In accordance with the Decision of 4 June 1960 establishing the Council of Representatives, the Council is required to report to the CONTRACTING PARTIES on the matters considered between sessions of the CONTRACTING PARTIES.

In carrying out its task, the Council has held ... meetings since the fortieth session in November 1984. The minutes of these meetings are contained in documents C/M/184-C/M/.... Adoption of this report, which summarizes the action taken by the Council, will constitute approval by the CONTRACTING PARTIES of that action.

The following subjects are included in the report:

1. Work Program resulting from the 1982 Ministerial Meeting
2. Recent developments in international trade and their consequences for GATT, and status of implementation of the 1982 Ministerial Work Program
3. Reviews of developments in the trading system (special meetings on Notification, Consultation, Dispute Settlement and Surveillance)
4. Consultative Group of Eighteen
5. "Trade Policies for a Better Future" - Report by an independent Study Group
6. Sub-Committee on Protective Measures
7. Committee on Tariff Concessions
8. Committee on Balance-of-Payments Restrictions
   (a) Arrangements for consultations in 1985
   (b) Appointment of Committee Chairman
   (c) Consultations with Portugal and Korea

An addendum to this document, to be issued shortly, will summarize action taken by the Council subsequent to its meeting on 17-19 July 1985.

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1. Work Program resulting from the 1982 Ministerial meeting 109
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At the Council meeting on 17-19 July 1985, the Chairman read out the text of a statement (MDF/16) made on his own responsibility.

   The representative of Brazil said that informal consultations should give way to effective negotiations on improved disciplines for safeguards. The merits of different legal formats for an agreement for safeguards should be examined, such as a protocol to the General Agreement with requirements for safeguard action under Article XIX. Any understanding on safeguards had to be based on the non-negotiable m.f.n. principle. Safeguard measures should be resorted to only in emergency situations involving verified injury and should not be used as substitutes for structural adjustment. The notion of threat of injury contributed to transforming safeguard measures into protectionist measures and should be eliminated. Procedural aspects such as notification and enactment of national legislation should be given serious thought. Brazil favoured the early reconvening of the Safeguards Committee to permit all contracting parties to participate in deliberations on a future understanding on safeguards.

   The representative of Australia said the Council should consider whether continued informal consultations would help to reach a consensus on a comprehensive understanding. An effective and equitable safeguards agreement had to be based on the m.f.n. principle and applied unconditionally by all contracting parties. Australia was particularly interested in Brazil's proposal for a possible protocol to the General Agreement.
The representative of Israel reserved his delegation's position on the Chairman's statement. Israel supported Brazil's proposals and felt that negotiations on this issue should include a possible protocol to the General Agreement.

The representative of Chile supported a meeting of the Safeguards Committee in order to examine the views expressed in informal consultations.

The representative of the European Communities agreed that the Safeguards Committee should be convened in order to improve transparency and provide a broader basis for work in this field. He feared that agreement on safeguards would be impossible if some contracting parties insisted that the m.f.n. principle was not negotiable; the possible application of safeguards on a non-m.f.n. basis in certain clearly defined situations had to be examined further. Progress in this area could be made only in the framework of new negotiations.

The representative of Jamaica said his delegation was interested in the ideas in paragraph 8 of the Chairman's statement and agreed with much of Brazil's statement.

The representative of New Zealand said that structural adjustment and the m.f.n. principle were important elements in this issue. His delegation was interested in Brazil's concept of a protocol relating to Article XIX, and supported reconvening the Safeguards Committee to widen the discussions and find a comprehensive solution.

The representative of Singapore said that the m.f.n. clause was not negotiable, and disagreed with the European Communities on this point.

The representative of the United Kingdom, on behalf of Hong Kong, agreed that the m.f.n. principle was not negotiable.

The Council took note of the statement by the Chairman (MDF/16) and of the statements by representatives.

(b) Dispute settlement procedures (C/M/185, 186, 189, 191)

At the Council meeting on 29 January 1985, the Director-General reported on the current status of work in panels established under the General Agreement and under the Agreements resulting from the Multilateral Trade Negotiations. He referred to the delayed submission to the Council of one panel report. He also reminded contracting parties that they had been asked to give him the names of persons thought qualified to serve as non-governmental panelists on dispute settlement panels (L/5752).

The Council took note of the statement.
Later in the meeting, the Chairman referred to the roster of non-governmental panelists, and said that proposals by Canada (L/5720) and by Nicaragua (L/5731) were to be considered further by the Council. Informal consultations, open to interested delegations, would be held in February 1985.

The Council took note of this information.

At the Council meeting on 12 March 1985, during the discussion on US restrictions on imports of certain sugar-containing products, the representative of Jamaica referred to the issue of dispute settlement generally. He asked if the Director-General could, at the next Council meeting, report on the status of work in panels and on the implementation of panel reports adopted by the Council.

The Chairman said this request would be taken into consideration.

At the special Council meeting on 5-6 June 1985, the Director-General referred to the dispute settlement aspect of the special Council meetings and said that his report (C/134) on the status of work in panels was being circulated to delegations.

At the Council meeting on 17-19 July 1985, the Director-General said that only a limited number of contracting parties had responded to his invitation concerning the roster of non-governmental panelists. He invited contracting parties which had not yet submitted nominations to do so by 30 August. He would then consult delegations on the selection of a short list and would expect to be able to present the list to the Council at its first meeting in the autumn.

