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Council for Trade in Goods

MINUTES OF THE MEETING

Held in the Centre William Rappard
on 15 October 1999

Chairperson: Ambassador R. Farrell

The meeting of the Council for Trade in Goods was convened by WTO/AIR/1189. The proposed agenda contained in document G/C/W/164 was adopted.

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1. Status of Notifications under the Provisions of the Agreements in Annex 1A of the WTO Agreement (G/L/223/Rev.3)

1.1 The Chairman recalled that the Council adopted, at its meeting of 15 October 1996, a recommendation by the Working Party on Notification Obligations and Procedures to maintain on an ongoing basis the comprehensive listing of notification obligations under the provisions of the Agreements in Annex 1A of the WTO Agreement and the compliance therewith. The sixth update was contained in document G/L/223/Rev.3, which included all notifications made up to and on 30 June 1999.

1.2 The representative of India noted that the document that had been issued by the Secretariat contained information with respect to notifications made under the Decision on Notification Procedures for Quantitative Restrictions and that it had been tabulated in the last column with reference to the requirements of document G/L/59. In the interest of obtaining full transparency, she requested to seek confirmation from the EC and US delegations whether they maintained any quantitative restrictions on textiles and clothing products other than those notified to the TMB. She appreciated that the EC and US delegations were not able to give clarification at the meeting and requested them to give a written response instead.

1.3 The representative of Slovenia raised the same matter. He said that his delegation had not provided this notification because it was unclear whether it should have been notified again under the Textile Agreement. Slovenia did not maintain any other QRs but it was still not clear if the notification should be repeated in this case or should be just made by giving reference to that notification. If this was the case then their delegation would provide such a notification in a very short time. The Secretariat representative noted this document was a compilation of notifications, including notifications that were made under other agreements (to the relevant Divisions of the Secretariat) and thereby collecting the information in one document. Therefore, there were no specific or separate additional notifications to be made to the Market Access Division under the various obligations that existed.

1.4 The Council took note of the statements made, and the information contained in document G/L/223/Rev.3.

2. Trade Facilitation – Status Report on work carried out under Paragraph 21 of the Singapore Ministerial Declaration

2.1 The Chairman recalled that at the last meeting of the CTG on 2 July 1999, a draft status report of the Council for Trade in Goods on work carried out on trade facilitation under paragraph 21 of the Singapore Ministerial Declaration – contained in document G/C/W/156 – had been presented for adoption. Two delegations were not able to support a consensus on the adoption of that text at that meeting and it was agreed that the Council would continue work towards the adoption of the draft status report. The Chairman suspended the formal meeting of the Council in order to allow for an informal exchange regarding the adoption of the draft status report (G/C/W/156) on the basis of his proposed changes to paragraphs 56-58. He said that the adoption of the report, as specifically indicated in paragraph 12 of the draft status report, would be without prejudice to decisions by the CTG on the question of future work on trade facilitation. Being simply a status report which provided background information and which did not contain any recommendations to the General Council, it would not in any way prejudge positions taken by Members in the General Council on preparations for the Seattle Ministerial Conference. Following the informal discussion, he resumed the formal meeting of the CTG and proposed adoption of the draft status report, contained in document G/C/W/156 with the agreed changes to paragraphs 56-58.

It was so agreed.

3. Understanding on the Interpretation of Article XVII of GATT 1994 - Adoption of an illustrative list of relationships between governments and state trading enterprises and the kinds of activities engaged in by these enterprises (G/STR/4)

3.1 The Chairman said that paragraph 5 of the Understanding on the Interpretation of Article XVII of GATT 1994 mandated the Working Party on State Trading Enterprises to develop an illustrative list showing the kinds of relationships between governments and state trading enterprises, and the kinds of activities engaged in by these enterprises, which may be relevant for the purposes of Article XVII. The Working Party on State Trading Enterprises had developed such a list – based on Article XVII notifications made since 1980 – which was approved at the Working Party's meeting of 27 July 1999 and circulated as document G/STR/4 on 30 July 1999. Members could find the Illustrative List useful in guiding their notification decisions and in conjunction with the new questionnaire approved by the Working Party and adopted by the Council in April 1998. He proposed that the Council adopt the text of the Illustrative List contained in document G/STR/4.

It was so agreed.

