

**PREPARATORY COMMITTEE
FOR THE
WORLD TRADE ORGANIZATION**

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(94-2572)

**SUB-COMMITTEE ON INSTITUTIONAL,
PROCEDURAL AND LEGAL MATTERS**

MINUTES OF THE MEETING HELD ON 11 NOVEMBER 1994

1. The Sub-Committee on Institutional, Procedural and Legal Matters held its eighth meeting on 11 November 1994 under the Chairmanship of Mr. K. Kesavapany (Singapore).

A. Paragraph 8(b)(ii) of the Decision establishing the Preparatory Committee

(i) Terms of reference for WTO bodies

2. The Chairman recalled that the Sub-Committee had, at its previous meetings, approved terms of reference for the WTO Committees on Agriculture, Balance-of-Payments Restrictions, and Budget, Finance and Administration. With regard to terms of reference for the WTO Committee on Trade and Development, work thereon had recently been completed, and the proposed terms of reference together with a statement to be made by the Chairman upon their approval, had been circulated as document 2736. He noted that footnote 4 of that text called for action by the Sub-Committee with respect to the provisions in paragraphs 6 and 7. In conformity with the approach followed for the terms of reference of other WTO Committees, he would suggest these paragraphs be deleted. In view of the late circulation of this document, however, he proposed that the Sub-Committee revert to this matter at its next meeting, by which time delegations would hopefully be prepared to approve the proposed terms of reference.

3. The Sub-Committee took note of the statement and so agreed.

4. The Chairman, turning to terms of reference for the proposed WTO Committee on Market Access, recalled that at its meeting on 21 October, the Sub-Committee had agreed that plurilateral consultations should be held on this matter. As a result of these consultations, agreement had been reached on draft terms of reference, as well as on a statement to be made by the Chairman at the time of their approval, which had both been circulated as document 2626. Given the late circulation of this document, he proposed that the Sub-Committee consider the approval of the terms of reference contained therein at its next meeting.

5. The Sub-Committee took note of the statement and so agreed.

6. The Chairman, turning to the question of the Contact Groups, drew attention to the report by the Chairman of the Contact Group on Agriculture, in document 2463, with respect to the Agreement on Sanitary and Phytosanitary Measures (SPS). The Contact Group had reached agreement on a format for the notification of sanitary and phytosanitary measures and on other procedures relating to notifications under the SPS Agreement, which had been carefully worked out in the Group. On the question of notification requirements for the WTO Committee on Agriculture, the Contact Group had met on 31 October and would continue these discussions at a further meeting on 17 November.

7. The representative of the European Communities said that since his delegation had been informed only recently that the report in document 2463 would be considered at the present meeting, it would, for internal procedural reasons, be able to give its formal approval thereon only at the next meeting.

8. The representative of Argentina said that, in his understanding, the report under consideration had been discussed and approved already in the Contact Group, including by the Community.

9. The Chairman said that the Community's request was for time to look over the text once again before the Sub-Committee finally approved it. Accordingly, he would propose that the Sub-Committee revert to the report in document 2463 at its next meeting.

10. Turning to the Contact Group on Anti-Dumping, Subsidies and Safeguards, he said that this Group had held five meetings since the summer break, and had undertaken a detailed examination of notification requirements under several provisions of the WTO Agreement on Subsidies and Countervailing Measures. The Group expected to present concrete proposals to the Sub-Committee later in the month for standard formats for notifications under the provisions in question. The Group had also begun, more recently, to discuss procedural arrangements for arbitration proceedings under Article 8:5 of the WTO Agreement on Subsidies and Countervailing Measures. It was hoped that at least on some of the issues raised in this context, the Group would be in a position also to submit concrete proposals to the Sub-Committee later in the month.

11. As regards the Contact Group on TRIPS, a report by its Chairman had been circulated in document 2666. As reflected in that report, a programme of work aimed at the establishment of a cooperative relationship between the WTO and WIPO, and a technical level working relationship between the Secretariats of the two bodies, had been worked out and initiated. It was his intention to circulate a separate report for consideration at the Sub-Committee's meeting on the TRIMs matters that this Contact Group had been asked to address. That report, together with the report in document 2666, would be considered for approval at the next meeting. He suggested that the three Contact Groups continue the work that remained before them with the intention of concluding it and reporting to the Sub-Committee at the latest by its next meeting.

