatives of Morocco, Singapore on behalf of the ASEAN contracting parties and Turkey said their delegations fully supported Tunisia's request for a waiver.

The representatives of the United States, Canada, Australia, the European Communities, Switzerland and Sweden on behalf of the Nordic countries were of the view that further consultations were needed before Tunisia's request could be approved by the Council and put to a vote by the CONTRACTING PARTIES. They intended to seek clarifications from Tunisia on a number of points, and were therefore not prepared to act on the request at the present meeting. They were, however, prepared to work diligently with Tunisia and other interested contracting parties with a view to arriving at an early and satisfactory solution.

The representative of Morocco said that Tunisia had provided valid arguments in support of its request. The best guarantee for contracting parties lay in the fact that the liberalization programme underway in Tunisia since 1986 was an irreversible one, as had been stated by its representative. The figures mentioned concerning the degree of openness of the economy also illustrated this point well. The second guarantee was the abandonment of non-tariff protection in favour of tariff protection. Council members should encourage Tunisia to continue along this path. The third guarantee was Tunisia's commitment to phase out progressively the proposed increases in its bound tariffs over three years and to undertake any necessary consultations.

The representative of the United States said that his delegation was concerned that it appeared necessary to suspend tariff bindings in order to bring about an economic reform. The United States had informed Tunisia and other contracting parties that it would wish to have an opportunity to discuss further and consult with Tunisia on this request, in particular on the rôle played by the international financial institutions in this matter.

The representative of Egypt said that his delegation fully recognized Tunisia's right to request an Article XXV:5 waiver. It looked forward, however, to further consultations with Tunisia on the list it had submitted. Egypt shared Tunisia's hope for success in the economic reform it had undertaken in concert with the international financial institutions.

The representative of Canada said that while his delegation had consulted with Tunisia on its request, some points needed further clarification, such as why more traditional instruments available in the GATT were not being used to achieve the same purpose.

The representative of Turkey emphasized that additional consultations with Tunisia on this matter should not be time-consuming so as not to jeopardize Tunisia's efforts in implementing its reform programmes. If a decision could not be taken at the present meeting, it should be taken at the latest at the next Council meeting.

The Chairman said that it was clear from the discussion that further, early, consultations would be needed before a consensus could be reached on this issue. He therefore proposed that the Council take note of the statements and agree to revert to this matter at its next meeting.

The Council so agreed.

13. Zambia - Renegotiation of Schedule LXXVIII
- Request for a waiver under Article XXV: 5 (C/W/756, L/7306)

The Chairman drew attention to Zambia's request for a waiver from the provisions of Article II (L/7306), and to the draft decision which had been circulated to facilitate consideration of this item (C/W/756).

The representative of Zambia said that Zambia was currently examining how to update its Schedule LXXVIII which contained the tariff concessions of the defunct Federation of Rhodesia and Nyasaland. Since Zambia had acceded to GATT in February 1982, tariff changes had occurred practically every year without taking into account the concessions that had formed part of the old Schedule. In view of the fact that Zambia had been applying the Harmonized System since 1 January 1988, it was his Government's intention to renegotiate its Schedule without delay. His Government therefore requested that the CONTRACTING PARTIES grant it a waiver from its obligations under Article II for the period necessary to allow to carry out renegotiations under the provisions of Article XXVIII, paragraphs 1 to 3. Zambia was prepared to furnish all the necessary documentation required to carry out negotiations with interested contracting parties. This documentation was being prepared and would be forwarded to the Secretariat for distribution as soon as possible.

The Council took note of the statement, approved the text of the draft decision in C/W/756, and recommended its adoption by the CONTRACTING PARTIES by postal ballot.

14. Committee on Budget, Finance and Administration
- Report of the Committee (L/7310)

The Chairman drew attention to the Committee's report in L/7310.

Mr. Kesavapany (Singapore), Chairman of the Committee, introduced the report on the matters considered by the Committee at its meetings on 7, 13 and 19 October. With regard to the budget estimates for 1994, the Committee had carefully examined the Secretariat's proposed expenditures amounting to SwF 98,769,000 and, after taking into account the views expressed by members of the Committee, in particular that the objective should be zero real growth and that changes to the budget should be minimal pending an organizational review, had agreed to revised estimates of SwF 94,140,000. The Committee submitted to the Council, acting on behalf of the CONTRACTING PARTIES, for consideration and approval, a draft resolution on the 1994 expenditure and the ways and means to meet such expenditure (paragraph 14).