4. Regional Trade Agreements

4.1 The Chairman drew Members' attention to the agreements listed under this item that had been notified under Article XXIV. The texts of the agreements had been circulated in the documents listed. He said that he would follow the approach used at the last meeting of the CTG in July with a view to streamlining work without encroaching on opportunities for delegations to make comments as they wished. He therefore proposed to ask for comments on the agreements and then ask Members to adopt the terms of reference for all agreements at once rather than for each one. Before he invited delegations to take the floor, he informed the Council that following consultations with the EFTA states, he would postpone consideration of item 4C - the interim agreement between the EFTA states and the PLO - to a future meeting of the Council. He then proceeded in the order in which the agreements were listed with the exception of item 4C:

- A. FREE TRADE AGREEMENT BETWEEN ISRAEL AND POLAND
- NOTIFICATION FROM THE PARTIES TO THE AGREEMENT
(WT/REG65/N/1 AND WT/REG65/1)
- B. AGREEMENT BETWEEN POLAND AND THE GOVERNMENT OF DENMARK
AND THE HOME GOVERNMENT OF THE FAROE ISLANDS
- NOTIFICATION FROM THE PARTIES TO THE AGREEMENT
(WT/REG78/N/1 AND WT/REG78/1)
- D. FREE TRADE AGREEMENT BETWEEN POLAND AND LATVIA
- NOTIFICATION FROM THE PARTIES TO THE AGREEMENT
(WT/REG80/N/1 AND WT/REG80/1)
- E. FREE TRADE AGREEMENT BETWEEN THE KYRGYZ REPUBLIC AND
KAZAKHSTAN
- NOTIFICATION FROM THE KYRGYZ REPUBLIC (WT/REG81/N/1
AND WT/REG81/1)
- F. FREE TRADE AGREEMENT BETWEEN AZERBAIJAN, ARMENIA, BELARUS,
GEORGIA, MOLDOVA, KAZAKHSTAN, THE RUSSIAN FEDERATION,
UKRAINE, UZBEKISTAN, TAJIKISTAN AND THE KYRGYZ REPUBLIC

- NOTIFICATION FROM THE KYRGYZ REPUBLIC (WT/REG82/N/1
AND WT/REG82/1)

4.2 As there were no comments, he proposed that the Committee on Regional Trade Agreements carry out the examination of the above listed agreements in accordance with the following terms of reference:

"to examine, in light of the relevant provisions of the GATT 1994, the Free Trade Agreements - Free Trade Agreement Between Israel and Poland; Agreement between Poland and the Government of Denmark and the Home Government of the Faroe Islands; Free Trade Agreement between Poland and Latvia; Free Trade Agreement between the Kyrgyz Republic and Kazakhstan; Free Trade Agreement between Azerbaijan, Armenia, Belarus, Georgia, Moldova, Kazakhstan, the Russian Federation, Ukraine, Uzbekistan, Tajikistan and the Kyrgyz Republic - and to submit a report to the Council for Trade in Goods". It is understood that the understanding read out by the Chairman of the CTG under item 7 of the agenda of the meeting of the CTG on 20 February 1995, as contained in document WT/REG3/1, will apply *mutatis mutandis* to the examination of the agreements. It is also understood that, during the examination, due account will be taken of the intrinsic differences between customs unions and free-trade areas.