The Council took note of the statement.

(c) MTN Agreements and Arrangements (C/M/191)

At their fortieth session in November 1984, the CONTRACTING PARTIES had established the Working Group on MTN Agreements and Arrangements to examine a report by the Secretariat (MDF/12) on the adequacy and effectiveness of the Agreements and Arrangements resulting from the Multilateral Trade Negotiations, and the obstacles to acceptance of them which contracting parties might have faced (L/5756).

At its meeting on 17-19 July 1985, the Council considered the Working Group's report (L/5832 and Corr.1).

The representative of Jamaica drew attention to the references in paragraph 4 to the Agreement on Government Procurement and to the co-existence of the MTN Agreements and the General Agreement.

The representative of Egypt said that all developing countries having an interest in particular agreements should be enabled to accede to them; it was therefore necessary to continue the work of identifying developing countries' problems in this regard.
The representative of Colombia stressed the difficulties that Colombia and other developing countries faced in acceding to the Subsidies and Countervailing Measures Code, and asked the Council to take up this question or to mandate the Working Group to examine it and find a solution.

The representative of Uruguay said the report showed that the most important obstacles to accession to the MTN Agreements were in the Subsidies and Countervailing Measures Code; Uruguay supported the statement by Colombia.

The representative of Austria said it was hard to understand why some delegations larger than his own had been unable to participate in the special meetings of the Committees and Councils.

The representative of Israel regretted that the draft procedures concerning commitments under Article 14:5 of the Subsidies and Countervailing Measures Code (SCM/W/86/Rev.2) could not be finalized.

The representative of the United States said that the Committees or Councils themselves were the appropriate places for any further consideration of the issue raised by Egypt.

The representative of the European Communities said it was up to the relevant committee to re-examine any problems in the respective instruments and to seek solutions; the matter could then come back, if necessary, to the Council, to the CONTRACTING PARTIES, or to a high-level meeting.

The representative of Colombia said that returning this matter to the relevant committee might not help to resolve the particular problem to which he had referred. It was up to the Council to see what steps were necessary to eliminate clearly identified obstacles to accession to the codes.

The representative of Egypt said that the Working Group's work should continue.

The representative of Uruguay agreed that the Council should continue to examine this subject.

The representative of the United States said that the Working Group's mandate had been fulfilled and that the next step would be to discuss this matter at a high-level meeting.

The representative of Colombia suggested that the Council set up a working group to study the GATT compatibility of the action taken by the United States with respect to the Subsidies and Countervailing Measures Code.
The representative of Jamaica said that paragraph 4 of the report provided for recourse to Article XXIII by any contracting party which felt that implementation of an MTN instrument was not compatible with GATT. Regarding Colombia's complaint, the Council could either establish a working party or a panel, or it could take a decision regarding the conformity of an MTN instrument with the General Agreement.

The representative of Colombia said that in accordance with the relevant 1979 Decision (BISD 26S/201), the functioning of the Codes must not jeopardize the interests of any contracting party; Colombia felt its interests in the present case had been jeopardized, and asked the Council to take action on this problem.

The representative of Egypt suggested that consultations might be held regarding the proposal to continue the Working Group.

The Chairman said that a corrigendum and an annex to L/5832 would be issued regarding points raised by the European Communities, Israel and Jamaica. He then proposed that: the Council would take note of the statements and adopt the Working Group's report; with adoption of the report, the Working Group would be terminated; the Council would agree to revert to this matter at its next meeting; in the meantime, consultations would take place as needed.

The representative of Colombia said he understood that the Working Group's future would be decided at the Council's next meeting.

The Director-General said that in his view, the Council's decision to revert to this matter at its next meeting was in conformity with the CONTRACTING PARTIES' November 1984 decision (L/5756) which provided that after the Working Group had reported to the Council at its July 1985 meeting, the Council would consider the matter, including any further steps that might be taken.

The representative of the United States said he understood that the report had been adopted with the corrigenda and annex suggested by the Chairman, and that Colombia's concerns would be addressed at the next Council meeting.

(d) Structural adjustment and trade policy (C/M/187)

At the Council meeting on 30 April and 1 May 1985, the Chairman recalled that the report of the Working Party on Structural Adjustment and Trade Policy (L/5568) had been adopted by the Council in November 1984 and that Canada had circulated a proposal (C/W/454) containing draft terms of reference for the continuation of work in this field. He noted that the Working Party's recommendation in paragraph 47 of its report was being drawn to the attention of relevant GATT bodies, to ensure that they continued to consider questions relating to structural adjustment and trade policy. Concerning the informal consultations
called for by the CONTRACTING PARTIES in November 1984 (L/5757) regarding further work that might be undertaken in this area, it appeared that there was no consensus at present on the Canadian proposal, which remained on the table; that delegations reserved the right to come back to this question; and that it was felt that the Council might address the question of creating a specific body when the relevant GATT bodies had examined questions concerning structural adjustment as they related to their work.

The representative of New Zealand said it was important that relevant GATT bodies should take into account the insights gained and the conclusions reached in the Working Party, regardless of any future decision as to establishment of a specific body to continue work in this area. The increasing resort to dispute settlement procedures was a clear sign that existing preventive disciplines were ineffective. The similarity of problems in safeguards, agriculture, textiles and other sectors emphasized the need for a co-ordinated approach, which his delegation felt could be provided by a working party with clearly defined objectives. If this were not to be done, it was up to the contracting parties working in individual GATT bodies to provide such co-ordination.

