

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

RESTRICTED

MTN.SB/3  
5 November 1987

Special Distribution

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Surveillance Body

MEETING ON 13 OCTOBER 1987

Adoption of the Agenda

1. The Surveillance Body adopted the agenda proposed in the convening airgram GATT/AIR/2465.

Item A: Standstill

- (i) Further examination as required of the notifications in MTN.SB/SN/1 and MTN.SB/SN/2 which were examined at the Body's meeting on 18 June (MTN.SB/2)
- (ii) Examination of subsequent notifications submitted in accordance with the agreed procedures (MTN.TNC/2 and Annex, and MTN.SB/2, paragraphs 20 and 21)

2. The record of the Body's examination of the standstill notifications in MTN.SB/SN/1, 2, 3 and 4, drawn up in accordance with paragraph 3 of the agreed procedures (MTN.TNC/2), is annexed.

- (iii) Consideration of statements by participants concerning other aspects of the Ministerial commitments to standstill

3. The representative of the European Communities recalled his delegation's commitment to early warning and informed the Body about progress, since the Body's June meeting, on procedural aspects of the proposed EC stabilizing mechanism on oils and fats. The European Council had instructed the Commission to collect additional information concerning the proposed measure, including to undertake consultations with main third country suppliers of fats and oils, and to report back to the European Council. Those consultations were now being conducted, and in some cases were nearly concluded. He assured participants that the Commission would not fail to convey in its report the concerns of the Community's trading partners on this matter: this was a demonstration of the early warning system.

4. The representatives of the Philippines, Malaysia and Argentina expressed appreciation to the Community for its information concerning the proposed measure on fats and oils. They stressed their countries' deep concerns about the effects of such a measure if it were to be adopted, adding that this would violate the standstill commitment. They looked forward to hearing that the proposal had been dropped definitively.

5. The representative of the Philippines said that the American Soybean Association had launched a massive public relations campaign against tropical oils such as coconut oils. The Association was apparently concerned about imports of tropical oils and had focused on the issue of health, alleging that tropical oils contained saturated fats which caused higher cholesterol levels than so-called unsaturated soybean oil. At the heart of the campaign were two proposed bills which had been put before Congress which, if enacted, would require food labels to identify tropical oils used. He said that such legislation would turn US consumers away from tropical oils; it would be discriminatory and a disguised form of protection which would severely harm the economies of the Philippines and other ASEAN countries. Seventeen million of his compatriots, roughly one third of the population, depended for their livelihoods directly or indirectly on the coconut industry. Any weakening of that industry would jeopardize the Philippines' economic recovery program. His authorities asked the US Administration to help resist the proposed legislation.

6. The representative of Malaysia said the fact that the Community had made the effort to provide further information on the Commission's proposed measure gave credibility to the Body's "early warning" function. His delegation shared the concerns expressed by the Philippines over exports of tropical oils, both to the US and EEC markets, and also over the two proposed bills which had been submitted to the US Congress. He recalled his delegation's concern, expressed at the Body's meeting in June, over what he described as a smear campaign by the American Soybean Association against imports of tropical oils. It was very hard for a developing country to fight such a heavily-financed campaign. Malaysia appealed to the US Administration to do everything in its power to resist this protectionist campaign, which he said was already having disastrous and discriminatory effects on his country and on other participants in the Uruguay Round.

7. The representative of the United States said his authorities remained as concerned as ever about the European Commission's proposed measure on fats and oils. Turning to the proposed legislation in the United States aimed at changing the requirements for labelling of tropical oils, his delegation understood the concerns expressed at the present meeting and would report them to his authorities. Two separate but parallel problems were involved in this issue. One was a request from the US Soybean Association to the Food and Drug Administration (FDA) that would require identification of palm, palm-kernel and coconut oils as saturated fats on food manufacturers' labels. A high-powered public relations campaign was pushing for that request, which was now being considered by the FDA as one among more than 900 comments that had been filed from various groups in the United States; no decision was expected on the matter before the end of 1987. The second problem was that two bills had been proposed in the House of Representatives in April 1987, calling for the identification of vegetable oils in food; the first proposal would require such identification to take effect within six months of the legislation being

enacted, and the other within 18 months of enactment. So far, there had been hearings by one sub-committee on one of the bills; the US Administration had not taken an official position on either bill.

Item (B): Rollback

Consideration of statements by participants concerning the Ministerial commitments to rollback, in the light of the agreed procedures (MTN.TNC/2; MTN.SB/1, paragraph 21; and MTN.SB/2, paragraphs 20 and 22).