4.3 The Council so agreed.

5. Market Access Matters

A. COMMITTEE ON MARKET ACCESS - PERIODIC REPORT OF THE COMMITTEE

5.1 The Chairman of the Committee on Market Access introduced the report contained in document G/MA/71. He said that in accordance with the agreed procedures of the Committee on Market Access regarding the transmission of factual data related to requests for extension of waivers, a draft report had been circulated in document G/MA/SPEC/12 and was examined by the Market Access Committee at its meeting of 5 October 1999. Following that meeting, the report was revised taking into account the discussions that took place at that meeting and issued as document G/MA/71. The report summarized the activities of the Committee since its last report to the Council, made in June 1999 and reflected in Annexes I and II the reasons why certain Members whose waivers expired on 31 October 1999 had requested a further extension of their waivers. This was mainly to conclude ongoing consultations or to finalize the preparation of the required documentation. The report also gave a summary of the activities carried out in the context of the modalities and operation of the Integrated Data Base (IDB) and indicated that as of 27 September 1999, sixty-five Members and three acceding countries had provided IDB submissions. At the meeting on 5 October, the Secretariat had also provided a report on the status of processing of IDB submissions, the status of software development and the technical assistance activities that have been carried out thus far. Additionally, at the June meeting of the Committee, Singapore on behalf of the APEC Market Access Group (MAG) had submitted for Members' consideration a request for an APEC internet mirror site of the Integrated Database. At the meeting of 5 October, Singapore, on behalf of the APEC MAG, informed the Committee that the MAG had decided that there was no need anymore to request this mirror site of the IDB. Finally, the Committee noted the status of submissions of HS96 documentation based on document G/MA/TAR/2/Rev.20 and the status of notifications of quantitative restrictions based on document G/MA/NTM/QR/1/Add.6. The Committee took note of the report presented by the Secretariat on the progress of work on the Consolidated Loose-Leaf Schedules Database Project. The Committee also adopted its annual report for 1999. The CTG took note of the report.

B. HARMONIZED SYSTEM – REQUESTS FOR EXTENSIONS OF WAIVERS

5.2 The Chairman drew attention to the communications from Bangladesh, Nicaragua and Sri Lanka containing requests for an extension of waivers which were going to expire on 31 October 1999. These requests for waiver extensions had been made in the context of the transposition of these Members' schedules into the Harmonized System, and in accordance with paragraph 1 of the Understanding in respect of Waivers of Obligations under the General Agreement on Tariffs and Trade 1994. Pursuant to Article IX of the WTO Agreement, these requests for waivers were before the CTG for its consideration; draft decisions had been circulated to assist the Council in its consideration of these requests.

(i) *Bangladesh*

5.3 The request from Bangladesh had been circulated in document G/L/324 and a draft decision in document G/C/W/162. The Council agreed to approve an extension of the waiver for Bangladesh until 30 April 2000, and recommended that the draft decision contained in document G/C/W/162 be forwarded to the General Council for adoption.

(ii) *Nicaragua*

5.4 The request from Nicaragua had been circulated in document G/L/320 and a draft decision in document G/C/W/160. The Council agreed to approve an extension of the waiver for Nicaragua until 30 April 2000, and recommended that the draft decision contained in document G/C/W/160 be forwarded to the General Council for adoption.

(iii) *Sri Lanka*

5.5 The request from Sri Lanka had been circulated in document G/L/321 and a draft decision in document G/C/W/161. The Council agreed to approve an extension of the waiver for Sri Lanka until 30 April 2000, and recommended that the draft decision contained in document G/C/W/161 be forwarded to the General Council for adoption.

C. ZAMBIA – RENEGOTIATION OF SCHEDULE LXXVIII - REQUEST FOR AN EXTENSION OF THE WAIVER

5.6 The Chairman said that the request by Zambia had been circulated in document G/L/329 for an extension of a waiver granted to it in connection with the renegotiation of its schedule, together with a draft decision in document G/C/W/163. The Council agreed to approve an extension of the waiver for Zambia until 30 April 2000, and recommended that the draft decision contained in document G/C/W/163 be forwarded to the General Council for adoption.

D. DECISION ON THE INTRODUCTION OF THE HARMONIZED SYSTEM CHANGES IN WTO SCHEDULES OF TARIFF CONCESSIONS ON 1 JANUARY 1996 - EXTENSION OF THE TIME-LIMIT

5.7 The Chairman said that the General Council had adopted successive decisions, thereby suspending the application of the provisions of Article II of GATT 1994 until 31 October 1999, for the purpose of enabling Members to implement the recommended amendments of 1996 to the Harmonized System nomenclature. He drew the Council's attention to the draft decision, contained in document G/MA/W/21/Rev.1, which proposed to extend this time-limit until 30 April 2000. The annex to this draft decision listed Members who had requested this extension or who had requested to be covered by the decision. The purpose was to give Members more time to proceed with consultations or possible Article XXVIII negotiations. He informed Members that since the document was issued, Bolivia had requested to be included in this list.