12. The Sub-Committee took note of the statements and agreed to revert to the reports in documents 2463 and 2666 at its next meeting.

(ii) Rules of procedure for WTO bodies

13. The Chairman recalled that at the 21 October meeting of the Sub-Committee, delegations had expressed the wish to provide additional comments on the non-papers by the Secretariat on draft rules of procedure for the Ministerial Conference and for the General Council, as well as on guidelines for observer governments and intergovernmental organizations. At the same meeting, the Sub-Committee had requested the Secretariat to prepare draft rules of procedure for the Trade Policy Review Body and the Dispute Settlement Body (DSB). He drew attention to document 2627/Rev.1, which compiled all of the Secretariat's non-papers on these subjects, and noted that all changes from previous versions had been indicated in the revised texts, including the changes that had been suggested at an informal consultation held on 7 November.

14. The representative of the European Communities, referring to paragraph 3 of the draft criteria and guidelines for observer status for international intergovernmental organizations, said that his delegation wished to see the words "or of the Dispute Settlement Body" at the end of that paragraph incorporated in the final text approved by the Sub-Committee. The DSB lay at the core of the WTO system and was the most sensitive area of the WTO's activities. While it would be for the WTO bodies themselves, under paragraph 5 of the draft criteria, to consider inviting international intergovernmental

organizations as observers on a case-by-case basis, the Community would not wish to have the DSB consider requests for observer status from such organizations, particularly as long as one did not know what kind of access other organizations would be able to grant the WTO at meetings of their own bodies.

15. The Chairman said that the words referred to by the Community had been put in square brackets in the Secretariat's revised draft text because of an apparent divergence of view as to whether they should be included in the final text approved by the Sub-Committee. The Secretariat would undertake further consultations on this matter until the next meeting of the Sub-Committee.

16. The representative of India expressed support for the Community's view on this issue.

17. The representative of Pakistan asked whether the term "international intergovernmental organizations" included the four organizations which were observers at the meetings of the Sub-Committee.

18. The Chairman said that it was his understanding that observer status for the four organizations referred to by Pakistan would be determined in the context of any formal arrangement for cooperation and consultation entered into with these organizations, as mentioned in paragraph 6 of the guidelines currently before the Sub-Committee. He added that the draft criteria being drawn up by the Sub-Committee would, once they were adopted, be applied on a case-by-case basis by the relevant WTO bodies in their consideration of requests for observer status from other international intergovernmental organizations. He then proposed that, given the late circulation of document 2627/Rev.1, the Sub-Committee revert to the consideration of the texts contained therein at its next meeting.

19. The Sub-Committee took note of the statements and so agreed.

20. The Chairman drew attention to a communication from the United States on rules of ethical conduct in the settlement of disputes, which had recently been circulated (PC/IPL/W/12).

21. The representative of the United States said he hoped that delegations would take the time to review his Government's communication and send it on their authorities for consideration. It was clear that there was substantial support within the Sub-Committee for the notion of ethical guidelines in some form to safeguard the integrity and the impartiality of proceedings conducted under the Dispute Settlement Understanding (DSU). Rather than submit a conceptual paper so late in the course of the Sub-Committee's work, his delegation had submitted a set of drafts that could constitute such a safeguard. The ethical code of conduct was designed to complement the operation of the DSU. It would not reopen issues that had been settled during the Uruguay Round, primarily because such a level of detail had not been reached during the Round. It would, moreover, apply directly to panellists, to the Appellate Body and to Secretariat officials. The proposed rules provided for a disclosure by panellists, Appellate Body members and Secretariat officials of pertinent information before dispute settlement proceedings were under way so that potential conflicts of interest could be avoided. The United States had prepared three different versions of a draft disclosure statement, one for each of these types of individuals, to be used for this purpose. The disclosure statements would take care of potential conflicts before they became problems. Furthermore, the proposal addressed the need for panellists, Appellate Body members and Secretariat officials to take care, in the performance of their duties during dispute settlement proceedings, to adhere to the rules of ethical conduct in order to maintain their independence and avoid conflicts. The WTO would provide, by means of a separate decision – a draft of which was annexed to the proposal – for the disqualification from further involvement in a dispute of any panellist, Appellate Body member or Secretariat official committing a material violation of the rules. Finally, there was a need, in the new dispute settlement system, for a clerk of the court, which the United States had designated as a "Registrar". The Registrar would receive submissions and direct them to the appropriate panels or to the Appellate Body, and perform other clerical functions, including receiving and processing

the disclosure statements. The United States envisaged one staff member for this purpose, possibly from among the staff assigned to the Appellate Body in the future.