Communications on rollback

8. The Chairman recalled that all participants had received copies of the communications on rollback addressed by the United States to Japan (RBC/1), and by Uruguay to the European Community, Japan and the United States (RBC/2, 3 and 4). Four further communications which had just been received, addressed by Argentina to the European Communities, Japan and the United States (RBC/5, 6 and 7), and by Hong Kong to Japan (RBC/8), were currently being circulated. No notices of consultations on rollback had so far been received by the secretariat; the question of undertakings did not therefore arise. He recalled the understanding by the Chairman of the TNC that "participants maintaining measures that may be subject to the rollback commitment shall inform the Surveillance Body by 31 December 1987 of rollback undertakings resulting from the first round of consultations" (MTN.TNC/2). He enquired from the delegations concerned when consultations on the communications in RBC/1, 2, 3 and 4 would take place.

9. The representative of Uruguay, referring to RBC/2, 3 and 4, said his delegation was in the process of starting consultations on these communications firmly but cautiously. Uruguay appreciated that before negotiations on substance could really begin, there first had to be some careful factual analysis of the information which Uruguay had provided in the communications.

10. The representative of the United States said there were a number of points which his delegation wanted to be clarified concerning Uruguay's communication in RBC/4. The United States was not clear about some of the measures to which Uruguay had referred, and about what particular problems there were concerning GATT obligations in each case. His delegation hoped that the consultations would start at the earliest mutually convenient time. Turning to the communication in RBC/1 from the United States to Japan, he said his delegation was trying to set a date for beginning consultations. The United States recognized that the document was complex, and felt slightly handicapped by the fact that Japan's import notice on the relevant quantitative restrictions dated as far back as 31 March 1986.

11. The representative of the European Communities said his delegation had requested clarification from Uruguay concerning the communication in RBC/2. During those contacts, the Community had made known its understanding of

the rollback commitments, which was not in every respect the same as Uruguay's apparent understanding as reflected in the communication. The contacts would be pursued to clarify the matter. He recalled that at the meeting of the Negotiating Group on Safeguards on 5-6 October, the Community had made clear exactly how it saw the rollback commitment. His authorities were fully mindful of their commitment and of the agreed procedures. Internal deliberations were continuing within the Community with a view to fulfilling the commitment.

12. The representative of Japan said his delegation was ready to enter consultations with all delegations which had addressed communications on rollback to his country, and would be in touch with them as to the dates for the consultations. However, Japan's readiness to enter consultations in no way implied its acceptance that the measures referred to in the communications were inconsistent with the provisions of the General Agreement.

13. The representative of Hong Kong, referring to his delegation's communication concerning Japan in RBC/8, which was being circulated at the time of the present meeting, noted that none of the issues which it raised were new; they had for long been the subject of bilateral and multilateral discussions. In the multilateral context, the issues had been examined frequently during previous GATT work on non-tariff measures, and full information about them could be found in the non-tariff measures inventories referred to in Section 3 of the communication. The measures were also covered by Japan's import notice as amended by MITI Notification No. 114 of 31 March 1986. He noted that there was a small degree of overlap between the items mentioned under Section 3(b) of the communication and those covered by the communications to Japan from the United States and Uruguay. He noted the target date of 31 December 1987 in the TNC Chairman's Understanding concerning rollback (MTN.TNC/2, page 4) and hoped to be able to report to the Body's meeting in December that consultations on RBC/8 were underway.

14. The Chairman said the statements showed that participants in the Body were mindful of their countries' commitments to rollback and of the agreed procedures for implementing that commitment. He noted that a distinction had been made between the two stages of clarification and consultations; to a certain extent it had to be a matter of judgement as to when the first stage moved to the second. He was reassured by the indications given that the stage of consultations, which other interested participants could join, would in each case start fairly soon. The secretariat would promptly circulate notices of consultations once they were received.

#### Rollback procedures

##### Proposals by Korea

15. The Chairman invited views on the proposals on rollback procedures which Korea had made at the Body's meeting in February (MTN.SB/1,

paragraph 18) and had then reiterated at the meeting in June (MTN.SB/2, paragraph 19). He added that it might be for the TNC to take a decision on some of these proposals.

16. The representative of Korea said that the proposals were self-explanatory. The motivation and purpose for putting them forward was to achieve agreement on clear understandings that would promote effective rollback.

17. The representative of Hong Kong considered that Korea's proposals were useful and, in particular, should be kept in mind in the context of consultations on RBC/8 (see paragraph 13).

18. The representatives of Hungary, Canada, Switzerland and Singapore considered that Korea's proposals, if implemented, could help carry out the rollback commitment effectively. They said that views differed on what the deadlines involved should be but expressed some flexibility on this point which could be examined further. It was stressed that the absolute deadline remained the date of completion of the Uruguay Round.

