

Council for Trade in Goods
11 June 1997

MINUTES OF THE MEETING

Held in the Centre William Rappard
on 11 June 1997

Chairperson: Mr. T. Johannessen (Norway)

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1. Harmonized System - Request for an Extension of the Waiver
- Sri Lanka (G/L/164, G/C/W/73/Rev.1)

1.1 The Chairman recalled that the request from Sri Lanka for an extension of its waiver in connection with the transposition of its schedule into the Harmonized System, circulated in document G/L/164, was considered at the last meeting of the Council. At that time New Zealand was not in a position to agree to the waiver, and therefore, the Council had not forwarded the draft decision granting this waiver (G/C/W/73/Rev.1) to the General Council for adoption. It was agreed that the delegations concerned would report to the Chair on the status of their consultations on this matter before the Council's next meeting. In the meantime he had been informed that the delegations had met and had detailed discussions on the matter. However, at this stage progress had not yet been made.

1.2 The Chairman also recalled that this waiver had expired on 30 April 1997, and that an extension had been requested until 30 October 1997. Pursuant to Article IX of the WTO Agreement, the Council had a period not exceeding 90 days to consider such requests and to submit a report to the General Council. This period had started on 14 April 1997 when the Council had first considered the request. He urged the delegations concerned to continue their efforts to achieve an understanding before that date.

1.3 The Council agreed to revert to this matter at its next meeting.

2. Approval of the Rules of Procedure of the Committee on Sanitary and Phytosanitary Measures (G/SPS/W/48/Rev.1)

2.1 The Chairman recalled that at its last meeting of 14 April 1997, the Council had considered the rules of procedure of the Committee on Sanitary and Phytosanitary Measures contained in document G/SPS/W/48 and corrigendum. In light of statements made by the European Communities and Peru seeking certain clarifications, the Council had agreed to revert to this matter at its next meeting.

2.2 Now, the Council had again before it for approval, pursuant to paragraph 6 of Article IV of the WTO Agreement, the rules of procedure of the Committee on Sanitary and Phytosanitary Measures contained in document G/SPS/W/48/Rev.1.

2.3 The representative of the European Communities indicated that his delegation was now in a position to approve these rules of procedure.

2.4 The Council approved the rules of procedure of the Committee on Sanitary and Phytosanitary Measures.

3. HS96 Changes and Article II of GATT 1994
- Communication from Switzerland (WT/GC/W/56-G/C/W/79)

3.1 The Chairman recalled that a first discussion on the Swiss proposal had taken place at the Council's last meeting where it had been agreed that consultations should be held on this matter. Accordingly, consultations, to which all Members were invited, had taken place on 22 and 30 April, and on 9 June 1997. To assist in these consultations, the Secretariat had prepared an informal note on "Rectifications to schedules of tariff concessions and their certification" which was sent out to all delegations. The consultations revealed a general agreement that there was a need to remedy the current situation where the procedures leading to the certification of any changes to schedules, either as a result of Harmonized System (HS) changes or any other changes, were not working properly or satisfactorily.

3.2 The Chairman proposed to continue his consultations and to submit a proposal for a solution to the Council in the near future.

3.3 The Council so agreed.

4. Trade Facilitation (Paragraph 21 of the Singapore Ministerial Declaration) (WT/MIN(96)/DEC)
- Note by the Secretariat (G/C/W/80)

4.1 The Chairman recalled that this item was on the Council agenda following the directive of Ministers at Singapore in paragraph 21 of the Singapore Ministerial Declaration to:

"undertake exploratory and analytical work, drawing on the work of other international organizations, on the simplification of trade procedures in order to assess the scope for WTO rules in this area".

4.2 The first substantive discussion on this matter was held at the Council's first meeting this year in January. It was agreed that the Secretariat should gather information on the work done on the subject of trade facilitation in various international organizations. The information should be submitted to the Council sometime in May 1997. It was also agreed that an interim report should be made by the Secretariat giving an overview of the organizations contacted in order to obtain factual information in this field, as well as of the areas of trade facilitation in which these organizations had undertaken or were undertaking work. A background note by the Secretariat contained in document G/C/W/70 responded to this request for preliminary information. Document G/C/W/80 which was now before the Council, contained a compilation by the Secretariat of the work already done on the subject of trade facilitation in other international organizations, including certain non-governmental organizations.