22. Although there was not much time left in the life of the Sub-Committee, the United States placed considerable importance on the question of rules of ethical conduct, and believed that it was not alone. Ideally, its proposal could be approved by the Sub-Committee for inclusion among the recommendations to be made by the Preparatory Committee to the WTO. His delegation believed that there was time for at least one meeting of interested parties, under the auspices of the Sub-Committee, to work through the proposal. One could then determine how far from a finished product the draft proposal was and how much could be reflected in the report of the Preparatory Committee to the WTO. His delegation requested that the Sub-Committee proceed on this basis.

23. The Chairman said that the matter raised by the United States should be given serious and detailed consideration.

24. The representative of Canada recalled that when this issue had first been raised, his delegation had expressed support for the development of a code of ethical conduct. His delegation therefore supported finding some way to give as much consideration as possible to this in the time that remained for the Sub-Committee to conclude its work.

25. The Chairman proposed that he request a member of the Sub-Committee to undertake plurilateral consultations on this matter and to carry the process as far as it could be taken.

26. The Sub-Committee took note of the statements and so agreed.

B. Paragraph 8(b)(iii) of the Decision Establishing the Preparatory Committee

- Arrangements for effective cooperation with other intergovernmental organizations

27. The Chairman recalled that an informal meeting of heads of delegations had been held on 3 November, at which the WTO's relations with the UN/UNCTAD had been discussed. A very large number of delegations had provided their preliminary views, on the basis of which he had reached the following conclusions. With regard to the relationship between the WTO and the UN, there had been a clear consensus that the WTO was a *sui generis* organization established on the basis of contractual rights and obligations. Delegations had pointed out that, unlike in the case of the Havana Charter for the International Trade Organization, the WTO Agreement did not provide for a formal relationship with the UN. They had been of the view that, in the light of these legal and constitutional features unique to the WTO, the independence of the WTO should be maintained. They had also been of the view that it would be inappropriate to have the WTO placed in a position of dependency and accountability to the UN in view of the latter's policy driven nature and its larger membership than the expected membership of WTO. At the same time, delegations had been agreed on the need for work to be undertaken on the establishment of a cooperative relationship with the UN, and he had suggested that this be undertaken by the General Council of the WTO.

28. With regard to the relationship between the WTO and the UNCTAD, there had been a consensus on the need for effective working relations between the two organizations. Many delegations had expressed the view that such relations should be operational as of day one of the entry into force of the WTO. The Secretariat's non-paper in document 2590 had been considered as providing a good basis for identifying further areas in which working relations were needed and would be established. In the light of the consensus for work to be undertaken in developing such a working relationship with the UNCTAD, he had invited delegations to submit comments or inputs on the Secretariat's note.

He had further suggested that once the note had been revised, he, together with the Secretariat, would approach the UNCTAD Secretariat to explore how work on the development of such a relationship could be initiated. The results of the contacts would be reported either to the Sub-Committee or to the Preparatory Committee.

29. The representative of Egypt said he wished to make clear that while the WTO Agreement did not provide for formal relations with the UN, it did not prevent them either. His delegation believed that the WTO should not enter into a confrontation with the UN. What was deliberated in the UN, particularly in the field of economic and trade relations, represented an area of common interest to both organizations. The WTO should not live in isolation of events in the international community as represented by the UN. This should be clear, and the matter of relations with the UN should be decided by the WTO, not by the Preparatory Committee.

30. The representative of Morocco said that his delegation agreed fully with the conclusions drawn by the Chairman. He asked whether the Chairman intended to circulate the text of his conclusions.