5.8 The representative of Japan welcomed that several Members had recently terminated their verification process. This had been achieved through the dedicated efforts made by each Member concerned and Japan highly commended these efforts. Although there had been some significant progress in the verification process, the problem still existed. It was regrettable that Members were again brought to discuss the extension of HS96 waivers in the Council meeting. The matter had been discussed for five years already. The year 1999 was drawing to a close and it was regrettable that the CTG was still unable to finalize the 1996 HS problems. The WTO was said to be a ruled-based as well as being a Member-driven Organization. It was clear that tariff schedules as a whole made up one of the basic legal documents of the WTO and that it was only the Members themselves who could solve this problem. It was a matter of the credibility of the WTO. Japan had repeatedly expressed its serious concern on this issue and believed that all other Members understood and shared this concern. His delegation could, this time, go along with the proposal of an extension of the waivers for another six months, in the sincere hope that this extension would be the last one.

5.9 The Council took note of the statement made and agreed to approve the extension of the waivers until 30 April 2000, and recommended that the draft decision granting an extension of these waivers, contained in document G/MA/W/21/Rev.1, which would be revised to include Bolivia in the annexed list, be transmitted to the General Council for adoption.

6. TRIMs Agreement - Request by the Philippines for extension of the transition period pursuant to Article 5.3

6.1 The Chairman said that in document G/L/325 the Philippines had circulated a request for the extension of the transition period for some of its TRIMs notified under Article 5.1 of the TRIMs Agreement. He recalled that Article 5.3 of that Agreement stated: "On request, the Council for Trade in Goods may extend the transition period for the elimination of TRIMs notified under paragraph 1 for a developing country Member, including a least-developed country Member, which demonstrates particular difficulties in implementing the provisions of this Agreement. In considering such a request, the Council for Trade in Goods shall take into account the individual development, financial and trade needs of the Member in question."

6.2 In introducing the request, the representative of the Philippines said that his Government pursuant to Article 5.3 of the Agreement on TRIMs requested an extension of the transition period referred to in Article 5.2 for the Motor Vehicle Development Programmes which were notified under Article 5.1 of the same agreement. The Philippines requested an extension of the transition period until 31 December 2004. He was aware that this request came at a time when related issues were currently being discussed in the preparatory process for Seattle. The Council should consider this request on the basis of its merits, de-linked from the dynamics of the preparatory process. The motor vehicle industry of the Philippines would have particular difficulties in phasing out the TRIMs at this point in time. These difficulties were not a result of a lack of commitment on the part of the Philippines in respect of their rights and obligations under the WTO. They were simply due to the economic vagaries that came to bear heavily on the Philippine economy in 1997 and 1998 and whose effects continued to linger with almost devastating effects. The Philippines exerted all possible efforts to adjust structurally to its obligations under TRIMs. As one of the significant reforms in the motor vehicle industry, import and investment restrictions were relaxed beginning in 1990. As a result, more foreign participants entered the industry. By October 1995, imports of completely built-up units (or CBUs) were allowed. At the same time, the Philippines implemented a highly accelerated phase of tariff liberalization for the motor vehicle industry. The tariff for CBUs was greatly reduced. Today, the tariff stood at 40% for passenger cars. With Executive Order No. 264 of 1995, tariffs were cut on buses and vans from a peak of 45% to 25%. Today, tariffs on completely knocked down units (or CKDs) of passenger cars, commercial vehicles and motorcycles were anywhere from 3% to 10%. Many would consider this trade regime an open one in the Asian part of the world. Because of these