4.3 The representative of the United States stated that the Secretariat's report concerning the activities and initiatives related to trade facilitation was important in that it showed the wide range of critical work going on in this area in no less than ten international intergovernmental organizations and numerous other fora. The United States was actively involved in most of these efforts. There was no denying the importance of trade facilitation as an area of focus for the WTO. Increasingly, trade facilitation was linked to ensuring that market access commitments were kept.

4.4 There was a great deal of unfinished WTO work related to trade facilitation. One example was the Working Party currently conducting an extensive review of the operation and implementation of the Agreement on Preshipment Inspection. Another important contribution to trade facilitation would be the timely completion of the ongoing work by the Committee on Rules of Origin leading to the harmonization of non-preferential rules of origin. The deadline for completion of this work was July 1998, and the work was behind schedule. Significant resources and energy would be needed from all Members in order to achieve timely completion of this important work. For the trading community,

one of the most important areas of ongoing work relating to trade facilitation concerned the Agreement on Customs Valuation. The Committee on Customs Valuation had begun to move forward in the area of technical assistance, so that developing and developed country Members could work together in a coordinated fashion to ensure timely implementation of the Agreement by all Members. As the report of the Secretariat indicated, there were also numerous customs-related procedural elements of various Agreements related to providing transparency to the trading community; these also increasingly needed attention to ensure full implementation. Completion of all this ongoing work had to be the priority with regard to trade facilitation, and already presented a significant challenge in terms of resources and energy. New work would draw from what was needed to complete these important tasks.

4.5 Work in other areas of trade facilitation was already underway in other fora, as the Secretariat's report observed. Any work at the WTO in these additional areas - while efforts in other fora were underway - would be redundant and would not be a prudent use of resources. Given its importance, trade facilitation should continue to remain a matter of attention. However, further work on the development of WTO rules in this area should be undertaken only after completion of the ongoing work, particularly in the areas of rules of origin, customs valuation and preshipment inspection.

4.6 The representative of the European Communities stated that there were areas where the WTO needed to become more concerned with the issues of trade facilitation. In examining the Secretariat's document the following points needed to be kept in mind. First, it would be useful to know if there were gaps in the work currently being carried out in other fora which the WTO could usefully fill. In other words whether the WTO could bring to this exercise any "added value". It was a crucial question which his delegation, other Council Members and the Secretariat should be reflecting on. His delegation intended to present some ideas on this subject at the next Council meeting. His delegation also believed that the momentum in this area of work within the WTO should be maintained, but that more analytical work was required. Additionally, his delegation was of the view that private organizations and private sector entities should be more closely involved. They should be informed of the way in which work was proceeding in the WTO and they should be invited as necessary to participate in any further discussion which the WTO might have on this subject. Lastly, while being aware that this might be difficult for some delegations, he wondered whether the Goods Council was in fact the best forum for continuing this debate, and whether, Members might consider setting up a Working Group at a later stage for this purpose.

4.7 The representative of India stated that the subject of trade facilitation had attracted interest for over two decades with different aspects of trade facilitation being studied, analyzed and discussed at various fora by specialized agencies. The Secretariat's background note prepared and circulated pursuant to the Singapore Ministerial Conference was comprehensive and drew on the work of other international organizations on the simplification of trade procedures. The note had covered the work and activities undertaken by international intergovernmental organizations, non-governmental organizations, regional organizations, free trade agreements and customs unions. While the subject of trade facilitation had been the focus of work in many of these agencies, it was still a matter to be considered whether trade facilitation should relate to procedures and standards and to simplification and harmonization to improve efficiency of handling foreign trade by all trading partners or, alternatively, whether it should encompass all aspects and functions relating to the conduct of international trade including varying aspects such as banking, transport, insurance, telecommunications etc. While developed countries might be at an advanced stage of integrating these functions and activities relating to the conduct of international trade, developing countries were at various stages of comprehending the importance and need for trade facilitation measures even in the area of trade information and customs procedures. It might be useful to define the precise area to be covered by trade facilitation before further work was planned.

4.8 Her delegation had participated in the deliberations of the *ad hoc* Working Group on Trade Efficiency of UNCTAD. These deliberations also seemed to indicate that trade facilitation could initially focus on trade information and customs procedures considering the costs involved in complying with these requirements. The trade efficiency programme of UNCTAD prepared the guidelines and recommendations by the *ad hoc* Working Group covering all aspects of trade facilitation for adoption by Member countries. Her delegation had also participated in the UN international symposium on trade efficiency in October 1994. The global network of trade points was launched at this symposium to which India was connected. The Delhi Trade Point was set up to enable a smooth switch to electronic commerce mode especially in areas of trade information, exchange and business development through the trade point network.