31. The Chairman said that his conclusions would be made available to delegations.

32. The Sub-Committee took note of the statements.

33. The Chairman, turning to the question of relations between the WTO and the IMF and World Bank, recalled that at the meeting of the Sub-Committee on 7 October, he had indicated that the Secretariat had been requested to prepare a paper identifying the arrangements that would have to be put into place with these organizations by 1 January 1995. This note had recently been circulated as document PC/IPL/W/10. It appeared that there were three separate areas of work in regard to future relationships between the WTO and the Bretton Woods institutions, which could be described as functional, cooperative and policy-related. The functional relationship required an understanding being reached on how to address those aspects of the Uruguay Round Agreements that had formal implications for the IMF/WTO relationship. These had been addressed in the Secretariat's paper under the sub-heading "New Formal Relations". This could be done by means of an exchange of letters between the Director-General of the GATT and the Managing Director of the IMF, or some similar mechanism to establish these formal relations. These would relate primarily to the role of the IMF in the WTO's Balance-of-Payments Committee. The basis for cooperation of the WTO with the World Bank could be less formal. While there were both explicit and implicit references to the World Bank in the Agreement Establishing the WTO, these did not require immediate formal action at this stage.

34. The second area related to work required to ensure greater cooperation between the WTO and the two Bretton Woods institutions. A number of proposals made in the Uruguay Round Negotiating Group on the Functioning of the GATT System (FOGS) had been reflected in Section 3 of the Secretariat's paper. These included, for example, staff exchanges, intensified and more structured staff contacts, exchanges of results of research and the joint execution of appropriate technical cooperation projects. In this respect, it might be necessary to eventually specify the nature of the arrangements according to which cooperation in these areas could be intensified between the WTO, the World Bank and the IMF.

35. Third, and from a policy perspective, it was important to have a clear idea of the issues that needed to be addressed under the heading of greater coherence and consistency in global economic policy-making. Though the concept of coherence had never been clearly defined in the FOGS Group, a number of issues relating to it had been discussed. These had been described in Section 2 of the Secretariat's paper. They related both to inconsistencies between GATT provisions and obligations and measures taken in accordance with policy advice given by the World Bank and the IMF on trade

and trade-related issues, and to avenues to address the interlinkages that existed between policies relating to trade, money and finance.

36. He proposed that, in preparation for the operation of the WTO Committee on Balance-of-Payments Restrictions as of 1 January 1995, an exchange of letters between the Director-General of GATT and the Managing Director of the IMF be prepared to provide the basis for the IMF to participate in the work of the Committee on Balance-of-Payments Restrictions. He proposed that no more than this be done before 1 January 1995. Other matters, including closer institutional cooperation, would be addressed at a later stage. In the meantime, written comments or suggestions on the proposals in the Secretariat's document on closer institutional cooperation with the Bretton Woods institutions would be welcome, and should be forwarded to the Secretariat. Similarly, delegations' written comments on what could appropriately be dealt with in the context of greater coherence and consistency in global economic policy-making would also be welcome. After the WTO had entered into force, some mechanism could be established to examine this issue.

37. The representative of the European Communities said that his delegation recognized the importance of the issue of coherence, and that one needed to reflect on it and to find ways and means to take this into account better than in the past. But as the Chairman had stated, the FOGS Group had been pondering this for a long time, and his delegation believed that the Sub-Committee could not come to concrete conclusions on this in the time that remained for its work to be concluded. There was no urgency on this issue, and its consideration could be postponed until after the entry into force of the WTO.

38. The representative of Australia agreed that the Sub-Committee, at its next meeting, should deal with the relationship between the IMF and the WTO to allow the specific mechanisms dealing with balance-of-payments to be implemented. As regards the Secretariat's paper, the statement in the first paragraph that one of the five functions of the WTO was "to achieve" greater coherence in global economic policy-making, was somewhat more ambitious than the provision in Article III:5 of the WTO Agreement referring to the WTO's cooperation, as appropriate, with the IMF and the "World Bank with a view to achieving" greater policy coherence. Australia considered it important that when the WTO considered the question of coherence and consistency, it focused on issues that related specifically to the functions of the WTO. On the issue of consistency, it would be helpful to have more specificity on the problems that might be identified under this general heading. One also had to keep in mind the different structure of the WTO, IMF and World Bank when developing the various elements of cooperation between these organizations, and to reflect carefully on the level at which any exchanges of letters needed to take place. The Chairman had mentioned, for example, an exchange of letters between the Director-General of the WTO and the IMF. However, while the Managing Director of the IMF was also the head of the Executive Board, the Director-General of the WTO would not be the head of the organization. Rather, the head of the organization would be the Chairman of the Ministerial Conference or perhaps the Chairman of the General Council in the interval between sessions of the Ministerial Conference. As to the mention in the Secretariat's paper of the possibility, which had been discussed on various occasions, of establishing an office of the WTO in Washington, his delegation would wish to reflect on this further.