With regard to the International Trade Centre (ITC), the Committee had discussed administrative cooperation between the UN and the GATT, and the Proposed Programme Budget for the biennium 1994-1995. Given the problems arising from the fact that the ITC followed a budgetary and reporting system different from the GATT, the Committee had asked the Secretariat to make proposals for a new administrative arrangement between the GATT and the UN Secretariat. The Committee would study the proposals in early 1994, and report back to the Council. With regard to the Proposed Programme Budget for the biennium 1994-1995, the Committee had decided, in a departure from previous years' practice, to consider only the first year of the biennium. The Committee had requested the ITC to make every effort to ensure that the GATT appropriation for the ITC would not have to be increased in 1994. The Committee recommended that the GATT's share of the expenditure of the ITC for the first year of the biennium 1994-1995 be approved in the amount of US\$ 9,773,700. Taking into account the anticipated surplus and savings to be made, the total amount to be provided to the ITC from the 1994 GATT budget was SwF 13,295,000, which would be paid in Swiss francs in twelve equal monthly instalments (paragraph 21).

With regard to other matters considered by the Committee, two merited the Council's attention and called for decisions. The first concerned a recommendation to charge observer countries the actual rather than the marginal cost of services. The Committee recommended that the amount to be requested from observers for services provided to them be set as from 1994 and for the years to come at

50 per cent of the minimum contribution. Receipts would be credited to Miscellaneous Income and administrative measures would apply to observers which did not pay (paragraph 29). The second matter related to a recommendation to finance a correction to the General Service salary scale retroactive to 1991 based on a finding of the International Labour Organization Administrative Tribunal. The Committee recommended that the financing of the salary correction be made by applying paragraph (iii)(b) of the rules governing the use of the Working Capital Fund (paragraph 38).

The Council took note of the statement, approved the Committee's specific recommendations in paragraphs 21, 29 and 38 of its report in L/7310, and approved the draft resolution referred to in paragraph 14. The Council then adopted the Committee's report in L/7310, including the recommendations contained therein and the Resolution on the expenditure of the CONTRACTING PARTIES in 1994 and the ways and means to meet that expenditure.

15. EEC - Countervailing charges on lemons (DS45/1)

The representative of Argentina, speaking under "Other Business", informed the Council that, pursuant to its request in DS45/1, Argentina had recently held Article XXII:1 consultations with the Community regarding the latter's application of the mechanism of reference prices and countervailing charges on lemons under Regulation No. (EEC) 1035/72. At those consultations, Argentina had put forward a number of questions and requests for clarifications, and was awaiting the Community's replies thereto, which, it had been informed, would come shortly.

The Council took note of this information.

16. EEC - Proposed regulation on special measures to encourage the processing of certain citrus fruits

The representative of Argentina, speaking under "Other Business", drew attention to a recently-published proposal by the European Community for a regulation laying down special measures to encourage the processing of certain citrus fruits, namely, oranges, mandarins, clementines and satsumas (Notice No. 93/C259/07). The proposed regulation would establish a financial compensation scheme for the processors of these products which would be based on contracts concluded between producers and processors. While the scheme was vague, it could serve as a mechanism to encourage the exclusive consumption of domestically-produced products by the processors concerned. In view of the consequences of such a scheme in terms of GATT obligations and rights, Argentina requested that the Community provide further information to contracting parties on the proposed regulation.

The representatives of Mexico and Brazil supported Argentina's request for further information from the Community on its proposed regulation which could affect their trade interests in the products concerned.

The Council took note of the statements.

17. Costa Rica - Transposition of customs tariff into the Harmonized System

The representative of Costa Rica, speaking under "Other Business", informed the Council that Costa Rica had completed the transposition of its customs tariff from the Common Customs Tariff

Nomenclature of Central America (NAUCA) into the Harmonized System, and that it intended to put the new tariff into effect in the near future. Accordingly, Costa Rica would request, at the next Council meeting, a temporary waiver from its obligations under Article II.

The Council took note of the statement.