4.9 India was also implementing the guidelines and recommendations resulting from the symposium. India had initiated various programmes such as EDI, document and procedural harmonization, as well as mutual administrative agreements with trading partners. EDI had been introduced in select custom houses and ports and was being extended to cover all major ports and custom houses within a specified period of time. Efforts were being made to participate in information exchange under the trade point network. This programme had been initiated by her authorities and had been dependent on resource availability. Technical cooperation support could have enabled expeditious implementation of the guidelines and recommendations as also the launch of EDI for commerce.

4.10 The work currently being handled at the World Customs Organization (WCO) and similar international agencies concerned with the aspects of trade facilitation, simplification, automation and efficiency would need to be integrated with any programme of the WTO. For instance, WCO was reviewing the Kyoto Convention, and any harmonization and documentation for customs anticipated by the WTO, would need to be integrated with the work already commenced under the aegis of WCO. India was actively participating in the Kyoto Convention review of the 32 annexes and was also drafting two annexes relating to warehousing and export processing zones in this review. Massive work was being done with regard to harmonization, review of standards and guidelines besides preparation of a manual of guidelines and procedures by looking at it as a horizontal issue from the viewpoint of automation. The review was expected to be completed by 1998 and the WTO should consult with the WCO on the work presently in progress. India was already exchanging information bilaterally under the Nairobi Convention for administrative purposes.

4.11 In any move towards trade facilitation, the enormity of the tasks involved should be gauged for both developed and developing countries and carried out on a mutually agreed and binding basis. However, as regarded the final objective of accepting the export bill as an import document at the destination point, this could be done on a mutually accepted basis and should be backed up either multilaterally or bilaterally with adequate legal arrangements.

4.12 Automation and trade facilitation were still at an evolving stage as the full canvas involved other sectors related to trade. In many countries, in other sectors except customs, automation was still at a nascent stage. For instance in the banking sector the electronic funds transfer system needed to be put in place. Difficulties were envisaged by both developed and developing countries in extending trade facilitation and automation to other sectors. For instance, customs was largely a sovereign sector owned by the government in all the countries whereas banking and transport were sectors in which the government and the private sector participated.

4.13 It was possible to look at the trade facilitation issue as a critical minimum programme which could be adhered to by all trading partners. For instance the two main documents which were crucial for international trade, namely the invoice and the transport document, could be harmonized and standardized as a critical minimum programme under the trade facilitation process which could be multilaterally and bilaterally accepted for implementation and exchange of information as might be

required. This would ensure that the required standardization and harmonization were achieved to an acceptable standard in view of the evolutionary process which was already underway in several countries for implementation of automation.

4.14 The functions contributing to trade facilitation were manifold and varied as outlined in the Secretariat's background note. In view of the association of several international agencies and specific bodies handling various aspects of trade facilitation, India could consider having a reporting mechanism with the WTO. Her delegation understood that progress was already being made in this direction since the Technical Committee on Customs Valuation and the Technical Committee on Rules of Origin in WCO were both coordinating their work with the Committee on Customs Valuation and Rules of Origin in the WTO, respectively.

4.15 The success of trade facilitation measures would largely depend on the technical cooperation available to the developing countries and increased market access to their products. These elements should be present in order to make additional investment in trade facilitation by the developing countries meaningful and beneficial.

4.16 The representative of Nigeria stated that the Secretariat's document showed the enormity and complexity of the issue that Members were dealing with. It revealed that trade facilitation did not stand on its own, but was the intersection point of several important areas of WTO work. Some had already been identified such as work in the Market Access area, in the Committee on Rules of Origin as well as in the Working Party on Preshipment Inspection. In January 1997, when substantive discussion had first taken place on this subject, his delegation had stated that it was necessary to identify, if possible, even in a non-restrictive open-ended manner areas of work that would be covered or a check-list of issues, as the mandate set by Ministers on this subject was pursued. That point had also been reiterated by India and his delegation wished to re-affirm its merit.

4.17 The European Communities' representative had stated that further analytical work was required in this area and that perhaps another Working Group under the auspices of this Council would be needed. His delegation was not in favour of creating such a Working Group. On the question of more analytical work being done in this area, his delegation's view was that priority should be given first to completing ongoing work in the WTO which was related to trade facilitation. However, if it were felt that more analytical work was required, as suggested, then a check-list of issues or identification of the form and character of this further analytical work had to be drawn up.