39. The Chairman said that the Secretariat's paper had been based on comments and observations from delegations. Some of the issues mentioned in the paper would need considerable reflection, in particular the question of coherence, and should not be rushed. As regards the exchange of letters he had proposed between the IMF and the WTO, there was a precedent¹ to fall back on, and this could be taken into consideration in this respect

¹See PC/IPL/W/3, Annex 1 and PC/IPL/W/10, page 2.

40. The representative of Canada said that all agreed that achieving greater cooperation in global economic policy-making was an important task for the WTO. The Secretariat had correctly identified three key elements of the Uruguay Round texts which pointed in the right direction: first, Article III:5 of the Agreement Establishing the World Trade Organization, which called on the WTO to cooperate with the IMF and the World Bank with a view to achieving greater coherence in global economic policy-making; second, the Ministerial Declaration on the contribution of the WTO to achieving greater coherence in global economic policy-making; and third, the calls for increased cooperation between the WTO and the IMF and World Bank set out in the Ministerial Decision on measures concerning the possible negative effects of the agricultural reform programme on least-developed and net food-importing developing countries. He noted in this context that cooperation amongst international economic institutions had been discussed at the recent G-7 Summit meeting in Naples, Italy, where leaders had indicated that they would review progress towards cooperation between the WTO, IMF, World Bank and the OECD at their next summit. Such cooperation was essential if the momentum for trade liberalization was to be continued and the rapidly expanding agenda of new trade issues was to be addressed in a coherent manner.

41. The Secretariat paper had also correctly stressed that work on certain elements – such as the formalization of relations arising directly out of the Uruguay Round results, in particular the expanded role which the IMF would be called upon to play in the Committee on Balance-of-Payments Restrictions due to the broadening of WTO disciplines to include services – should be undertaken quickly. Canada agreed that this relatively straightforward step should be taken, as a priority, before the entry into force of the WTO, and supported the suggestion that this could be done through an exchange of letters between the Director-General of GATT and his IMF counterpart. The Secretariat paper had also listed a series of steps which would increase the level of cooperation between the three institutions at the staff level. Greater sharing of documentation and data – the sharing of confidential data among Secretariats should not be viewed as an impediment, since guidelines could be developed – joint research and staff exchanges, heightened staff contacts at all levels, joint technical assistance exercises, and more reciprocal representation than had been the case in the past were useful ideas which needed to be fleshed out. Other ideas for increasing cooperation and coherence amongst organizations could include the convening of joint working groups or conferences of experts on issues of mutual interest. Joint publications of key findings were another idea. These proposals would reduce administrative and resource costs on the one hand, while increasing inter-agency understanding and analytical capacities. Another broad benefit would be an expanded outreach capability for each institution. Some of these could be carried out on an informal basis. Canada welcomed the discussions which the Director-General and senior GATT Secretariat officials had already had with the IMF and the World Bank, including at the recent IMF/World Bank annual meeting.

42. These issues were, however, too important to be left to the uncertainties of informal and often *ad hoc* efforts. In many cases, one would want to develop more formal relationships. It was striking to see, despite informal efforts over the years of the GATT to deepen its relations with the IMF and the World Bank, just how asymmetric the relationships presently were. The CONTRACTING PARTIES to the GATT 1947 themselves had a certain responsibility for this situation, since they had not given clear signals to the two Bretton Woods institutions. The present meeting of the Sub-Committee provided an opportunity to give these signals. It was his understanding that the Executive Directors of the IMF would be meeting in early December to discuss future collaboration with the WTO. As the Sub-Committee set the course of the WTO's future collaboration, it would be useful for the IMF to understand the major preoccupations of Members, the time periods envisaged, and the specific forms of cooperation sought as the WTO came into being.

43. Therefore, in addition to the exchange of letters between the Director-General and his IMF/World Bank colleagues dealing with issues such as the expanded role of the IMF in the Committee on Balance-of-Payments Restrictions, it would be useful for the Director-General to undertake an early

exchange of letters with the Managing Director of the IMF and the President of the World Bank covering specific new measures of cooperation. This exchange of letters could set out the details relating to reciprocal access to meetings, more formal patterns of staff consultations and exchanges of staff and information that were needed to establish a relationship among equals, one which recognized not only the interlinkages between institutions dealing respectively with trade, finance, and monetary issues, but their significant differences and competences. Once the specific new forms of cooperation had been established clearly, a liaison office should be established in Washington as soon as possible after the entry into force of the WTO. Staff of that office would be able to provide delegations in Geneva invaluable advice as they tackled the broader questions of global coherence among trade, finance and monetary policies, and the consistency of recommendations on these.