The representative of Jamaica supported the statement by New Zealand, and suggested that the micro-economic aspects of structural adjustment be examined. There should be no direct link between work on structural adjustment and progress on safeguards, which warranted its own separate and urgent attention.

The representative of Chile suggested that an assessment be made in 1987 of the impact of the Tokyo Round tariff cuts on the structural adjustment process in national economies.

The representative of India reiterated his delegation's support for Canada's proposal. Such work could be given a sharper focus by concentrating on certain sectors in which the lack of adjustment and the presence of structural rigidities had led to problems.

The representative of Australia said that structural adjustment was central to GATT's work and to efforts to liberalize trade. Australia was concerned that the lack of consensus on Canada's proposal might be based on a reluctance to address substance. Any examination of structural adjustment in GATT should relate to its trade policy aspects and not merely be the subject of a transparency and surveillance exercise.

The representative of Canada said that while no consensus had been reached on his delegation's proposal, Canada maintained the view that the Working Party should be reconstituted, and was ready to participate in any consultations to bring this about.
The representative of the United States said that while there was a process of adjustment in all economies, a country could not be expected to shift out of particular areas without the opportunity of gaining in others. The best way to bring about adjustment was through negotiations.

The representative of the European Communities referred to a number of GATT bodies which were already dealing with the question of structural adjustment, and said that the Community felt such activities were enough for the time being. Any sectoral problems which might exist would come to light in the course of a new round of trade negotiations, should one be held.

The representative of Brazil said that any new impetus in this area should be contingent on establishing a basis for successful work; a conciliation between the micro- and macro-economic approaches should be possible. A clear statement of the problems to be addressed could permit trade liberalization without the risk of falling back into grey-area measures due to uncertainty in the field of structural adjustment.

The representative of Norway, on behalf of the Nordic countries, said that discussion in the relevant GATT bodies would create a broader basis for a decision on further work, and could help to clarify whether a new separate body was needed.

The representative of Switzerland said it was important to allow enough time for the relevant GATT bodies to carry out the mandate given to them in 1984; all the comments and proposals made by those bodies could then be examined and the necessary decisions taken.

The Council took note of the statements and agreed to revert to the question of further work which might be undertaken in this area, in particular the establishment of a specific body for this purpose, if requested by any delegation.

(e) Problems of trade in certain natural resource products
(C/M/187, 188, 190, 191)

At the Council meeting on 30 April and 1 May 1985, the representative of Canada said his country was seriously concerned by the lack of progress in the Working Party on Trade in Certain Natural Resource Products regarding certain processed forest products. The question of the forest products study needed to be resolved quickly.

The representatives of Chile, New Zealand, the Philippines and the United States supported the statement by Canada, and noted their strong interest in seeing work on forest products go forward promptly.

The representative of the European Communities said there had been an ambiguity in the 1982 Ministerial decision (BISD 29S/20) on this subject. The Community's position that it did not accept inclusion of
the paper sector in the decision had been clear to many contracting parties. Subsequently, contracting parties had interpreted in different ways what had been agreed.

The representative of Canada said the statement by the European Communities was totally at variance with the facts as Canada understood them.

The representative of Sweden said his delegation had understood from the beginning that paper fell outside the work on natural resource products. Sweden did not consider the inclusion of paper to be necessary for the Group to complete its work.

The Director-General informed the Council that this question was being dealt with by the Chairman of the Working Party with the help of the Secretariat, and he suggested that the consultations continue.

The Council took note of the statements.

At the Council meeting on 29 May 1985, the representative of Canada said that Canada was asking the Council to instruct the Secretariat to prepare a background document on paper and paper products for consideration by the Working Party at the earliest opportunity (C/W/467 and Add.1). This request was in line with the Ministerial decision (BISD 29S/20) to examine problems affecting forestry products, including in their semi-processed and processed forms. The Working Party had already considered certain products which required considerable amounts of processing.

The representative of Sweden, on behalf of the Nordic countries, said that the Ministerial Declaration did not explicitly define the scope of the work on forestry products. It would be inappropriate to study paper, as this was an industrialized product. No explicit agreement had ever been reached regarding the scope of work in GATT on natural resource products.

The representatives of the European Communities and Austria shared the Nordic countries' view.

The representatives of Chile, New Zealand, Colombia, Brazil, Indonesia, Peru, Malaysia and Australia supported Canada's statement and its request in C/W/467 and Add.1.

The representative of Canada reserved for the next Council meeting any further points his delegation might make.

The Council took note of the statements and agreed to revert to this item at its next meeting.
At the Council meeting on 5-6 June 1985, the representative of Canada reiterated that his delegation only wanted a document to be prepared by the Secretariat on its own responsibility — thus entailing no commitment by any contracting party — for consideration by the Working Party. He noted that the Secretariat's background study (Spec(84)13) had already dealt with pulp, whose main use was in paper production, and that consideration of paper trade was essential to understand pulp trade problems. Canada disagreed with the Nordic countries' suggestion that since there had never been an explicit definition of coverage in the Ministerial decision, there could have been no expectation that paper products would be included in the study. The emergence and persistence of dissent well after adoption of the Work Program raised questions about GATT procedure and the credibility that other contracting parties attached to the Working Party's activities. Some delegations appeared to be attempting to pull back, in one area, from the consensus reached when the Ministerial Declaration had been adopted. He urged the Council to adopt the proposed decision.