4.18 The representative of Switzerland stated that his delegation considered that the mandate given to the Council by Ministers at Singapore had not been entirely fulfilled. His delegation felt that more knowledge of existing rules and actions already taken in this area should be acquired through further examination of the issues. For example, a further study should be undertaken on efforts made to 1) facilitate or simplify custom's formalities, notably through means of an electronic transfer of information; 2) improve transit procedures in order to counter abusive formalities, corruption, or arbitrary customs formalities. More specifically, his delegation was proposing that the WTO bring together experts of the organizations concerned, whether they were intergovernmental or in cases where their expertise was clearly demonstrated, non-governmental. This meeting might take the form of a workshop or seminar, under the auspices of this Council. The purpose would be to clarify the approaches adopted and to exchange information about trade facilitation which would include for example, technical assistance. Subsequently, specific needs which required standardization might be identified.

4.19 In response to a request for clarification by the Chairman, the representative of Switzerland stated that his delegation had wished to state that first the current situation with respect to trade facilitation should be further examined. It was only in light of that examination would it be possible to see what should be done subsequently.

4.20 The representative of Korea stated that it was important for the WTO to avoid duplicating the efforts of other organizations. In this context, it was necessary to look at the WTO provisions which affected international trade, and to analyze the relationship of those provisions to the work of other bodies.

4.21 His delegation wished to make two observations on the Secretariat's background note viewing it from the other side of the coin. First, Members had to keep in mind the existence of trade-related decisions or provisions in some international organizations or conventions for the purpose of, for example, environmental protection. His delegation was of the view that these activities should be duly monitored and taken into account in order not to cause a conflict between them and trade facilitation efforts. Second, after a careful examination of the "non-exhaustive" list of WTO provisions in Section E of the background note, his delegation had found that certain provisions (i.e. those concerning procedures governing the review processes of trade measures already taken by Members invoking provisions of WTO Agreements) should also be added to the provisions whose impacts were to be analysed. These provisions might include, among others, Article 11.4 of the Agreement on the Implementation of Article VI of the GATT (Anti-Dumping Agreement), Article 21 of the Agreement on Subsidies and Countervailing Measures, and Article 7.4 of the Agreement on Safeguards.

4.22 The representative of Hong Kong stated that his delegation agreed with the United States that completion of ongoing work in the area of trade facilitation was of the highest priority. The United States' representative had mentioned that the WTO was carrying out work in a number of areas related to trade facilitation, including the exercise to harmonize rules of origin, which was a very fundamental and important project for his delegation. It was important that this work be done on time and nothing should detract from that. Having said that however, his delegation did not believe that the ongoing work should preclude Members from considering further the questions asked by the representative of the European Communities, which were valid. For example, were there gaps in this area? And here clearly the concern was of duplication of work. So, as a first step an analysis should take place in order to identify any gaps, and secondly consideration had to be given as to whether it would be appropriate for the WTO to fill such gaps. Another point mentioned by the representative of the European Communities was the question of what scope there might be for private sector's involvement in this exercise. Hong Kong tended to be in favour of private sector involvement but recognized that it was a sensitive subject which would require careful consideration. Examining these questions would enable Members to consider whether work in trade facilitation should form part of the WTO's future agenda.

4.23 The representative of Norway stated that the mandate from Ministers in Singapore directed the Council to do exploratory and analytical work. The analytical work had yet to start, and should be done with a view to identifying the potential for "added value" by the WTO, as was mentioned by the representative of the European Communities. There might be gaps that could be identified that required further work. The United States had drawn attention to the important work being done in the Committee on Rules of Origin, on Customs Valuation and the Working Party on Preshipment Inspection, which raised the question of co-ordination and timing. Members should not draw any final conclusions on the subject of trade facilitation before ongoing work had been concluded in these other areas. But, he agreed with the representative of Hong Kong, that Members might in a parallel fashion identify any lacunae which might be usefully filled by the WTO.