18. EEC - Regulations affecting the sale of imported bovine semen in Italy (DS42/1)

The representative of Canada, speaking under "Other Business", recalled that on 8 July, Canada had requested Article XXIII:1 consultations with the European Community regarding certain regulations affecting the internal sale in Italy of imported bovine semen in a manner which might be inconsistent with the Community's GATT obligations, including Article III (DS42/1). As Canada had stated in its request, the Italian standard as applied to imported Canadian bovine semen was demonstrably more stringent than that applied to bovine semen produced in Italy. Canada had expressed concern at the de facto restriction on its exports of bovine semen to Italy resulting from the time involved in the examination by the Italian authorities — approximately 4 months — of genetic "proofs" of the products concerned. These examinations in effect limited the possibility of exports to two months out of every six. At the consultations, held on 26 July, Canada had submitted written questions to the Community, to which the latter had responded only recently with an outline of proposed action to be taken at the Community level. It was not clear, however, when the Community's proposed directive would become effective, or whether it would respond fully to Canada's concerns. It was also not clear as to when Italy's GATT-inconsistent measures would be removed in order that contracting parties might have unimpeded access to its market. Canada intended to pursue this matter further with the Community and to seek clarification.

The representative of the United States said that the United States strongly supported Canada's position on this matter. Bovine semen imported from the United States was also being treated less favourably than the like domestic product in Italy, as well as less favourably than imports of like products from other member States of the Community and third countries. These restrictions appeared to violate Italy's obligations under Articles I and III. The United States urged the Community to address this issue in a timely manner.

The representative of the European Communities said that the Commission had submitted a proposal to the Community's Council of Ministers for a directive that would have the effect of making the import régime on bovine semen the same in all member States. The Community was convinced that this would resolve the issues raised by Canada and the United States. While he could not provide a precise date as to when this directive would be adopted, this would be, at most, a matter of a few months.

The Council took note of the statements.

19. Trade and environment

- (a) Group on Environmental Measures and International Trade
- Report by the Chairman of the Group to the CONTRACTING PARTIES at their Forty-Ninth Session

The Chairman, speaking under "Other Business", informed the Council that, in a communication addressed to him on 8 October, the Chairman of the Group on Environmental Measures and International

Trade, Mr. Ukawa (Japan), had indicated his intention to report on the progress in the work of the Group, on his own responsibility, to the CONTRACTING PARTIES at their Forty-Ninth Session. The Chairman of the Group had informed the Group of his intention to do so, and had also communicated to him the Group's decision to recommend to the Council that the working documents prepared by the Secretariat on its own responsibility for the Group be derestricted at the time he made his report to the CONTRACTING PARTIES. A proposal concerning this matter would be submitted to the Council at its next meeting.

The Council took note of this information.

(b) Council review of the follow-up in GATT to the United Nations Conference on Environment and Development (UNCED)

The Chairman, speaking under "Other Business", recalled that at their Forty-Eighth Session in December 1992, the CONTRACTING PARTIES had agreed that the Council should hold a meeting within twelve months to review and, as necessary, supplement, the work that was underway in GATT related to the follow-up to the UNCED. It had been agreed, in principle, that that meeting would be held sometime in the fall. However, in view of the priority of the Uruguay Round negotiations at the present time, it had been agreed in informal consultations he had held that this meeting should be postponed until after the Uruguay Round. In his consultations, delegations had emphasized that their preference to postpone this meeting did not imply that they were treating the matter of the UNCED follow-up in GATT as one of secondary importance; on the contrary, contracting parties continued to be, as stated by the Chairman of the Council at the Forty-Eighth Session, "determined that GATT should play its full part in ensuring that policies in the fields of trade, the environment and sustainable development are compatible and mutually reinforcing" (SR.48/1, page 13).

The Council took note of this information.

20. Complementary procedures to be followed in negotiations on accession to GATT (C/W/757/Rev.1)

The Chairman, speaking under "Other Business", said that, following a proposal by Brazil, he had carried out a number of informal consultations on the issue of how to refine further the documentation to be made available to delegations in the course of GATT accession negotiations. As a result of these consultations, he proposed that, in accession negotiations, the procedures indicated below should henceforth be followed in the organization and pursuit of negotiations, without prejudice to procedures currently applied.

1. Upon reception of a formal request for accession to the General Agreement and its approval by the Council or by the CONTRACTING PARTIES, the Secretariat would address a communication to the acceding government in which it would outline the normal procedures followed by working parties on accession, and request that the acceding government submit a Memorandum on its Foreign Trade Régime that covered but was not limited to the topics in the outline contained in document C/W/757/Rev.1. This outline might be revised and amended as necessary in future, in the light of experience and of the results of the Uruguay Round.
2. It would be understood that the Secretariat would continue to make available to the government of the acceding country the necessary technical assistance facilities.