The representative of Finland said the Ministerial decision clearly did not include products of advanced stages of industrialization, such as paper. The Working Party had gone so far as to include pulp, and he asked where the line would eventually be drawn should more advanced industrialized products be included, as many products could be made from wood.

The representative of the European Communities said his delegation did not share Canada's interpretation of the history of this matter. At the time of the Ministerial decision, contracting parties had accepted an ambiguous situation regarding forestry products in order to reach an overall decision. The Community had made a final compromise on forestry products in agreeing to include pulp, as some contracting parties, particularly developing countries, attached great importance to this product. The Community had never thought in 1982 that the Working Party would study all sub-products of wood, as Canada seemed to suggest it should.

The representatives of Peru, New Zealand, Brazil, Chile, Colombia and Zaïre supported Canada's views and its request in C/W/467 and Add.1.

The representative of Austria reiterated his delegation's opposition to including paper in the forestry products study, for reasons including the precedents which might be set regarding the inclusion of other products in the study.

The representative of Spain recalled that in 1983 there had been consultations to determine the scope of the forestry products study, and his delegation's records showed no reference having been made to inclusion of products under Chapter 48 of the CCCN.

The representative of Canada said that throughout the work of the Preparatory Committee and the Ministerial meeting itself, no contracting
party had made any reservation on the work to be undertaken by the Working Party.

The Council took note of the statements.

At the Council Meeting on 17-19 July 1985, the representative of Canada expressed concern that certain delegations had continued to block agreement on Canada's request. The proposed study would be purely factual, for use by the Working Party, and would not commit any delegation to any specific conclusion or possible recommendation. Canada hoped that the Secretariat would be allowed to do the work requested by a large number of contracting parties.

The representatives of Austria and of Sweden, on behalf of the Nordic countries, said that their delegations' views on this matter had been clearly reflected in the Minutes of previous Council meetings.

The representative of the European Communities said that the Community's position had not changed.

The representatives of New Zealand, Peru and Brazil shared Canada's concerns and supported its request.

The representative of Chile shared all the judgements and information submitted by Canada in C/W/467 and Add.1.

The Council took note of the statements.

(f) Services (C/M/191)

At the Council meeting on 17-19 July 1985, the Chairman of the CONTRACTING PARTIES made an oral report on progress made in the exchange of information on services. Pursuant to action taken by the CONTRACTING PARTIES in November 1984 concerning services (L/5762), he had organized the exchange of information provided for in the 1982 Ministerial decision (BISD 29S/21) in the form of meetings open to all contracting parties. At the five meetings held so far, the national studies of issues in the services sector submitted by a number of contracting parties had been examined. The Secretariat had prepared a first analytical summary (MDF/7) of 13 national examinations together with information made available by international organizations on their activities in the field of services. He described issues raised during discussion of the analytical summary, including procedural aspects such as the possible contribution of international organizations to the exchange of information in GATT. Suggestions had been made for additional tasks to be carried out by the Secretariat, but no agreement had yet been reached on this point. He would report on further progress in the exchange of information at the Council meeting preceding the CONTRACTING PARTIES' November 1985 session.

The Council took note of the report.
2. Recent developments in international trade and their consequences for GATT, and status of implementation of the 1982 Ministerial Work Program (C/M/187, 190, 191)

At the Council meeting on 30 April and 1 May 1985, the representative of India, speaking on behalf of developing contracting parties, said they wanted to reiterate their statement (L/5744) made at the CONTRACTING PARTIES' session in November 1984; the statement contained both a diagnosis of and a prescription for the problems confronting the multilateral trading system, and clearly expressed the perceptions of developing countries on a wide range of major trade issues. Events since the November session had confirmed the developing contracting parties' conviction that those issues remained equally valid at present.

The representative of the European Communities welcomed the statement by India, which would start the process of discussing a new round of multilateral trade negotiations. He said, however, that there could be no group negotiation in GATT. The achievement of genuine trade liberalization was a collective task which had to be carried out by all contracting parties, and was not a North-South issue. The Community was ready to participate in launching a new round of trade negotiations, subject to reaching an adequate degree of prior international consensus on objectives, participation and timing. There also had to be improvement in financial areas and in the international monetary system; otherwise, trade concessions would be meaningless. More fundamental than the negotiation of trade concessions, however, was the fact that the spirit of GATT was being violated within the letter of the law. The burden of adjustment involved in re-establishing a balance of rights, obligations and advantages within the GATT system would have to be shared by all. He said Japan's case merited special attention. The Community also recognized the severe problems which developing countries faced. He mentioned India's recent efforts towards trade liberalization and said it was now in the interests of such countries to actively participate in work towards a new round which would have to have as its essential aims the strengthening of the multilateral trading system, expansion of international trade and more open world markets.

The representative of Brazil supported the statement by India and added that the position held by developing contracting parties in L/5744 was one of taking the initiative of proposing trade liberalization through negotiations on matters which fell within the purview of the General Agreement. The examination of any other proposal for negotiations would have to be carried out in the light of what the developing countries had suggested; careful consideration would be required of the legal implications of such proposals and of the rights and obligations of all contracting parties.

The representative of Austria said that a new round of multilateral trade negotiations should be discussed principally in GATT; he proposed that the agenda for the next Council meeting include an item dealing with recent developments in international trade and their consequences for GATT.
The representative of the United States said that in February 1985 the Consultative Group of Eighteen had usefully discussed the prospects for a new round; the time had now come to talk about the objectives, modalities and timetable. The United States had proposed a high-level meeting of senior officials in July 1985 so that each contracting party could examine the issues to be included in a new round.