4.24 The representative of Mexico stated that the Secretariat's document provided a very broad picture of what was going on in various fora in this particular field. In his view, the next step would be to receive input from delegations as to where they saw gaps concerning work currently being done on trade facilitation which the WTO might try to fill. He saw three broad factors in the light of the Ministerial Declaration. One was the facilitation of trade which was contained in the title of the Declaration. Facilitation of trade did not necessary need to be confined to the preparation and

improvement of standards. For example, in the WTO, the mainframe integrated database was being transformed into a personal computer environment, which would make it possible for operators to access valuable information, and this was part of the overall operation of facilitating trade. The other issue was the simplification of procedures. India had mentioned one or two ideas at this meeting, and perhaps other ideas would be forthcoming. In this regard, his attention was drawn to one of the points dealt with in the Secretariat's document pertaining to the fact that the Economic Commission for Europe was preparing an international trade transaction model for identifying the stages in the foreign trade process and guide activities in this direction. Perhaps in terms of methodology it might be useful to use this as a starting point in order to see what the foreign trade process or procedure would be. Subsequently one could decide as to how to simplify aspects of it. A third issue, and perhaps the most important, which arose from the Singapore Declaration was the identification of what the WTO could do as far as rules were concerned. Here, he agreed with the representative of the United States, that the WTO bodies which were already working on matters related to trade facilitation and which were now behind schedule should not be further delayed by this process. Finally, on contacts with non-governmental organizations, Members should abide by what was agreed upon in this connection. There should be no attempt to secure differential treatment on the pretext that because of the very nature of the subject, the Council should deviate from the guidelines established regarding WTO's relations with non-governmental organizations.

4.25 The representative of Morocco stated that the subject of trade facilitation was enormous, proof of this were the vast number of specialised agencies which were working on this subject and which had been doing so for a long time. It was also a subject very much related to WTO's activities. The logic behind any examination of a broad field of this kind would be to look at what other competent international bodies were doing, then let the WTO identify the gaps which it might contribute towards filling. Such an examination was necessary in order to reduce this vast topic down to one or two issues which might be of primary concern to the WTO. In this connection, Switzerland's specific proposals were welcome. A seminar or symposium would also enable the Council to hear the viewpoints of a number of international bodies which would then allow it to further discuss trade facilitation in a more informed fashion. Moreover, his delegation did not believe that a separate working group should be created to carry out this exercise; the work could be done in this Council.

4.26 The representative of Australia stated that from the Secretariat's document it was clear that there was a lot of trade facilitation-related work going on. He had participated in the work being done on trade facilitation in APEC, for example in the area of standards and streamlining of custom's procedures. It was important that the WTO should not duplicate any ongoing work, and the next step, therefore, was to determine where the WTO might "add value". The idea of a symposium seemed good.

4.27 The representative of Nigeria stated that there appeared to be three positions which had emerged on how the Council should proceed. First, further work on trade facilitation was subject to work that was ongoing in different fora and in several areas of the WTO. The second was that Members proceed with a further analysis of the issues that had been raised. The third was that the Council identify a check-list of issues for further analysis with the objective of either identifying gaps and/or determining areas where the WTO could "add value". His delegation shared the view expressed by the Secretariat in its document in Note (v) that: "This document is submitted to the CTG with the acknowledgement that other activities and initiatives related to trade facilitation may exist; any omission of such activities or initiatives in no way connotes any meaning by the Secretariat. The information presented is based on the Secretariat's best efforts, given the time and information available." It appeared that further analysis would be needed. However, first a clear set of issues had to be identified, which would then enable the Council to identify any gaps, and to determine the areas to which the WTO could "add value" if any.

4.28 The representative of the United States stated that the representative of the European Communities had indicated an intention to submit some ideas to the Council on areas of work related to trade facilitation where gaps might exist. So, the item of "Trade Facilitation", only needed to be on the agenda of a future Council meeting at such a time that the European Communities had submitted a paper on this matter.

4.29 The representative of Switzerland stated that his delegation preferred to have this item included on the agenda of the Council's next meeting.

4.30 The representative of the European Communities requested that this item appear on the agenda of the next Council meeting. He clarified that ideas from his delegation would be presented either in writing or orally.

4.31 The representative of Mexico stated that any delegation could make a contribution on this subject, and could request that an item be included on the agenda of a meeting.

4.32 The Chairman encouraged delegations to make contributions to build on the process, and proposed that the Council take note of the statements and revert to this matter at its next meeting.

4.33 The Council so agreed.

5. Appointment of Chairperson of the Working Party on State Trading Enterprises

5.1 The Chairman stated that as agreed at the last meeting of the Council, he had carried out consultations pursuant to the guidelines for the appointment of officers to WTO bodies (WT/L/31), to find a replacement for Ms. Vibeke Roosen (Denmark) who had resigned as Chairperson of this Working Party as indicated in her letter of 19 March 1997. He wished to report that his consultations indicated that there was agreement to appoint Mr. Jacques Teyssier D'Orfeuil (France) as Chairperson to the Working Party on State-Trading Enterprises.

5.2 The Council agreed to appoint Mr. Jacques Teyssier D'Orfeuil as Chairman of the Working Party on State-Trading Enterprises.