measures imports of CBU, semi-knocked down units (or SKDs) and CKDs had grown from \$375 million in 1990, to \$1.03 billion in 1995. But the Asian financial crisis had exacted its costs. The motor vehicle and parts market of the Philippines had contracted significantly. From a domestic market of a little over 350,000 units of motor vehicles in 1996, the market had shrunk to just around 153,896 units, or by more than half. On account of pervasive weakness in demand, imports amounted to only \$245 million as of July this year. This situation was heavily compounded by, ironically, the liberalization of the industry which had collided with the financial crisis. With many players in assembly operations, including new ones, economies of scale among the original equipment manufacturers (or OEMs), for example, had been adversely affected. Compounded by the 40% depreciation of the Philippine Peso, import costs had increased significantly. Even the Philippine export level, which had already reached \$1 billion in 1997, was severely affected primarily because its main markets were also seriously affected by the crisis. Today, capacity utilization in the Philippine motor vehicle industry was down to just 40%. Also, the government could not help but be seriously concerned about the human dimension. The parts manufacturing sector, which consisted of 256 companies, had a workforce of 44,715 people before the crisis. Directly because of the crisis, 4,754 workers had already been laid off. His authorities dreaded to anticipate that another 10,000, by early next year, would be retrenched essentially on account of the obligations under the TRIMs Agreement, unless of course, by a miraculous feat, the low capacity utilization rate in the industry would quickly reverse itself. This had to be assessed in light of the diminished capability of government to provide adequate social safety nets, as the effects of the crisis had not been confined to this industry alone. He could not over-emphasize the grave social, economic, and even political consequences this problem would wreak on his country. The Philippines pursued with vigour and confidence further structural adjustment measures, including of course in the trade regime and the softer side of trade policy, that is, in the area of human resource development. This played an important role in any quest for higher competitiveness. This involved programs on capability enhancement, skills training, and information development coupled with efforts to attract technological improvements that effectively complemented market opening measures. The Philippines also aimed to complete a motor vehicle inspection system that, in due course, would allow liberalization to extend even into the used vehicle industry. The problem was timing, and he believed that the solution was also one of timing. He had faith that the Council would collectively pay due attention to opinions often articulated in the WTO about looking after the interests of workers, and operationalizing WTO provisions to fully address the unique trade, financial and development needs of developing countries. The Philippines assured the Council that it stood ready to engage – fully – in consultations with Members, with a view to concluding such consultations before the expiry of the transition period.

6.3 The representative of Malaysia, speaking on behalf of the delegations of Brunei Darussalam, Indonesia, Singapore, Myanmar and Malaysia, supported the request submitted by the Philippines for an extension of the transition period of the notified TRIMs for a period of 5 years. This request had been made by the Philippines on the basis of its development, financial and trade needs and reflected an urgent need for an extension. Members would note that the request had been made notwithstanding the serious efforts made by the Philippines to phase out the notified TRIMs. He urged his colleagues to grant this request.

6.4 The representative of the European Community had taken note of the Philippines request as well as the explanations given. It was with an open mind that his delegation would consider the request, pursuant to procedures which the TRIMs Committee had yet to establish. He said that his delegation was open to any suggestions or ideas regarding the most appropriate methodology for such an assessment, stressing the fact that transparency *vis-à-vis* Members was of special importance. Lastly, he stressed, as had others before him, that in the present circumstances the Philippines would be in violation of their commitments as of 1 January 2000. It was therefore important for the Council to be able to take an expeditious decision on this matter.

6.5 The representative of the United States said that his authorities would study the statement made by the Philippines. He stated that the United States had been asking for information concerning Members' plans for implementation of the TRIMs Agreement for almost two years and that, as had been indicated in recent months in the TRIMs Committee, time was running out. His delegation would give prompt and thorough consideration to this request made by the Philippines on an individual basis. Regarding the most appropriate approach to handle such requests, there were a variety of models within the WTO with differing degrees of formality. At this point in time it was important to bear in mind both time and resource constraints. Preparations for Seattle meant that resources would be very scarce for a time-consuming, formal process and establishing the process itself could easily become an exercise that postponed attention to the real problem at hand. From the point of view of Members requesting additional time to come into compliance, delays in the resolution of the problem until after the deadline would come into effect would place them in a sensitive legal position. He suggested that the Philippines engage in informal consultations with interested Members rather than start a formal process by the TRIMs Committee or the CTG. Members seeking an extension could invite interested delegations, as the Philippines had just done, to meet with them. The requesting party would have the opportunity to explain their situation to those interested parties. This informal group could enter into an immediate exchange of information and negotiation at a pace appropriate to the needs of the Members concerned with a view to resolving the issue as expeditiously as possible. The solution would then be presented to the CTG for approval. He hoped that an informal exchange, limited to interested Members, would promote a frank exchange of information and streamline the negotiation while not tying up the entire TRIMs Committee or the CTG. To conclude, his delegation was not in a position to agree to the Philippine request but looked forward to discussing it with that delegation and other interested Members in the near future.

6.6 The representative of Switzerland said his authorities were studying the Philippines' request. His delegation could join in the informal procedures suggested by the United States but nevertheless wanted to indicate that it had problems with the time-period of the waiver requested, particularly as a five year period of extension would place the Philippines in a better position than least developed countries (LDCs).