The representative of Japan supported the statement by Austria. Japan continued to believe that a new round should be launched as soon as possible. In view of increasing protectionist pressures, Japan considered that a high-level meeting should be held, if possible in July 1985, and that the negotiations should begin in early 1986. A maximum number of countries should participate, and the items to be negotiated should be agreed by consensus during the preparatory process. Japan considered that a balance between contracting parties had been achieved in past rounds of multilateral trade negotiations, but that differing levels of structural adjustment had led to differing competitive relationships.

The representative of Egypt supported the statements by India and Brazil. His delegation considered it would be premature to talk of a new round so long as the 1982 Work Program and the unfinished business from the Tokyo Round were not completed.

The representative of Switzerland said a major theme common to all the statements made on this subject, and under the item dealing with the report of the Study Group, was that world trade relations had to be improved.

The representative of Jamaica supported the statements by India and Austria. Jamaica continued to believe that trade liberalization did not offer the only solutions to problems faced by developing countries, and that parallel action was required in the monetary and financial fields. His delegation considered that a session of the CONTRACTING PARTIES would be necessary to launch a new round, which would have to be based on consensus among all the contracting parties.

The representative of Yugoslavia supported the statement by India, and proposed adding the status of implementation of the Ministerial Work Program to the item suggested by Austria for the next Council meeting.

The representative of Sweden, on behalf of the Nordic countries, endorsed the statement by Austria.

The Council took note of the statements and agreed to revert to this item at its next meeting.
At the Council meeting on 5-6 June 1985, the representative of India read out a statement (L/5818) entitled "Improvement of World Trade Relations", on behalf of 23 less-developed contracting parties.

A number of representatives expressed satisfaction that the prospects for a new round of multilateral trade negotiations in GATT were being debated in the Council.

The representatives of the United States, Japan, Austria, Finland on behalf of the Nordic countries, Switzerland, Australia, New Zealand, Israel and Canada said that a meeting of senior officials should be held before the end of the summer in order to set in motion the preparatory process for a new round of multilateral trade negotiations. Participation in such a meeting would not commit any contracting party to negotiate in a new round.

The representative of Bangladesh said there was now a surge of protectionism at the same time as major developed countries were calling for a new round of multilateral trade negotiations. Least-developed countries had been subject to increased trade restrictive measures, for example the quotas against textile exports from Bangladesh.

The representative of Singapore, on behalf of the ASEAN countries, said they were concerned at the proliferation of protectionist measures against developing country exports, for which market access should be liberalized. Priority should be given to implementing commitments made at the close of the Tokyo Round and in the 1982 Ministerial Declaration, including the undertakings on standstill and rollback. He listed a number of issues of particular interest to the ASEAN contracting parties and said that these countries were ready to move towards a process of genuine trade liberalization, provided their concerns and preoccupations were fully taken into account and given priority.

The representative of the United Kingdom, on behalf of Hong Kong, said it was too soon to take any definitive position on the launching of multilateral trade negotiations. None would disagree with the aim of strengthening the multilateral trade system by further liberalization, but any moves in this direction should not disregard the results of the 1982 Ministerial meeting. Any new protectionist measures could undermine the prospects for such negotiations. Hong Kong endorsed the communiqué issued by the April 1985 conference on textiles and clothing in Mexico City, which had reaffirmed the commitment of the participants to full application of the rules and principles of the multilateral trading system to this sector.

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1 Argentina, Bangladesh, Brazil, Burma, Cameroon, Colombia, Cuba, Cyprus, Egypt, Ghana, Ivory Coast, Jamaica, Nicaragua, Nigeria, Pakistan, Peru, Romania, Sri Lanka, Tanzania, Uruguay, Yugoslavia and Zaïre (L/5818), to which Trinidad and Tobago was subsequently added (L/5818/Add.1).
The representative of Turkey said that the commitments in the 1982 Ministerial Declaration had been violated, while little progress had been made in major areas of the Work Program, and none in textiles and agriculture. It was in the interest of all contracting parties that multilateral trade negotiations take place within GATT. Their content should be defined clearly and there had to be definite undertakings to respect commitments accepted in such negotiations. While the main obstacles to trade were non-tariff barriers and the proliferation of voluntary restraint arrangements, the connexion between international trade and monetary and financial matters should not be ignored. The burden put on heavily-indebted developing nations by high interest rates and unstable exchange rates had to be addressed to ensure those countries' continued contribution to trade liberalization.

The representative of Korea said that a new round of multilateral trade negotiations was needed to reverse protectionist trends and to liberalize world trade on the basis of multilateralism. All contracting parties should pledge to freeze protectionist measures while the negotiations were being conducted. Implementation of the Work Program should be given priority in the new round, and the principle of preferential treatment for developing countries should be upheld in negotiations on any new issues.

The representative of the United States said that his country's recent record in international trade was relatively good. His Government was under great domestic protectionist pressure; nevertheless, the United States was determined to proceed with a new round of multilateral trade negotiations. The United States would discuss each and every issue raised, as long as the issues which it considered important were included. Negotiation meant a process of give-and-take between individual contracting parties rather than between blocs, so that the contracting parties could collectively benefit from the results.