6. Agreement between European Community and the Faroe Islands (Government of Denmark) - Communication from the parties to the Agreement (WT/REG21/N/2 and WT/REG21/1/Rev.1)

6.1 The Chairman draw the Council's attention to the notifications from the parties to the Agreement contained in document WT/REG21/N/2. The text of this new Agreement had been circulated in document WT/REG21/1/Rev.1.

6.2 The Chairman proposed that the Committee on Regional Trade Agreements carry out the examination of this agreement in accordance with the following terms of reference:

"to examine, in light of the relevant provisions of the GATT 1994, the Trade Agreement between the European Community and the Government of Denmark and the Home Government of the Faroe Islands and to submit a report to the Council for Trade in Goods."

6.3 It was understood that the understanding read out by the Chairman of the Council for Trade in Goods under item 7 of the Agenda of the meeting of the Council for Trade in Goods on 20 February 1995, as contained in document WT/REG3/1, would apply *mutatis mutandis* to this

examination. It was also understood that, during the examination, due account would be taken of the intrinsic differences between customs unions and free-trade areas.

6.4 The Council so agreed.

6.5 The Council agreed to deal with the two following agenda items together.

7. Free-Trade Agreement between the Czech Republic and the Republic of Bulgaria
- Communication from the parties to the Agreement (WT/REG41/N/1, WT/REG41/1)

8. Free-Trade Agreement between the Slovak Republic and the Republic of Bulgaria
- Communication from the parties to the Agreement (WT/REG42/N/1, WT/REG42/1)

8.1 The Chairman drew the Council's attention to the notifications from the parties to the Agreement contained in documents WT/REG41/N/1 and WT/REG42/N/1. The texts of the Agreements had been circulated in documents WT/REG41/1 and WT/REG42/1, respectively.

8.2 The representative of the Slovak Republic, speaking on behalf of the Czech Republic and Slovakia on one side and the Republic of Bulgaria on the other, informed the Council that pursuant to Article XXIV:7(a), the parties to the Agreements had made the relevant notifications which were contained in documents WT/REG41/N/1 and WT/REG41/1, and WT/REG42/N/1 and WT/REG42/1 respectively. The Free Trade Agreement between the Czech Republic and the Republic of Bulgaria was signed on 15 December 1995, and that between the Slovak Republic and the Republic of Bulgaria on 8 December 1995. Both Agreements had been applied on a provisional basis since 1 January 1996 and had entered into force on 7 June 1996 and on 11 March 1996, respectively. These Free Trade Agreements applied to all products coming under Chapters 1 to 97 of the Harmonized Commodity Description and Coding System. The parties to the Agreements would gradually establish, in conformity with Article XXIV of GATT 1994, a free trade area for substantially all of the trade within the period of two years for industrial products, and would liberalize gradually trade in agricultural products specified in the respective protocols of both Agreements.

8.3 The services sector, within the meaning of Article V of the GATS Agreement, was not covered in the Agreements. However, an evolutionary clause offered the possibility of extending the Agreement to areas not covered by it. The Agreements also contained provisions dealing with, *inter alia*, state monopolies, competition, state aid, public procurement and protection of intellectual property.

8.4 The representative of the United States stated that with respect to agenda items 6, 7 and 8, his delegation welcomed the notification of these agreements and hoped that in all cases the information would be presented in the standard format to the Committee on Regional Trade Agreements and in a timely manner so that the review could be conducted in an expeditious way in that Committee.

8.5 The Chairman proposed that the Council take note of the statements and that the Committee on Regional Trade Agreements carry out the examination of these agreements in accordance with the following terms of reference:

Terms of reference for the Free-Trade Agreement between the Czech Republic and the Republic of Bulgaria

"to examine, in light of the relevant provisions of the GATT 1994, the Free Trade Agreement between the Czech Republic and the Republic of Bulgaria and to submit a report to the Council for Trade in Goods."

Terms of reference for the Free-Trade Agreement between the Slovak Republic and the Republic of Bulgaria

"to examine, in light of the relevant provisions of the GATT 1994, the Free Trade Agreement between the Slovak Republic and the Republic of Bulgaria and to submit a report to the Council for Trade in Goods."

8.6 It was understood that the understanding read out by the Chairman of the Council for Trade in Goods under item 7 of the Agenda of the meeting of the Council for Trade in Goods on 20 February 1995, as contained in document WT/REG3/1, would apply *mutatis mutandis* to these examinations. It was also understood that, during these examinations, due account would be taken of the intrinsic differences between customs unions and free-trade areas.