3. It would also be understood that in the course of its deliberations, the working party might request the Secretariat to prepare background documentation on specific issues or questions regarding the acceding government's trade policies which had arisen in the course of the examination by the working party.

The Council took note of the statement and agreed to proceed in this manner in dealing with requests for accession to the General Agreement (L/7317).

21. United States - Restrictions on imports of tuna
- Recourse by the European Communities

The Chairman recalled that in July 1992, the Council had established a Panel to examine this matter, and that the Panel's terms of reference and composition had been announced in August 1992 (DS29/4). Also, in November 1992, the Panel's Chairman had informed contracting parties that at the request of the European Community, and with the agreement of the other parties to the dispute, the work of the Panel had been suspended (DS29/5). After the parties to the dispute had requested the Panel to resume its work, the latter had held a first meeting on 29-31 March 1993. This date could, therefore, reasonably be considered as the starting date for the six-month period for the completion of the Panel's work stipulated in paragraph F(f)5 of the April 1989 Decision on improvements to the GATT dispute settlement rules and procedures (BISD 36S/61). However, in a communication addressed to him on 1 October, the Panel's Chairman, Mr. Maciel (Brazil), had indicated that as a result of unforeseen circumstances, the Panel had been unable to conclude its work within the six-month period. The Panel's Chairman had assured him, nevertheless, that the Panel would be able to conclude its work within the nine-month period stipulated in paragraph F(f)6 of the April 1989 Decision.

The representative of Venezuela expressed his Government's deep concern at the delay in the work of this Panel, in light of the substantial impact of the United States' secondary embargo on imports of tuna on Venezuela's exports. While Venezuela recognized that this delay would not be inconsistent with the April 1989 procedures, it could not but express regret and highlight the fact that the United States' tuna embargo continued to be in force after more than two years now, even though it had been found to be GATT inconsistent by an earlier Panel⁴. The Council should approach with caution any requests of a procedural nature which could further delay a clear and definitive ruling on this matter in the GATT. To do otherwise would be to run the risk of eroding the credibility of the dispute settlement system, which would not benefit any contracting party.

The Council took note of the statements.

22. Procedures for the derestriction of GATT documents

The Chairman, speaking under "Other Business", recalled that at the May Council meeting, he had announced his intention to hold consultations on procedures for the derestriction of GATT documents following a suggestion made by the United States in February. He had since held two consultations at which there had been a fruitful exchange of views on the basis of a factual background note by the Secretariat. Some delegations had already submitted suggestions, but others were yet to

⁴United States - Restrictions on imports of tuna (Recourse by Mexico) (DS21/R).

do so. Once these suggestions were received, he would hold a further consultation on this matter before submitting a draft proposal for consideration by the Council.

The Council took note of this information.

23. Accession of Albania
- Working Party Chairmanship

The Chairman, speaking under "Other Business", recalled that at their Forty-Eighth Session in December 1992, the CONTRACTING PARTIES had established a Working Party to examine Albania's request for accession, and had authorized him to designate its Chairman in consultation with representatives of contracting parties and with the representative of Albania. He informed the Council that Mr. Pinto de Lemos (Portugal) had agreed to serve as Chairman of the Working Party.

The Council took note of this information.

24. Accession of the Russian Federation
- Working Party Chairmanship

The Chairman, speaking under "Other Business", recalled that in June 1993, the Council had established a Working Party to examine the Russian Federation's request for accession, and had authorized him to designate its Chairman in consultation with representatives of contracting parties and with the representative of the Russian Federation. He informed the Council that Mr. Rossier (Switzerland) had agreed to serve as Chairman of the Working Party.

The Council took note of this information.

25. Accession of Saudi Arabia
- Working Party Chairmanship

The Chairman, speaking under "Other Business", recalled that in July 1993, the Council had established a Working Party to examine Saudi Arabia's request for accession, and had authorized him to designate its Chairman in consultation with representatives of contracting parties and with the representative of Saudi Arabia. He informed the Council that Mr. Shannon (Canada) had agreed to serve as Chairman of the Working Party.

The Council took note of this information.