The representative of the European Communities said it was evident from the statement in L/5818 that the new round of multilateral trade negotiations had begun. Its main message (paragraph 7) seemed to be that these countries were prepared to make a proposal for specific multilateral trade negotiations confined to trade in goods only; the Community understood this to be a message of readiness to negotiate and a preliminary proposal on what should be covered in the negotiations. He then took up the specific subjects one-by-one, and indicated the Community's willingness to negotiate on them. The Community was also prepared to negotiate on the protection of developing countries' rights, but considered that their obligations should be addressed as well. Section C, concerning differential and more favourable treatment for developing countries, posed a fundamental problem; the Community did not question the relevant GATT provisions, so long as their dynamic implementation could be ensured. The Community shared the views in paragraph 9 on the link between development, trade, money and finance, and was committed to making the international monetary system more stable and efficient. He said that his statement constituted a
negotiable counter-proposal to that in L/5818. The Community felt that only negotiations could permit the political process of examination of trade policy options which would form the multilateral framework of the decades to come.

The representative of Japan said that a consensus seemed to be emerging on the urgent need for joint action in GATT to halt and reverse the trend of protectionism, even though there were differences on how the problem should be tackled. Japan doubted whether negotiations confined to trade in goods only, as proposed in L/5818, could effectively resist protectionism and build a viable trading system for the rest of the 20th century. A new round could contribute to achieving three major objectives: first, restructuring the international trading system based on GATT principles; second, improving the trade environment of developing countries, taking account of debt accumulation and shifts in comparative advantage; and third, adapting GATT to changes in economic and trade structures, such as the increasing weight of trade in services and in counterfeit goods. It was important to have a well-balanced package for negotiation in the new round, and the items should be formally agreed by consensus during the preparatory process. The new negotiations would carry the Work Program forward from identifying problems to working out jointly agreed solutions. The negotiations would have to include a significant number of developed and developing countries, and its subject matter and modalities had to be decided by consensus.

The representative of Austria said that the statement in L/5818 was an important and substantive contribution to the discussion on a new round. Austria's position was similar to that stated in L/5818 that implementation of the Work Program would provide the necessary basis for a new round. New initiatives in GATT were necessary to provide the framework for negotiations and to create the political motivation for renewed commitment to GATT principles. While Austria shared in general the developing countries' concerns about the deterioration of the multilateral trading system, it was misleading to say that no progress had been made in implementing the Work Program; he cited several areas in which work had advanced. Some developed countries, such as his own, had taken measures to improve access to their markets for products from developing countries. A new round of negotiations should serve to maintain the open multilateral trade system and not be seen in a North-South context. Careful preparation and a broad consensus on the substance and modalities of the new round were needed. The negotiating issues should include traditional items governed by existing GATT rules as well as other items aimed at or requiring adaptation of existing rules and principles. Developing countries should try to formulate their priorities and special interests as the industrialized countries intended to do, so that these could be considered from the outset. Austria believed that new comprehensive negotiations in GATT would contribute to maintaining, strengthening and possibly adapting or enlarging the trading system.
The representative of Spain said that increased protectionist measures and the delicate state of the world economy had impeded implementation of the Work Program. Only a new round would provide the necessary impetus to GATT's work. Items to be negotiated should include non-tariff measures affecting agricultural and industrial goods, safeguards, dispute settlement, and other problems which had recently arisen. The new round should be accompanied by similar efforts in the monetary and financial fields. All contracting parties should participate in the negotiations, and should start immediately to define the modalities and scope of the new round.

The representative of Finland, on behalf of the Nordic countries, said they agreed with developing nations that efforts to implement the Work Program had resulted in neither a break-through nor in a reverse in present trends; nevertheless, there had been some progress. Most contracting parties seemed to share the view that the multilateral trading system was being eroded by trade restricting measures and bilateralism, and seemed to recognize the need to reiterate their commitments to preserve and strengthen the system. New comprehensive trade negotiations in GATT would be the best way to do this and to achieve the goals set by the CONTRACTING PARTIES in the Work Program. A consensus on issues to be negotiated, on procedures, and on a standstill for trade measures either contradicting GATT rules or taken outside GATT, would lead to broad agreement among the contracting parties to launch a new round. The Work Program would form an appropriate basis for identifying issues to be negotiated, and elements of interest to all contracting parties should be included.

The representative of Switzerland expressed concern over new trade restrictions, continuing protectionist pressures and recourse to trade measures outside GATT. His Government supported new broad-ranging trade negotiations within GATT, which would be the most appropriate way to combat present negative trends and to improve access to markets. All contracting parties should participate, and topics of interest to all should be included in order to achieve balanced results; objectives and modalities would have to be carefully prepared. A structured and institutionalized discussion within GATT, at a level that could strengthen the commitment of capitals to GATT and signal that commitment publicly, was urgently needed. The preliminary discussion should focus on three aspects. First, the subjects for negotiation should include those items, traditional or new, of interest to all contracting parties, with priority attention for Work Program items. Second, the topics would have to be classified in separate categories based on their particular character, the type of negotiation required, and the nature of the desired results; he outlined various categories of topics, among which would be included questions concerning the general economic and financial environment, which had an impact on trade flows. Third, it would be necessary to define the modalities for negotiation on the topics in each of the categories. Contracting parties' efforts towards standstill and roll-back of protectionist measures would be an integral element of the preparation process and of the negotiations.
The representative of Australia welcomed as constructive the statement in L/5818 and those by other representatives. However, these statements indicated certain differences of perception and problems which could probably be clarified by continued discussion. If the necessary matters were discussed, the issue of timing could be left to settle itself. He suggested that the Director-General begin consultations among interested contracting parties on all matters concerning the new round, including substance and procedure, and report to the Council at its next meeting.