6.7 The representative of Hong Kong, China said that as a general principal he believed that each application made under Article 5.3 should be considered on its own merits and handled in a transparent manner. In the interest of consistency across cases, he suggested that whatever generalized criteria were drawn up by the Council to facilitate examination of the Philippines' request, their application should be carried out in a non-discriminatory and transparent manner.

6.8 The representative of Japan said his delegation had repeatedly expressed the view in the TRIMs Committee that the timely elimination of TRIMs was essential and a core factor of the Agreement. On the other hand, the article in question stated that those countries who demonstrated particular difficulties in the elimination of the TRIMs could appeal to the CTG for extension of the transition period. The Philippines was the first country which had explicitly made a request. The request followed exactly what was required in Article 5.3 of the Agreement. The Philippines had explained that they had faced serious economic difficulties in the aftermath of the Asian economic crisis, a situation with which he sympathised. However, the sector for the Philippines had requested an extension was a sector in which Japan had a great interest and it was therefore necessary to look closely at the request. As had been stated by the representatives of the US, the EC and Switzerland, his delegation also wished to consult on this matter with the Philippines expeditiously as the time-limit was approaching.

6.9 The representative of Malaysia, in response to the delegation of Switzerland, wondered how LDCs had come into this question. It was stipulated clearly in Article 5.3 that any consideration of an extension request should be based on the merits of the applicant's trade, financial and development

needs. The question of the transition period for LDCs should not have any bearing on requests by developing countries and he hoped the Swiss delegation would rethink its position on this question.

6.10 The representative of Canada thought it important that the elimination of TRIMs happened in a timely fashion. That said, Article 5.3 did provide for the request of extensions and he thanked the Philippines for its request and for its transparency in that process. As others had stated before him, his delegation was willing to enter into informal consultations to explore the Philippines' request for an extension of the transition period. It should be clear that this willingness to enter into these discussions was without prejudice to Canada's position within those discussions.

6.11 The representative of Mexico stated that the Philippines request was under study in capital and his authorities looked at it with a great deal of sympathy. Mexico had a substantial interest in that the Philippines notified in due time and in the proper form because Mexico would also be requiring an extension of the original time-period stipulated in the TRIMs Agreement. His authorities had not made such a request because, as had been explained in the relevant body, they hoped that they would not have to do so as they trusted that a solution could be found in Seattle. Mexico had tabled a proposal under the preparatory work for the Ministerial Meeting with this in mind. Commenting on other delegations' views, the representative of Mexico pointed out that he disagreed with the view that after 31 December 1999 Members who had requested the extension of the original period would be in violation of the TRIMs Agreement. He maintained that there would be a legal vacuum because it was not clear who would be at fault if the CTG did not respond to a request. Would the Council be at fault because it had not responded in one way or another to the request made by a Member or would the Member concerned be at fault even if it had submitted the request before the end of the original period. This was another reason why it would be better to solve this issue at Seattle. Secondly, he said that the country requesting an extension was free to hold as many informal, bilateral consultations as it wanted. While every delegation was free to participate, this was not an obligation. If, however, the CTG decided to hold informal consultations mandated by the Members to examine how such requests should be dealt with in the light of Article 5.3 of the TRIMs Agreement, then there was an institutional obligation for the consultations to be open-ended. The representative of Korea said that his delegation intended to participate in formal or informal consultations on this matter in the future.

6.12 The representative of India stated that she had conveyed the request to her capital and was awaiting instructions. India had emphasized on numerous occasions that it was important for Members to assess whether the TRIMs Agreement had helped build up strong developing country enterprises that were able to compete in the world markets for all goods and services. India had much sympathy for the request of the Philippines. She addressed two systemic concerns: first, she agreed fully with the statement of Malaysia as regards transition periods under TRIMs for developing countries in comparison to least developed countries; secondly as regards the US idea that the informal consultations that it had proposed to the Philippines should be limited to a few delegations, her delegation believed that in the absence of well-established track records on granting extensions, it was even more important that the consultations were held in a fully open and transparent manner.

6.13 The representative of Argentina said that like other delegations his authorities were looking at the request with sympathy. He thought that an extension for developing countries should be virtually automatic and he would cooperate with the delegate of the Philippines to find a solution. His delegation also did not understand what had been said by Switzerland concerning the difference between developing countries and least developed countries as far as transition periods were concerned. The question of the extension of the transition period for TRIMs was also being discussed in other fora in the WTO, including the General Council as part of the preparatory process of Seattle and he endorsed in this respect the statement of the Mexican delegation. As India had said, consultations should be open to all Members and should be transparent.