8.7 The Council so agreed.

9. Israel-Turkey Free Trade Area Agreement

9.1 The representative of Israel, speaking under "Other Business", informed Members that the Israel-Turkey Free Trade Area Agreement was signed last year and had already been ratified by the Government of Israel and the Parliament of Turkey, respectively. Israel had been applying the Agreement since 1 May 1997, and Turkey would apply the Agreement retroactively as of 1 May 1997. The respective notifications pursuant to paragraph 7 (a) of Article XXIV of GATT 1994 would be submitted to the Committee on Regional Trade Agreements in the near future.

9.2 The Council took note of the statement.

10. United States - US Request for Consultations concerning Restrictive Business Practices in the Japanese Photographic Film and Paper Market

10.1 The representative of the United States, speaking under "Other Business", recalled that his Government had requested consultations with the Government of Japan concerning restrictive business practices in the Japanese photographic film and paper market. His authorities had requested these consultations with the Government of Japan pursuant to the CONTRACTING PARTIES Decision on "Restrictive Business Practices: Arrangements for Consultations" under the General Agreement on Tariffs and Trade as set out in BISD 9S/38. This Decision was part of GATT 1994 as defined under Article 1(b) of that Agreement and therefore this Council had responsibility for overseeing the functioning of that Decision.

10.2 The Contracting Parties adopted this Decision with the recommendation that, upon request, "a contracting party should enter into consultations on such practices on a bilateral or a multilateral basis as appropriate". His authorities wished to once again bring to the Council's attention that it had been nearly a full year since the United States had presented its request to the Government of Japan, i.e. on 13 June 1996. Moreover, it had been nearly nine months since the United States had accepted the European Communities' request to join in these consultations while Japan had yet to respond to this request.

10.3 Japan continued to maintain preconditions for accepting the United States' request for consultations. The GATT Decision did not impose any preconditions on the subject matter or the conduct of the consultations that would prevent productive dialogue about, and potential resolution of, issues concerning business practices in the Japanese photographic film and paper markets that appeared to restrict competition in international trade. In fact, such preconditions ran counter to the spirit of WTO dispute resolution. Consulting parties had to discuss factors and conditions that would enhance their

understanding of the environment in which business practices were taking place and their impact on competition in international trade.

10.4 Among the preconditions Japan had imposed was that the parties hold consultations on business practices in the photographic film and paper market in the United States. His authorities had made it abundantly clear to Japan that it was willing to accept Japan's request for consultations on the US market. However, his authorities had also made it clear that it will not accept a linkage between these consultations and the consultations on the Japanese market, as Japan had sought to do. Linking the consultations was contrary to the important GATT principle of not linking claims and counterclaims and therefore was unacceptable.

10.5 His authorities strongly urged Japan to enter into these consultations without further delay and without seeking inappropriate preconditions.

10.6 The representative of the European Communities shared the concerns expressed by the United States and invited Japan to give the earliest possible response to his delegations' request to be joined in the consultations referred to.

10.7 The representative of Japan stated that his authorities had replied to the United States on October 1996 that it accepted the United States' request on condition that the United States accepted Japan's request for consultations, pursuant to the same decision, on U.S. consumer photographic film and paper markets. Japan's request was based on the belief that certain business practises in the US market restricted and adversely affected competition in the international trade of consumer photographic film and paper, and on the belief that the U.S. and Japanese markets shared certain significant similarities. The fact that the US had made clear its willingness to accept Japan's request for consultations on the US market, as mentioned by the representative of the United States, was new to his delegation. The last communication received from the United States had stated only that the United States would carefully examine and consider Japan's request. Nevertheless, he had taken note of the statements and would transmit them to his authorities.

10.8 The Council took note of the statements.

11. United States - Brazil Import Financing Restrictions

11.1 The representative of the United States, speaking under "Other Business", stated that his delegation was concerned about the import financing restrictions recently imposed by Brazil. This measure in effect eliminated supplier credit of less than 180 days; in other words importers had to pay the full purchase price of the imported goods upon customs clearance if supplier credit terms were for 180 days or less. In cases where the terms of supplier credit were for 180 to 360 days financing, payment to a local commercial bank had to be made 180 days in advance of the due date of the contract, which in effect reduced supplier credit. This measure did not apply for orders for less than US\$10,000. Brazil's Mercosur partners as well as Chile and Bolivia were temporarily exempt from the brunt of the measure until 31 July 1997. If imports originated in Mercosur, Chile or Bolivia and the value of the shipment was less than \$40,000, import finance of up to 90 days was permitted.