The representative of Pakistan supported the statement in L/5818 and appreciated the Community's positive reaction to it. The dialogue on the prospects for a new round had now begun and should be continued. His delegation was concerned at hints that the process of trade liberalization for developing country exports had reached saturation point. The macro-economic policies to be pursued by the developed countries in the coming years would play a crucial rôle in world trade relations. He noted the commonly held view that concessions in multilateral trade negotiations could be eroded by the volatility of exchange rates, and that Article XII recognized the link between the trade and monetary fields. While public opinion in Pakistan favoured further trade liberalization, textile exporting countries were painfully aware that in the Kennedy Round, for example, trade liberalization had been accompanied by parallel negative developments in the textile field.

The representative of Poland said that the new round would have to respond to the needs of the entire trading system and not only of a minority of contracting parties. Problems such as international debt would have to be addressed in terms of the results which would emerge from the new round. Recognition of the change in the commodity structure of world output and trade would also be essential for truly effective structural adjustment. Another major new factor was the change in public awareness of international trade issues; the negotiators would be subject to strong and constant pressure from their domestic constituencies. In the context of these changed circumstances and the need for confidence-building measures, the specific national interests of all contracting parties would have to be recognized. As part of preparations for the new round, Poland emphasized the need to restore normal GATT trading status for its exports in the US market.

The representative of Chile said his country supported launching a new round. Increased protectionism was intolerable for countries such as Chile, whose development was dependent on promotion of exports through free trade. It was vital that the new round be adequately prepared and that it cover subjects of interest to all contracting parties. Chile's priorities in the new round would be agriculture, quantitative restrictions, natural resource products and safeguards.

The representative of Colombia said that the statement in L/5818 had provoked a constructive dialogue on this issue, which should continue with proposals as to the procedure and scope of the new round. A particular aim should be to expand developing countries' import capacity through greater access to markets for their exports.
The representative of New Zealand said his delegation agreed with the statement in L/5818 so far as it analysed the problems facing the world trading system, but had a different perception as to how to deal with those problems. A concerted initiative towards a new round was urgently needed to avoid further erosion of the system. The Work Program had to be moved forward from the current impasse on many of its aspects. New Zealand favoured early substantive preparations for a new round. In order for governments to be able to carry through undertakings, a balance between constituency forces had to be struck; a multilateral framework would enable each government to develop a national consensus to back its trade liberalization objectives. The high-level political commitment that such a framework entailed enhanced the chances of progress being made. Furthermore, each government needed to be able to point to the fact that all others were sharing both the burdens and the gains. New Zealand saw the new round as the best means of enabling each contracting party to live up to the undertakings in paragraph 7(i) of the Ministerial Declaration. The Work Program had set the priority trade areas, at the core of which were safeguards, subsidies and textiles. In addition to other important areas, there were new issues such as trade in services, high-technology and counterfeit goods. Finally, there were the institutional framework issues such as dispute settlement, adherence to MTN Codes and notification obligations. The negotiation agenda should be broad and balanced so as to give every contracting party an area for potential gain.

The representative of Uruguay asked for details on the proposal made at the May 1985 meeting of the Consultative Group of Eighteen for a diplomatic conference on reform of the General Agreement. Uruguay also wanted a clearer idea of the standstill and roll-back measures envisaged, and contracting parties' opinions on reciprocity in the light of Part IV. He referred to the problems for developing countries caused by their external debt burdens and by the problem of dumping, which particularly affected Uruguay. A clearer idea of the main lines of a possible new round would enable developing countries to adopt a further position on this issue.

The representative of Nicaragua said that negotiation was not the means to restore confidence in the international trading system. For example, she wondered what hope there could be for results were Nicaragua and the United States to try to negotiate at the present time. Developing countries should continue to insist on observance of commitments already made. It seemed untimely to speak of a new round, and inappropriate to discuss new areas for negotiation. The main objective of new negotiations should be the opening of markets for developing country exports. Nicaragua stressed the close relationship between development, trade and finance.

The representative of Cameroon said that contracting parties should multiply their efforts to fulfil all the tasks set by Ministers in the Work Program.
The representative of Israel said that further efforts at trade liberalization should be undertaken within GATT. Implementation of the Work Program was the responsibility of both developed and developing countries. It was encouraging that a significant number of developing countries shared the determination to launch a new round. Regarding the suggestion that some activities in the Work Program were alien to GATT's juridical framework, he said that issues such as trade in high-technology goods and trade in services were closer to GATT's field of competence than was reform of the monetary system.