19. The representative of the United States said his delegation supported the first element in the proposals, concerning transparency and m.f.n. treatment. As for the deadlines in the second element, the Body should be careful not to create a system which might be too rigid. On the third element, the United States did not yet understand what useful rôle the Surveillance Body could play if the interested parties themselves had not been able to reach agreement.

20. The representative of Japan said his delegation shared the US views on the first and second elements in the proposals. Furthermore, on the second element concerning deadlines, Japan held to its view that the rollback commitments were political, and so would be any consultations.

21. The representative of the European Communities said that Korea's proposals were helpful and fitted into the scheme of the agreed procedures. While strengthened procedures could be agreed upon so as to help make progress before the end of 1987, the Body's vision should stretch beyond that date. He added that the language of the Ministerial Declaration emphasized the autonomous character of the rollback commitment, making clear that the participants themselves were responsible for the manner in which they fulfilled the obligation. Moreover, there could sometimes be ways other than rollback consultations in which the commitment could be given effect.

22. The representative of Korea said that his delegation, in making the proposals, was fully aware that the commitment to rollback was political rather than legal. This was why, in the second element, Korea had proposed that "interested parties should make their best efforts to reach agreement as promptly as possible, say within six months". The six-month period was only indicative and was open to amendment. Replying to the query by the

United States about what useful rôle the Surveillance Body could play in the event of disagreement between the principally affected parties, Korea considered it might be useful for participants in the Body to be informed about the nature of such disagreements.

23. The representative of Hungary agreed with the European Communities on the autonomous character of the rollback commitment, but wanted to recall that in the Ministerial Declaration each participant had agreed that the implementation of the standstill and rollback commitments "shall be subject to multilateral surveillance so as to ensure that these commitments are being met".

24. The representative of Canada agreed with Korea that the Body should have a sense of what resulted from rollback consultations, whether or not they resulted in agreement. Referring to the points made by the European Communities, Canada noted that the rollback commitment specified that all trade restrictive or distorting measures "shall" be phased out or brought into conformity within an agreed time-frame not later than by the date of the formal completion of the Uruguay Round. The commitment had an autonomous character but it was also obligatory within the framework of a political declaration.

25. The Chairman said it was normal that the Surveillance Body should be concerned with the efficient implementation of the rollback commitment and with any improvement in procedures that participants could agree upon which would contribute to such implementation. He proposed that participants reflect further on the points that had been made. At the December meeting of the Body, when some experience from consultations that had taken place could have been gained, participants might be in a position to formulate their views more specifically as to the follow-up on Korea's proposals. The Body so agreed.

#### Formats for communications on rollback

26. The Chairman recalled that at its meeting on 18 June, the Body had agreed on a number of points to be included in future communications on rollback, particularly the grounds for belief that measures should be subject to rollback. He noted in this connection that the secretariat had circulated standard formats for notifications on standstill, which had contributed to greater clarity in the notification process. The Chairman suggested that delegations might likewise find useful the standard formats for communications on rollback which the secretariat had recently circulated.

#### Statistical information concerning rollback communications

27. The Chairman, referred to the rôle of the secretariat in providing further relevant information, noted that it had already provided such information on standstill notifications, as foreseen in the Ministerial Declaration. He enquired whether delegations might also find it useful for

the secretariat to circulate statistical information concerning rollback communications, even though this was not explicitly provided for in the Ministerial Declaration.

28. The representative of the European Communities said his delegation would need to reflect further on this question. As a preliminary reaction, he could see that some measures might benefit from further relevant information from the secretariat, while others would not. Rollback communications could relate to widely different subjects: some could refer to sets of products, while others might deal with legislation or practices considered inconsistent with GATT. The Community was concerned that the Body should not decide anything that would cause the secretariat to undertake a great deal of work for objectives that were not clear.

29. The Chairman noted that this point could be raised if necessary at a future meeting.

Item C: Other Business

30. The Chairman recalled that in June the Body had agreed that it should hold a further meeting in early December. He proposed that the meeting be held on Wednesday, 9 December. The Body so agreed.

ANNEX

RECORD OF EXAMINATION ON 13 OCTOBER 1987  
OF THE NOTIFICATIONS ON STANDSTILL IN MTN.SB/SN/1,2,3 AND 4

Item A: Standstill

- (i) Further examination as required of the notifications in MTN.SB/SN/1 and MTN.SB/SN/2 which were examined at the Body's meeting on 18 June (MTN.SB/2 and Annex)

1. The Chairman recalled that at its meeting on 18 June, the Body had agreed that further examination of any of the notifications in MTN.SB/SN/1 and 2 would be possible at its future meetings.