11.2 US companies had expressed considerable concern that this measure was restricting their exports to Brazil. The US shared this concern, as the measure was adversely impacting US exports to Brazil and appeared to be a step back from Brazil's stated policy of being on an irreversible course to trade liberalization.

11.3 His authorities were reviewing this measure for WTO consistency. It appeared that this measure had the effect of an import surcharge which would be inconsistent with Brazil's tariff obligations under

the WTO. In addition, the exemption for Mercosur, Chile and Bolivia discriminated against US exports and might constitute a further infringement of Brazil's WTO commitments. His authorities urged Brazil to discontinue this discriminatory measure.

11.4 The representative of Switzerland stated that his delegation shared the concerns expressed by the representative of the United States.

11.5 The representative of the European Communities stated that his delegation was also concerned about the measures which had recently been taken by the Brazilian Government. The measures had the effect of requiring immediate payment for imports at the point of custom's clearance. And this, in all cases where the private contracts allowed up to 180 days payment credit. If the payment terms were for more than 180 days then the legislation obliged importers to buy the required currency for payment at least 180 days before the actual payment was due. This had severely restrictive effects, on supplier credit, as the representative of the United States had observed. His authorities took the view that these measures which were closely trade related should have been notified by Brazil to the WTO under the Decision on Notification Procedures. Such a notification was all the more necessary because it would enable his delegation to clarify the compatibility of the measures taken with WTO rules.

11.6 The representative of Brazil stated that his delegation had undertaken informal consultations with partners who had shown an interest to know about the financial measures Brazil had recently adopted. During such consultations the Brazilian delegation had provided lengthy and detailed explanations about the financial measures and how they related to the rights and obligations of Brazil as member of the International Monetary Fund. His delegation had agreed during the consultations to provide trading partners with additional information. It was his delegation's firm belief that raising this matter in the WTO was not warranted in the light of the information provided during those consultations when the financial nature of the measures taken was made clear. He pointed out that had these measures been of a trade-nature, they would have been notified by Brazil in compliance with its notification obligations. Nevertheless, he had taken note of the statements made and would transmit them to his authorities.

11.7 The Council took note of the statements.

12. Korea - Price Range or Range of Value System applied by Argentina

12.1 The representative of Korea, speaking under "Other Business", expressed concern at the "Price Range or Range of Value System" which had recently been introduced by Argentina, and which greatly affected Korea's exports to Argentina. According to his authorities' information, under this new system, which was in operation since 21 March 1997, based on Resolution 2432/96 and resolution 823/97 of the Argentine Government, any electronic goods imported to Argentina regardless of the country of origin, were subject to price verification by the Argentine customs authorities if the price marked on the importation document was out of the price range developed by the customs authorities in co-operation with the domestic electronic manufacturers. Items affected by this system include tape recorders, microwave ovens, T.V.s, radios/cassette recorders, C.D. players, mini components, camcorders and other electronic goods.

12.2 This system was understood to be aimed at preventing importers from declaring import prices below the real transaction price for the purpose of evading high import duties. However, the system was believed to be operated as follows:

- if the documented import price was below the price range the importer was to grant a guarantee equivalent to the amount of duties calculated from the difference between the declared price and the average range price, even though an anti-dumping procedure had not yet been initiated;
- if the documented import price was above the price range, the customs authorities informed the tax authorities of such importation for taxation purposes.

12.3 His delegation believed that such a system might violate the provisions of the Customs Valuation Agreement in which the customs value of the imported good should be calculated on the basis of the transaction value. Furthermore, as it appeared to operate like an import-price monitoring mechanism, it went against Article 11.1(b) of the Safeguards Agreement, which required Members to abolish or phase out any grey measures on either the import or the export side. Such a system might also eventually violate the obligation of general elimination of quantitative restrictions under Article XI of GATT 1994.

12.4 Korean exports of electronic goods to Argentina were being hurt by this Price Range System. His delegation hoped that the Argentinean authorities would provide Korea with an explanation of their justification of this system under WTO Agreements, as well as with any relevant detailed information as soon as possible.

12.5 The representative of Argentina stated that he had taken note of Korea's concern about Argentina's price range system. He requested the Korean delegation to specify its concerns in writing.

12.6 The Council took note of the statements.

13. Date of the next meeting

13.1 The Council took note that the next meeting was scheduled for 21 July 1997.