44. The Secretariat document had identified some of the recommendations of the FOGS Group, and had pointed to definitional problems that needed to be resolved. While the work of the FOGS Group could, and would, be drawn upon, more up-to-date thinking would be needed on how best to pursue the mandate that had been given by Ministers. He noted that a recommendation made in the past to mandate Secretariat staff to participate in the design of IMF/World Bank-supported structural adjustment programmes had been resisted due to the different nature of the GATT/WTO and the IMF/World Bank. There had also been concerns about confidentiality. While these might have been valid, the detailed knowledge which staff of a WTO liaison office would gain about the operational requirements of the IMF and the World Bank would, at the very least, allow the WTO to take a more objective view on this issue.

45. Canada viewed the following as priority steps to be taken in the area of improving international economic cooperation, while fully recognizing that some of these priorities had budgetary and staffing implications. First, an exchange of letters between the Director-General and his IMF/World Bank colleagues setting out the immediate changes necessary in their formal relationship stemming directly from obligations in the Uruguay Round texts; second, an early exchange of letters between the Director-General and his counterparts on specific, formal steps to be undertaken to increase cooperation among the three institutions, many of which would be elaborations on elements in the Secretariat's paper dealing with staff cooperation; and third, the early establishment of a WTO liaison office in Washington.

46. The representative of the United States said that while his delegation would respond to the Chairman's suggestion and submit written comments at a later date, it believed that the Chairman's suggestions on priority steps to be taken appeared to be well founded. His delegation also shared the views just expressed by Canada. On the usefulness of having a liaison office in Washington, his delegation believed that this would not necessarily depend only on the access the WTO representative had to meetings of the IMF and the World Bank, as the Secretariat appeared to have concluded in its document. The functions of the office could include giving advice to IMF and World Bank staff on possible WTO ramifications of programmes involving trade régimes of Members, as well as observership at meetings of the IMF and World Bank. The staff contacts would probably have the greatest impact when the IMF was developing its programmes. They should not lead to concerns over cross-conditionality, IMF acceptance of WTO consistency as justification for trade policy, or WTO involvement in IMF deliberations over exchange rate policy, among other things. Policy reforms, including reductions in tariffs and non-tariff barriers which were undertaken in IMF and World Bank-supported programmes, were unilateral and were supported by financial assistance. In advising a member, IMF and World Bank staff tried to help the member deal with an identified problem and not to enforce the legal rights of other countries or to seek credit for the member's liberalization in the WTO. However, there were policy areas in which IMF and World Bank advice had run counter, in the past, to GATT standards of behaviour and for which closer cooperation in the future might prove useful. At a minimum, the member and the IMF or World Bank staff should be aware that proposed action might be a violation of WTO obligations and might require compensation. Here again, a WTO liaison officer in Washington would greatly facilitate this kind of information flow.

47. The representative of Egypt said that the implications of the suggestions made by Canada and the United States would have to be studied carefully, in particular their financial implications. Egypt was in favour of formal relations between the WTO and the two Bretton Woods institutions. The idea of an exchange of letters between the Director-General of the new organization and the Managing Director of the IMF was appealing, but one would have to examine the contents of that letter. The suggestion that this be done as early as possible in order to allow the participation of the Fund from the very beginning in the WTO Committee on Balance-of-Payments Restrictions should be taken into consideration, as also that the letter should be signed by the Director-General of the new organization and not that of the GATT. With regard to achieving greater coherence in global economic policy-making, the Secretariat paper should be more articulate in addressing global economic policy-making at the international level, rather than placing too much emphasis on coherence in macro-economic policies at the national level. Distortions prevailing in world trade and in the world economy should be addressed through greater multilateral surveillance. It was also important to emphasize the differences in the nature of the work, the competence and the authority of the Secretariats of the WTO and the other institutions. Cooperation and coordination between the Secretariats should be envisaged while taking these differences into account. He cautioned against allowing the WTO Secretariat too much authority to comment on economic reform programmes even though this might be made *bona fide*. On the other hand, governments would benefit from the expertise of the WTO Secretariat while negotiating their reform programmes with the multilateral finance institutions. Staff contacts should be kept in perspective, and strengthened cooperation need not necessarily be through contacts at all staff levels. It might be enough if the WTO were represented at the meetings of the Bretton Woods institutions and vice versa. An additional and important area of cooperation related to the possible negative effects of the agricultural reform programme on least-developed countries and in the follow up to the Marrakesh Decision on net food-importing developing countries. The Secretariat paper had failed to provide options for such cooperation.