2. Comments were made on the following notifications by the European Communities in MTN.SB/SN/1, concerning:

United States - Customs user fee

3. The representative of Hong Kong noted that on page 3 of MTN.SB/SN/1, the European Community had drawn attention to the fact that a panel was examining this matter. Under the terms of a Free Trade Agreement reached by two of the parties involved in that panel, Canada would be excluded from application of the United States customs user fee. Hong Kong wanted to make clear that this should not be regarded as a settlement of this matter, and that his delegation was looking forward to the panel's report being presented to the Council.

4. The representative of Canada agreed with the statement by Hong Kong. He reiterated his delegation's view that the Surveillance Body had a political rôle in terms of exercising surveillance over implementation of the Ministerial commitments to standstill and rollback; this work should not be confused with specific legal interpretations of the General Agreement.

Indonesia - Prohibition of exports of tropical woods

5. The representative of Indonesia said that the export measures taken by his country were part of the overall program for trade and industry policy reform which the Government had adopted to meet a crisis resulting from the steep decline in oil prices. The basic aim of these reforms was to increase exports of manufactured products to compensate for reduced oil export earnings, by promoting development of the manufacturing sector in products which could compete effectively on world markets. To this end the Government had, since 1985, made across-the-board reductions in tariffs on imports and had made fundamental changes in the import licensing system so as to rely increasingly on tariffs for protecting domestic industry. While adopting this open and liberal trade policy, Indonesia had found it



necessary to restrict exports of unprocessed rattan as from 15 November 1986, and intended to restrict exports of semi-processed rattan as from 1 January 1989. Indonesia also intended to restrict exports of ramin as from 1 January 1988. The decision to restrict exports of these products had been influenced by various policy considerations. Increasing pressure of population had made the country follow a policy for settling people in areas which so far had been uninhabitable, by cutting down forests. The depletion of the forest resources and the ecological problems which had arisen as a result of deforestation had, however, made the Government set aside a certain portion of forest land for preservation of forest resources. At the same time, the Government had encouraged development of industries for processing the available forest resources to provide employment to the poor people residing in forest areas. These processing industries, which generally were small units, had in recent years faced serious problems and were finding it difficult to work to full capacity because of shortages in the availability of, inter alia, rattan and ramin wood. The Government had therefore decided to prohibit exports of the forest resources mentioned in the notification. In order to ensure that such prohibitions did not lead to the sudden disruption of supplies to the processing industries in outside countries, and to enable them to arrange for supplies of the unprocessed forest resources from other countries, sufficiently long notice of Indonesia's intention to prohibit exports had been given. The Government intended to keep the measures which had been taken, and those which were proposed, under continuous review.

6. Indonesia considered that the export prohibitions already imposed, and those which were to be imposed, conformed with the objectives, principles and rules of the General Agreement and were justifiable under the provisions of Part IV (particularly Article XXXVI) and of Article XI:2(a). Paragraph 5 of Article XXXVI recognized that "rapid expansion of the economies of the less-developed countries will be facilitated by a diversification of the structure of their economies and the avoidance of an excessive dependence on the export of primary products". An interpretative note to that Article further stated that the diversification referred to in paragraph 5 would include the intensification of activities for processing primary products. Indonesia considered that its recent policy measures, including those in the export field, to promote the development of industries processing forest resources available in the country, were consistent with these provisions of Article XXXVI. Its authorities further considered that the export restrictions were justifiable under the provisions of Article XI:2(a). That paragraph stated that the basic rule of GATT prohibiting export restrictions should not extend to "export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party". The drafting history of these provisions indicated that the term "other products" used in that paragraph covered forestry, agricultural and other products. Indonesia's measures therefore could not be considered to be in breach of the standstill commitment. With reference to paragraph (ii) of that commitment, Indonesia considered that its measures did not go beyond that which was necessary to meet the special

problems which the industry processing the forest resources was encountering.

7. The Chairman expressed appreciation to the delegation of Indonesia for its effort in explaining its position, which showed that Indonesia was treating the notification on standstill with due seriousness.

8. The representative of the European Communities also thanked Indonesia for explaining its position. The Community was, however, concerned by the fact that Indonesia's exports of processed rattan products had increased significantly since the measures had taken effect. More time was needed before a proper assessment could be made of the effects of the measures. In the context of this notification, the Community wanted to repeat its fundamental message that while all contracting parties had GATT rights and obligations, the purpose of the Surveillance Body was to examine fulfilment, or lack of fulfilment, of the political commitments to standstill and rollback and to make sure that no country tried to seek supplementary advantages in the Uruguay Round negotiations. While the Community was not challenging Indonesia's sovereign right to protect its natural resources, his delegation had the impression that Indonesia might have departed slightly from its political commitment to standstill. The Community would carefully note how any such divergences from, as well as outright violations of, the standstill commitment could upset the multilateral trade negotiations.