6.14 The representative of the United States reiterated his position that if TRIMs, which had been notified by 31 March 1995, had not been eliminated by 1 January 2000, countries which continued to use those TRIMs would be in violation of the Agreement. His delegation was firmly opposed to any suggestion of a blanket extension of the transition period. The Council was discussing individual extensions and in this regard the Philippines had taken the proper course.

6.15 The representative of Brazil said his authorities were evaluating the option of requesting an extension. The Brazilian position concerning this issue was well known: that there should be a level playing field among developing countries in what concerning TRIMs.

6.16 The Chairman said that it was important to give proper attention to the request from the Philippines delegation and to take note of the statements made on the subject. He proposed two elements in order to proceed: it would be constructive for the Philippines to enter into a dialogue with other interested delegations, to exchange information and perhaps even negotiate with some with a view to assisting in the presentation of a solution for approval by the CTG. At the same time the CTG had a responsibility to carry out consultations; he therefore asked for a mandate from the Council to hold informal consultations on this request at an appropriate time. In summary he proposed that the Council take note of the comments made, that it welcome any informal consultations that the Philippines might wish to engage in and finally that it mandate the Chair to arrange informal consultations at an appropriate time on this request.

6.17 The representative of the Philippines agreed to the modalities that had been proposed and invited delegations to get in touch with his delegation. As concerned the legal obligations of the Philippines posed by the 31 December 1999 deadline he hoped that the Council could come to an early conclusion on this request preferably before 31 December.

6.18 The Chairman enquired whether his suggested approach was agreeable to the Council.

It was so agreed.

7. Review of the Operation of the TRIMs Agreement

7.1 In quoting from Article 9 of the TRIMs agreement, the Chairman said that: "Not later than five years after the date of entry into force of the WTO Agreement, the Council for Trade in Goods shall review the operation of this Agreement and, as appropriate, propose to the Ministerial Conference amendments to its text. In the course of this review, the Council for Trade in Goods shall consider whether the Agreement should be complemented with provisions on investment policy and competition policy." He understood that in previous informal discussions in the TRIMs Committee the view had been expressed that, in order to meet the deadline stipulated in Article 9, this review should be launched before the end of 1999. He recalled that at the last meeting of the Council he had indicated that this matter would be placed on the agenda of this meeting.

7.2 The representative of the European Community felt it was necessary to take into account recent developments in the General Council discussions on the TRIMs Agreement and suggested awaiting the results of the Seattle Ministerial meeting in this regard. The representative of Hong Kong, China said he welcomed all options and deliberations on the question of how to proceed in this question, keeping in mind how the benefits of foreign and direct investment could be enhanced for developing country Members. On the other hand with the increasing globalization of production and growth in the share of intra-firm trade, it was necessary to address the implications of the interaction between trade and investment, including a review of other elements which could affect such interaction such as investment incentives, export requirements and restrictions on FDI etc. Apart from the TRIMs review there existed other possible multinational rules - for example the GATS - where further investment liberalization could be pursued.

7.3 The representative of Japan recalled that the review was to cover both the operation of the Agreement as it stood as well as consideration of whether provisions on investment and competition policy should be incorporated. These issues pertaining to the TRIMs Agreement review process were related to the Seattle Ministerial process and he agreed with the view stated by the EC.

7.4 The representative of Mexico agreed that both preparations for the Ministerial Conference and the process imposed upon Members by Article 9 had to be taken into account. He suggested that a useful way to proceed would be to start the review process at this meeting and then the Chairman could hold informal consultations with Members no earlier than the 3 December 1999 which should allow Members time to clear up any uncertainties.

7.5 The representative of the Philippines agreed with Japan and Mexico. The representative of Canada suggested that a good starting-point would be to simply conduct a factual review at this stage leading to a factual report. As regards the other issues under discussion, he concurred that they should be left to the future. The representative of the United States also favoured an approach of waiting to see what happened in Seattle. The representative of Switzerland had previously expressed support for the review of the operation of the TRIMs Agreement starting before the end of 1999 and endorsed the approach that was emerging. The representative of Brazil sought clarification as to how the process would work in practice.