48. The representative of Hong Kong said that, as noted on page 3 of the Secretariat's paper, global coherence of trade, finance and monetary policies, while receiving considerable attention in the Uruguay Round negotiations and results, had never been defined nor its scope clearly established. The substance of what constituted the interlinkages of trade, monetary and finance policies therefore needed to be discussed further and all the relevant issues identified. Achieving greater coherence in global economic policy-making was a nebulous concept which appeared to imply common objectives and functions as between the WTO, the IMF and the World Bank. Members should therefore look into this concept since they were required to do so, but should do so slowly and to develop a clearer idea not only of what was meant by coherence, but also of where the dangers in lack of coherence lay.

49. The representative of Argentina agreed with the Chairman that the Sub-Committee should restrict itself, as an immediate step, to doing what was necessary to prepare for the operation of the WTO Committee on Balance-of-Payments Restrictions. One could subsequently have a lengthy discussion on coherence and consistency in global policy-making, but this needed a degree of further elaboration which could not be undertaken at this point because of the lack of time.

50. The representative of Malaysia said that the question of coherence was certainly important. One of the benefits of coherence and close cooperation between the WTO and the Bretton Woods institutions would be in cost savings, particularly in the area of country studies, for which each organization visited the country in question often to obtain the same kind of information. If it were possible for the organizations to work together and thereby to reduce costs of this activity as well as the burden of work in developing countries in having to respond to so many questionnaires, that would be proof that coherence was on the way. As regards the establishment of a liaison office in Washington, he questioned whether this was worthwhile from the point of view of its costs and benefits. Malaysia would return to this subject at a later stage.

51. The representative of Switzerland said that his delegation had presented its views on the WTO's relations with the IMF and World Bank at an earlier meeting, and would submit written comments at the appropriate time.

52. The representative of India said that his delegation also attached importance to the WTO's relationship with the IMF and World Bank. He believed that one had to have an understanding on the broad parameters of the relationship, to define the nature of the relationship and to see what kind of institutional infrastructure would be needed. The broad parameters of a possible relationship were established by Article III:5 of the WTO Agreement, and he agreed with Australia that relations between the WTO and the IMF and World Bank should be defined by, derived from and justified by the WTO Agreement itself. The nature of the relationship would have to be defined on the basis of function and need, rather than on ideology or preconceived notions. The institutional infrastructure would greatly depend on the kind of understanding one had on the relationship itself. Within those broad parameters, his delegation was willing to participate in any consultations the Chairman might hold on this subject.

53. The representative of China said that his delegation agreed that there was a policy interlinkage between the WTO and the IMF and World Bank. China believed that one of the preconditions for global coherence and consistency in the fields of trade, financial and monetary policy-making was the global representativeness of the organizations concerned. It noted in this respect that the IMF and World Bank had a more universal membership than that of GATT and the expected membership of the WTO. In this regard, the WTO and GATT had a lot of work to do.

54. The representative of Morocco said that his delegation attached importance to the concept of coherence, even though the concept had not yet been clearly defined. The linkage between the WTO and the Bretton Woods institutions was both implicit and explicit in the Agreement establishing the WTO and throughout the related WTO Agreements. His delegation agreed with the priorities set out by the Chairman, and that the most urgent action should be to establish the legal basis for the IMF to participate in the balance-of-payments mechanism. His delegation also agreed that further consideration should be given to the concept of increased coherence immediately after the entry into force of the WTO, possibly by creating appropriate mechanisms. He suggested that a joint consultative body might be established, which could address the relations among the three organizations. He noted that in negotiations with the IMF and World Bank relating to economic reforms in developing countries, foreign trade was very important. Yet, the GATT was never involved in the drawing up of such programmes. Once the WTO was established, one could try to achieve something far more substantial such that each time measures having an impact either on trade or finance or the currency of any given country were concerned, all three organizations would be involved.