Brazil - Expansion of the list of products for which the issue of import licences is temporarily suspended

9. The Chairman suggested that the Body examine the notification by the United States (in MTN.SB/SN/2) at the same time as the Community's notification concerning the same Brazilian measure. He recalled that at the Body's meeting in June, he had noted that the point had been made that the fact that certain commitments were being examined in other GATT bodies need not prevent them from being discussed in the Surveillance Body. Equally, the point had been made that it might not be possible to proceed very far in examining some measures in this Body, in relation to some aspects of the standstill commitment, until the examination of those measures had been concluded elsewhere in GATT (MTN.SB/2, Annex, para. 42). He pointed out that further information on this matter would be available after the Balance-of-Payments Committee's full consultation with Brazil on 24 November.

10. The representative of the European Communities asked whether Brazil could give further information about the measure referred to in the notifications by the Community and the United States.

11. The representative of Brazil noted his delegation's understanding that the Body's examination of the notifications concerning his country had been concluded pending the results of Brazil's full consultation with the Balance-of-Payments Committee on 24 November. He added that the relevant

list of products had been modified since the Body's meeting in June and that the new communiqué would shortly be notified to GATT. The modifications represented a significant reduction in the list.

12. The representative of the European Communities said that his delegation would be taking some initiatives to reinforce the correct use of GATT provisions and procedures concerning balance-of-payments measures. The Community considered that its notification concerning Brazil remained open until a more precise idea had been formed as to whether or not that country had observed its political commitment to standstill concerning this measure.

13. The representative of Brazil reiterated his delegation's view that the measure should first be examined in the Balance-of-Payments Committee.

14. The representative of Switzerland said his delegation could accept that it was practical for the Body to postpone further examination of this measure until it had been examined in the Balance-of-Payments Committee. However, Switzerland was not fully convinced about the principle of following such a course, because the activities of the Surveillance Body were based on the Ministerial Declaration; those activities were separate from the interpretation of specific GATT provisions, such as Articles XII and XVIII, which fell within the competence of other bodies such as the Balance-of-Payments Committee.

15. The representative of the European Communities insisted that the Surveillance Body had a duty to ensure that the political commitment to standstill was observed. This was independent from the examination of the Brazilian measure in the Balance-of-Payments Committee.

16. The representative of Brazil asked if the Community and the United States could be precise as to which paragraph of the standstill commitment they were referring when they had notified the Brazilian measure.

17. The representative of Canada said that given the improbability that any contracting party would admit to any of its measures being inconsistent with its GATT obligations, there were only two alternatives: either the Body would agree to examine all notified measures, or there would be no measures to discuss.

18. The representative of the European Communities, replying to Brazil's question (paragraph 15), said the Community was thinking particularly of paragraph (iii) of the standstill commitment. The question of whether the measure had also breached paragraph (i) was open for discussion, and his delegation would take full account of the results of the consultation with the Balance-of-Payments Committee on 24 November concerning that aspect.

19. The Chairman noted that the discussion had enabled a better common understanding of what could be achieved in the Surveillance Body. He

proposed that delegations might revert to this item at its next meeting in the light of developments which had taken place in the meantime. The Surveillance Body so agreed.

Item A(ii): Examination of subsequent notifications submitted in accordance with the agreed procedures (MTN.TNC/2, and MTN.SB/2, paragraphs 20 and 21)

- Notification by Japan concerning the United States  
(MTN.SB/SN/3 and Add.1)

20. The representative of Japan drew attention to the points made in his country's notification against the United States concerning the raising of customs duties to 100 per cent on US imports of certain electronic consumer goods from Japan. He noted that on 4 August 1987, Japan had held Article XXIII:1 consultations with the United States on this matter, but without satisfactory result. Japan continued to consider that the US measure, imposed unilaterally and in a discriminatory manner, constituted a flagrant contravention of the General Agreement, particularly Articles I and II. Discriminatory tariff rates aimed solely at Japan were the most obvious deviation from the m.f.n. treatment guaranteed in Article I, while the imposition of prohibitive tariff rates that far exceeded the GATT bound rates, without any due process of law, violated the principle and procedures required in Article II. The measure impaired or nullified the benefits accruing to Japan under the General Agreement, and thus directly contravened the standstill commitment. Japan requested the United States to withdraw the measure completely.