7.6 The Chairman noted that through the meeting the CTG had met its responsibility of formally launching the review before the end of the year. He said that all comments were noted and observations that had been made including those about related events and circumstances and he proposed that in the light of the observations the CTG should revert to the matter at its first meeting the year 2000. It was so agreed.

8. Consideration of Annual Reports of Subsidiary Bodies of the Council for Trade in Goods

8.1 The Chairman said that pursuant to the "Procedures for an annual overview of WTO Activities and for reporting under the WTO" (WT/L/105) which were adopted by the General Council on 15 November 1995, all bodies constituted under agreements in Annex 1A of the WTO Agreement are required to submit annually a factual report to the Council for Trade in Goods, and the Council was to take note of these reports

8.2 The Council agreed to take note of the following reports (without discussion): Committee on Agriculture (contained in document G/L/322); Committee on Customs Valuation (G/L/323); Committee on Market Access (G/L/331); Committee on Rules of Origin (G/L/326); Committee on Sanitary and Phytosanitary Measures (G/L/315); Committee on Technical Barriers to Trade (G/L/327); Independent Entity of the Preshipment Inspection Agreement (G/L/330); Committee on Trade-Related Investment Measures (G/L/319); Committee of Participants on the Expansion of Trade in Information Technology Products (G/L/332). In the following cases the Council took note of draft or interim reports: Committee on Import Licensing (G/LIC/W/12); Working Party on State Trading Enterprises (G/STR/W/36); Committee on Anti-Dumping Practices (informal document with job No. 5970); Committee on Safeguards (job No. 5969); Committee on Subsidies and Countervailing Measures (job No. 5972).

8.3 The Council also agreed to take note of the report of the Textiles Monitoring Body (G/L/318). The representative of India noted that the report contained a reference to the TMB's consideration of a new restriction by the US against certain imports from Turkey. She said that the issue was considered on a number of occasions and that there had been a delay in notifying this restriction. While her delegation welcomed the decision of the TMB to take up this matter and review it as a positive development, she hoped that the examination of the measure could be expedited.

9. Adoption of the Annual Report of the Council for Trade in Goods to the General Council

9.1 The Chairman drew the Council's attention to the draft report of this Council circulated in document G/C/W/159. He recalled that in accordance with the "Procedures for an annual overview of WTO Activities and for Reporting under the WTO" (WT/L/105) which was adopted by the General Council on 15 November 1995, it was agreed that "The respective sectoral Councils should report in November each year to the General Council on the activities in the Council as well as in the subsidiary bodies" and that the reports of the sectoral Councils should be "factual in nature, containing an indication of actions and decisions taken, with cross references to reports of subordinate bodies and could follow the model of the GATT 1947 Council report to the CONTRACTING PARTIES". The draft report before Members covered the period starting from 1 December 1998 to 15 October 1999.

9.2 The Council agreed to adopt the report subject to the updating to take account of the Council's work at the ongoing meeting.

9.3 Under Other Business the Chairman drew the Council's attention the "Understanding on the Interpretation of Article XXVIII of the GATT 1994" which stated in paragraph 1 that, "For the purposes of modification or withdrawal of a concession, the Member which has the highest ratio of exports affected by the concession (i.e. exports of the product to the market of the Member modifying or withdrawing the concession) to its total exports shall be deemed to have a principal supplying interest if it does not already have an initial negotiating right or a principal supplying interest as provided for in paragraph 1 of Article XXVIII". It further stated that, "this paragraph will be reviewed by the Council for Trade in Goods five years from the date of entry into force of the WTO Agreement (i.e. in the year 2000) with a view to deciding whether this criterion has worked satisfactorily in securing a redistribution of negotiating rights in favour of small and medium-sized exporting Members. If this is not the case, consideration will be given to possible improvements, including, in the light of the availability of adequate data, the adoption of a criterion based on the ratio of exports affected by the concession to exports to all markets of the product in question". In order to ensure that the CTG meet its responsibility and initiate the review that is called for, it was the Chairman's intention to place this matter on the agenda of the first meeting of the CTG in the year 2000. He invited delegations to communicate to him or the Secretariat any suggestions they might have in this regard.

9.4 Second, the calendar of meetings for next year was in the process of being drawn up. It was too early to propose a precise date but, depending on the way the agenda evolved, he was considering either late January or March 2000 for the next meeting of the CTG. A more precise suggestion would be made in due time.