55. The Chairman proposed that he, together with the Secretariat, prepare a draft letter to be sent to the Managing Director of the IMF on the establishment of institutional relations between the two organizations. On the basis of that draft, the Sub-Committee could address other questions, such as by whom the letter should be sent and the extent of the involvement of the IMF.

56. The Sub-Committee took note of the statements and so agreed.

C. Transitional Arrangements

57. The Chairman said that, as he had indicated previously, this was a sensitive issue with wide ramifications, which had led him to approach it cautiously. At the 21 October meeting of the Sub-Committee, he had indicated that he would be holding bilateral and plurilateral consultations on this issue. On the basis of these consultations, a non-paper had been prepared by the Secretariat and circulated as documents 2752 and Corr.1 thereto. However, as the paper was only available in English and had only just been distributed, he did not expect substantive comments at this stage, and hoped

to convene a meeting early the following week to consider the paper. Meanwhile, he and the Secretariat would work at identifying the elements considered necessary for a solution to this issue. The non-paper had addressed the heart of the problem, namely the issue of dispute settlement. A subsequent paper would address related issues such as legal inconsistencies between the GATT 1947 and the WTO Agreement, non-reciprocal opening of markets – the so-called free-riders issue –, procedural and institutional duplication, and the termination of the period of transition. While he was working with the Secretariat on the elements for a solution to these issues, he was not in a position to say that at the end of the process there would be agreement on coexistence of the GATT 1947 and the WTO, although he believed that one was inching towards that prospect.

58. On a related matter, he had recently received a communication from the Chairman of the Committee on Technical Barriers to Trade (PC/IPL/W/13), forwarding to him the Committee's recommendations aimed at ensuring that adequate procedures were in place to allow notifications to be made and processed during the period between the entry into force of the WTO Agreement on Technical Barriers to Trade and the first meeting of the Committee established thereunder. It was his understanding that these recommendations would form part of the overall package regarding transitional arrangements.

59. The Sub-Committee took note of the statement.

D. Paragraph 8(c)(iv) of the Decision establishing the Preparatory Committee (Composition of the Textiles Monitoring Body)

60. The Chairman said that the Chairman of the Contact Group on Textiles had informed him that the Group had met on 24 October and had had a useful exchange of views on the question of the Textiles Monitoring Body (TMB). This had been done in the light of the parameters set out in Article 8 of the Agreement on Textiles and Clothing. Subsequently, the Chairman of the Group had held consultations with a large number of participants, both in small groups and individually, to obtain additional views and suggestions, and had expressed gratitude for the full cooperation and support received from delegations in this process. This, together with the flexibility that participants had shown in the discussions, had led the Chairman of the Group to feel cautiously optimistic that a solution was within reach, although more efforts would be required and more discussion would have to take place in order to bridge the final remaining gaps. The Chairman of the Contact Group had therefore asked for a little more time to finalize the work, and would be given one more week in which to do this.

61. The Sub-Committee took note of the statement.

E. Issues relating to the Standing Appellate Body

62. The Chairman recalled that at the Sub-Committee's meetings on 7 and 21 October, there had been an initial exchange of views on the question of the establishment of the Standing Appellate Body and on the selection of its members. Following the most recent discussion, he had suggested that he would prepare a working paper on this subject, which would include inputs from the Secretariat as well as from delegations. He had since received several written contributions, and intended shortly to circulate this paper. He would ensure that all had an opportunity for a detailed consideration of the issues relating to the Standing Appellate Body at a meeting to be held shortly. His initial consultations had indicated that there was a broad agreement of views as to the nature of the body and on the way it should be selected, and that the outstanding question was how much its members should be paid.

63. The Sub-Committee took note of the statement.

F. Report of the Preparatory Committee to the WTO

64. The Chairman said that in accordance with the timetable agreed by the Preparatory Committee, most work in the Sub-Committees should be completed or well advanced by mid-November. Consideration would therefore have to be given to drawing up the report of the Preparatory Committee. He hoped to be able to submit a first draft of the report in time for consideration by the Sub-Committee at its next meeting. As delegations would have noted from the airgram convening the meeting of the Preparatory Committee on 23 November (PC/AIR/38), the purpose of that meeting would be to review progress on this draft report. Unless he heard to the contrary, this was how he would intend to proceed. He stressed that very little time was left, and that the next meeting of the Sub-Committee would be crucial if one was to reach the deadline of 23 November as set by the Chairman of the Preparatory Committee.

65. The Sub-Committee took note of the statement.