21. The representative of the United States outlined the events which had led to the measure notified by Japan. He recalled that in June 1985, the Administration had received a petition from the US Semi-conductor Association alleging that Japan erected major barriers to the sale of foreign semi-conductors in Japan. He cited some of the practices alleged in the petition. The Administration had started an investigation in July 1985, including a number of consultations with the Japanese Government. Subsequently it had been mutually agreed that Japan would provide fair and equitable access to its domestic market for foreign semi-conductor products; and also that Japan would help to prevent the sale of its semi-conductors at less than their fair value both in the US and third-country markets. On the basis of that agreement, the President had determined in July 1986 that the United States had found an appropriate and feasible response to Japanese practices concerning trade in semi-conductors, and a Section 301 proceeding had been suspended for as long as the objectives and commitments of the bilateral Arrangement were fulfilled. The Arrangement was signed on 2 September 1986. Subsequently, after many consultations with Japan as well as public hearings in the United States, the President determined in March 1987 that Japan had not implemented major provisions of the Arrangement, specifically (a) to increase market access for foreign semi-conductor products, and (b) to prevent sales abroad at less than fair value, through monitoring of costs

and export prices on semi-conductor products exported by Japan. On the basis of that determination, the United States had taken the measure which Japan had notified. Following further consultations between the two countries, a number of the increased duties had been suspended in June 1987 as a proportional response to increased but nevertheless incomplete compliance with the Arrangement. His authorities did not see how Japan could maintain that the measure was not justified. The United States considered that its measure had been moderate and narrowly tailored to respond to Japan's inadequate fulfilment of its commitments under the Arrangement. The US President had spoken clearly of the US desire to lift all sanctions in this area as soon as the data showed clear and convincing evidence of compliance by Japan with the Arrangement. In the US view, nothing could be more reasonable or compatible with the spirit of the standstill commitment.

22. The representative of Australia said that while Japan seemed to have a prima facie case in respect of the requirements of the standstill commitment, his delegation could not but view this issue against the background of the bilateral Arrangement itself. Australia would make a statement on this matter at the special Council meeting in November.

23. The representative of Japan said his delegation regretted to note that in the US statement there had been no reference as to whether the United States considered that its measure was consistent with the General Agreement.

24. The representative of the United States said that his country had fully complied in this matter with its international obligations.

25. The representative of Hong Kong noted that the wider issue which had led to Japan's notification was still being examined by a panel. It was therefore perhaps better to await the outcome of that process in the Council. It would seem to be an unfortunate and unsatisfactory effect of the Arrangement, and of the US retaliatory measure, that, at the end of the day, trade in semi-conductors and related products was likely to be concentrated in the hands of the two largest producers.

26. The representative of the European Communities said his delegation was very concerned about the original measure, i.e. the bilateral Arrangement which had given rise to Japan's notification. The Arrangement had its origins in a time when the standstill commitment had not yet been undertaken. The unilateral action by the United States was a consequence of that Arrangement which was not only suspect in GATT but was also a matter of grave concern to the world trading community.

27. The representative of Canada said that the issues raised in this case suggested some of the reasons why it was important for participants in the Uruguay Round to make progress in the multilateral trade negotiations.

- Notification by Australia concerning the United States  
(MTN.SB/SN/4 and Add.1)

28. The representative of Australia said his delegation recognized that the US Export Enhancement Program (EEP) had been introduced before the standstill commitment had taken effect. However, it had been operated recently in the context of specific expenditure targets provided in US mandatory legislation (Food Security Act, 1985) which had been amended in 1986. Subsequently, on 30 July 1987, the US Administration had announced increased funding for the Program. This was a discretionary decision effectively establishing a new program. The decision had been taken because the funds under the previous program, in operation at the time of the Punta del Este Ministerial meeting, had been or would soon be exhausted. Australia understood that not only had the source of funding been changed but so had the method of valuation of bonus commodities. It was of course not certain how the United States would operate the new Program. However, the prospect that it would be managed in the same way as the previous one gave rise to serious concerns, which could be broadly stated as follows: (1) US policy on agriculture was being driven by the need to regain competitiveness on world markets, a competitiveness that had been lost essentially as a result of inflexible US price supports and the rising value of the dollar; (2) The Food Security Act, 1985, had compounded international agricultural trade problems. While target prices had been reduced slightly, loan rates had been reduced more substantially. The result had been that total deficiency payments to US farmers had risen dramatically. Meanwhile, aggressive export programs (such as the EEP, the intermediate credit programs and marketing loans) had transmitted the effects of bad policies onto world markets; and (3) programs such as the EEP had forced down world prices. The cycle of retaliation by the European Community had then depressed prices further. It was these low world prices that fair traders had to compete against in international markets. He added that the announcement of a renewed program of agricultural export subsidies by the United States had done nothing to relieve the pressure on international markets. In fact, depending on how the program was managed, it had an ominous potential to create more instability and to invite further retaliation. US farmers would be shielded from these international effects, since the gap between US target prices and world prices was widening, and the cost would inevitably be borne by countries such as Australia. His country recognized that the United States had repeatedly said that the Program was not aimed at fair trading countries but rather at those exporters with large export subsidy programs. Australia recognized that the European Community bore a large responsibility for current problems; for example, its export restitutions for cereals had increased about three-fold between 1980-82 and 1987. He added, however, that Australian farmers had been badly hurt in this continuing export subsidy competition between the Community and the United States, and he gave some examples of the harm done. The damage was not confined to wheat or grain, nor only to Australia. For example, US export subsidies on poultry meat, and matching subsidies by the Community, had reportedly had a serious impact on that market too.

29. As stated in MTN.SB/SN/4, Australia considered that the newly funded EEP was in breach of the United States' political commitment to standstill. This situation was serious not only in itself, but also because of the potential implications for the positions taken by others on their commitments under standstill. Australia therefore urged the US Administration to exercise its discretion once again, and this time to rescind the Program. Australia also called on the Administration to oppose provisions to provide new funding which were included in the draft trade legislation now before Congress, considering that such opposition would not only be in keeping with US political commitments but would also make a positive contribution to improving the negotiating environment on agriculture. Paragraph (iii) of the standstill commitment provided that participants should not take any trade measures in such a manner as to improve their negotiating positions; the case for contending that the United States had breached this undertaking was clear-cut. For example, the US share of world wheat and flour markets had risen from 28.4 per cent in 1985/86 to 31 per cent in 1986-87. This increase had improved the US negotiating position and could be attributed to the effects of the EEP. There were no sound commercial reasons for maintaining the Program and fewer still for escalating it. He added that there was little firm evidence to support the US Administration's view that the renewed Program was necessary to "force" others to the negotiating table so as to reach lasting solutions to the problems of agricultural trade. All major agricultural trading countries in the GATT had already agreed at the highest level to negotiate on agriculture. Escalating the EEP could therefore be counter-productive since it soured the atmosphere for negotiations. There was evidence that other subsidizing countries were prepared to provide the funding necessary to sustain their share of the world wheat market. In fact, the US Administration had made no secret of using the EEP to improve its leverage in the Uruguay Round. Any weakening of the bargaining positions of other major participants must imply an improvement in the US position. Similarly, any increase in the relative importance of the United States as a supplier to world markets or as a price setter must also strengthen its bargaining power. If this greater power were obtained in the normal course of trade, that would be understandable and reasonable. However, if obtained artificially through the use of subsidies, it was objectionable because it worsened the competitive environment (forcing prices down, or, in the present situation, reducing the rate of price recovery); it increased the bargaining leverage of the United States in the Round, and at the same time increased the addiction of US agricultural producers to protection and the US farming industry's determination to protect the status quo; and it encouraged competitive subsidization by other suppliers to the world market. The EEP also contravened paragraph (i) of the standstill commitment, since the operation of the Program was inconsistent with the rules of the General Agreement and the Subsidies Code. The United States had used the EEP both to displace other countries from individual and world markets and to undercut prices. He then gave examples of how the United States had secured increased market share, destabilized prices and undercut any possible commercial competition by means of the Program. His delegation

urged all countries to abide by the standstill commitment, not only because it was in their own interest to resist protectionist measures, and not only because such measures distorted domestic as well as international markets, but also because breaches of the commitment would encourage protectionist reaction in other countries.

30. The representative of the United States said that his country was among those which strongly felt the need to make sweeping changes in the way that governments supported agriculture and in the way that agricultural trade was conducted. As for the Export Enhancement Program (EEP), this was by no means a new measure; it dated back to 1985, and had been amended in March 1986. The Commodity Credit Cooperation (CCC) bonuses, which were involved in the expanded Program, flowed from an Act of Congress in 1948. If the argument was to be made that any steps which governments took as being necessary to make an existing program effective were to be considered a new measure, then the United States would fundamentally disagree. The United States also considered that the Program was not inconsistent with US obligations under GATT. The Program had been notified to GATT under Article XVI:1; in the notification, the United States had pointed out that the CCC bonuses were offered under the Program so as to enable US exporters to compete at commercial prices in selected foreign markets. The bonuses were not offered on all sales; in fact, only about half of US export sales of wheat involved the offer of any export enhancement. The bonuses were a response by the United States to existing market conditions. The level of US subsidization under the Program was a function of existing market conditions and exchange rates, just as the export subsidy levels maintained by other countries were a function of those same conditions and exchange rates. For example, in September 1987, Australia had estimated that its 1987 guaranteed support price for wheat was likely to be above the world market price for the second year in a row. The Australian Wheat Board would be selling wheat on the world market for less than the cost of moving that wheat into export position. The estimated expenditure by the European Community on export subsidies for agriculture showed an increase from the equivalent of US\$8.3 billion in 1986 to an estimated US\$10 billion in 1987. Thus the United States was clearly not the only actor nor even necessarily the major actor in this area. He emphasized that the United States had not been subsidizing in order to increase its exports. In fact, the United States had lost 40 per cent of its market share in agricultural exports over the past 6 or 7 years, and had responded over the past year or two by increasing subsidies. His country fully agreed that a resolution of the serious problems in agriculture could not be achieved by competitive subsidization, and it was for this reason that in July 1987 his delegation had presented to the Negotiating Group on Agriculture a proposal to reform all agricultural programs as soon as possible.

31. The representative of Canada said that the situation which Australia and the United States had described was causing great concern to agricultural producers and to taxpayers in his country. Regardless of the merits of this particular case, what had been described did not sound



either like standstill or rollback. The situation of world agricultural trade was deteriorating, and if the Surveillance Body was to play a useful rôle, this was the sort of issue which needed to be examined. Canada hoped that at the very least such examination would have the effect of increasing the resolve of participants in the Uruguay Round to make early and real progress in the negotiations on agriculture.

32. The representative of Argentina considered that Australia's notification was justified with respect to the standstill commitment. Although the EEP might not be a new measure, the major increase in subsidies and the entry of the United States into certain non-traditional markets, such as oilseeds, worsened the situation of international agricultural trade and particularly harmed efficient exporters. Argentina considered that the US measure was inconsistent with various provisions of the General Agreement and of the Subsidies Code; furthermore, such measures inevitably improved the negotiating situation of countries applying them. He said that over the period 1970-84, countries applying agricultural export subsidies had increased their market shares. While his delegation recognized that the main solution to problems in this area should come through negotiations in the Group on Agriculture, a major contribution to helping those negotiations would be for all countries to respect their standstill commitments.

33. The representative of New Zealand said his delegation was as unconvinced as it was familiar with the US argument that its subsidy schemes did not affect world prices, but rather reflected those prices. However such schemes were described, the fact remained that they amounted to straightforward bidding up of export subsidization. Australia's analysis of this case was incontrovertible. His delegation agreed with Canada that it would be politically unrealistic to look at this issue in isolation from the negotiations in the Group on Agriculture.

34. The representatives of Thailand, Pakistan, Hungary, Brazil and Uruguay said that their delegations shared the concerns expressed by Australia, Canada, Argentina and New Zealand. Their countries were concerned about any programs such as the EEP which contributed to competitive subsidization of agricultural exports, and considered it necessary for the Surveillance Body to examine such measures. These delegations appealed to the United States to rescind the Program, which these delegations considered did not create a favourable environment for negotiations in the Uruguay Round Group on Agriculture. Whether such programs were described as new or old, the fact was that they damaged farmers in many countries around the world. The comment was made that Section C of the Ministerial Declaration did not mention "new" trade restrictive or distorting measures; Ministers had committed their countries not to taking "any" such measures.

35. The representative of the United States said that the preceding statements demonstrated a wide recognition of the need for rapid and collective action to remedy the very serious problems in world agricultural trade. He recalled that during the drafting of the Ministerial

Declaration, his delegation had several times warned that the United States would be required to take steps under existing laws and programs to make them effective. He emphasized that the EEP did not represent the totality of the US Farm Program. Since 1985, the United States had been moving in several areas to decrease production. For example, 70 million acres had been withdrawn from cultivation in 1986, and the national cattle herd now stood at 28 million head beneath its peak, and was currently at the 1962 level. The problems in world agricultural trade had been created over many years by many countries, and could not be solved by any one participant.

36. The representative of Australia said his delegation would not disagree with the US comment that underlying the standstill and rollback commitments was a general understanding that existing programs were basically left intact. However, Australia was above all concerned at the effects of additional, substantial funds provided for programs since 20 September 1986 when the Ministerial commitments had taken effect. He considered that the strongest part of Australia's case in this matter rested on paragraph (iii) of the standstill commitment, under which Ministers had committed their countries not to take any trade measures in such a manner as to improve their negotiating positions. He added that for the first time in many years Australia might have to provide some payment to its wheat farmers. This was not something that his Government liked doing. As for entering markets to compete with commercial prices, he agreed with New Zealand that when major traders did so, there was no difference between that and actually setting the market price.

37. The Chairman noted that, according to the agreed procedures, the Body's examination of standstill notifications under Item A(i) and (ii) would be transmitted in this record to the next meeting of the Trade Negotiations Committee, to be held in December. The record would also be transmitted to the GNG for its information.