The representative of Canada said that the deterioration in the world trading environment through the use of restrictive measures and through the increase of protectionist pressures would lead to new restrictions unless pre-emptive action were taken in the form of a new round of trade negotiations. Key objectives for his country in the new round would be better control of the trade-distorting effects of agricultural export and domestic subsidies, and improvements in market access and in the balance of rights and obligations among contracting parties. Canada would seek action on a wide range of tariff and non-tariff barriers affecting natural resource products. The development of rules for trade in services would enhance predictability in this area; contracting parties should begin to search for solutions in this important field of world trade. Other objectives for Canada in a new round included safeguards, government procurement, tariffs, non-tariff barriers and dispute settlement. While Canada differed on a number of points in L/5818, there were grounds for common purpose on a number of issues which he outlined. The objective of the new round had to be trade liberalization on a multilateral basis. Completion of tasks begun in the Work Program should be a key objective in, but not a precondition to, a new round. As broad a consensus as possible should be sought through the establishment of a wide-ranging and representative agenda. The launching of negotiations was not a matter to be vetoed by any individual contracting party; it was for each contracting party to decide on its participation in the new round round. He outlined the purpose of a senior officials meeting and urged all contracting parties to join in launching the process which would lead to a new round.

The representative of Brazil said that his delegation's views had been fully reflected in L/5818. He urged all contracting parties to elaborate their views on a new round and added that it was not realistic to expect an immediate decision to be taken on a high level meeting of officials; there should first be a fuller debate in the Council on the prospective substance of a new round. He proposed that this item be kept on the Council's agenda.

The representative of Hungary said that while his delegation disagreed with some of the points in L/5818, its general approach was constructive. Hungary supported any effort to liberalize trade and strengthen GATT disciplines; however, launching a new round should not substitute for unilateral actions to conform with basic GATT obligations. Agreement on a balanced agenda should be a prerequisite for a new round, and the Work Program remained the best common denominator among contracting parties. The inclusion of new items for negotiation should not be at the expense of already recognized priorities, including liberalization of agricultural trade.
The representative of Romania hoped that the approaches in L/5818 and in the statements by developed contracting parties would eventually be compatible. Progress would be made only if GATT's future activities responded to the needs of all participants.

The representative of Jamaica said that in any new round the interests of less-developed contracting parties should be adequately considered. There was justifiable cause for concern if some contracting parties wanted to expand their rights based on their market size. As a small trading partner, Jamaica was willing to shoulder its share of GATT obligations to ensure a commensurate respect for its rights. An agenda for the new round, limited to trade in goods only, was the clear preference of many less-developed contracting parties, as stated in L/5818. Equal attention would have to be given to areas falling outside GATT's competence, such as the macro-economic policies of the major industrialized countries, which had an impact on the world production of, and trade in, goods. Progress on specific monetary and financial measures would need to be made which would support trade liberalization. There would have to be consensus on whether the negotiations would be on goods only or would encompass a re-examination of the major Articles of the General Agreement. The modalities for a new round could only be determined when the coverage of the negotiating objectives was clear. There would need to be prior agreement in principle on how to incorporate new subjects into the General Agreement, as this would involve its renegotiation. Jamaica urged that dialogue on all these points continue in the Council.

The representative of the United States said there seemed to be widespread acceptance that negotiations were needed; no delegation appeared opposed to a new round, although each wanted to ensure that its country's interests were included. He then commented in detail on L/5818, noting that his delegation shared many of its ideas while it differed on others. He said most delegations shared some concern about asymmetry in the GATT system, although from different perspectives; the United States welcomed efforts to establish some sort of symmetry in the system and thought this could be done in a new round. He emphasized that the General Agreement had continued to evolve to meet new challenges; for example, Part IV and the "framework" Agreements (BISD 26S/201 et seq.) were not part of the original General Agreement, nor were the MTN Agreements. It would be foolhardy to attempt to hold back the evolutionary process in GATT; while there was much unfinished business that needed intense effort, systems had to evolve to meet new challenges in order to survive. He said that the prominent theme throughout L/5818 was special and differential treatment, and that there would have to be discussion and some understanding on how the "framework" Agreements and Part IV were applicable in a new round of negotiations. The United States suggested holding a high-level meeting of officials in July, which would be the first of several meetings aimed at reaching some understanding on the shape and process of a new round, and would not commit any contracting party to negotiate. It was important for the world trading system, and essential for building domestic consensus in many countries, that GATT give a positive sign of forward movement.
The representative of India was encouraged that L/5818 had evoked constructive and positive responses, even though there were some misinterpretations which he hoped could be cleared up in further discussion. Concerns about event-planning and procedure, while valid, should be subordinated to substance. He agreed that prospects for a new round should continue to be dealt with in the Council.

The representative of Egypt said that L/5818 fully reflected his delegation's views. The statements at the present meeting would need to be studied and discussed at a later Council meeting.

The representative of Zaire said the main problem for developing countries was that they no longer trusted developed countries' commitments; a new round could not begin without guarantees that past commitments would be implemented.

The representative of the European Communities said that the dialogue on the new round should be pursued in depth. Differences of opinion on procedure should not be exaggerated. The Community's main interest was that there should be as wide a consensus as possible; all else could be negotiated.

The representative of Trinidad and Tobago supported the statement in L/5818 as well as the two position papers put forward by developing countries in 1984 (L/5647 and L/5744).

The representative of Argentina hoped that this frank dialogue would continue in future Council meetings.

The representative of Canada saw no reason why the Council could not decide at the present meeting to call for a meeting of high-level officials in July.

The representative of Malta, speaking as an observer in the Council, agreed with the general thrust of L/5818 and on the need for tangible progress in implementing previous commitments undertaken by developed contracting parties.

The Chairman summed up his views on the discussion, saying that its essential purpose had been to allow Council members to express their views on the urgent need for action to reinforce cooperation in GATT. All participants had indicated they were ready and willing to review their positions. There had begun a serious examination of how implementation of the Work Program could be ensured and how the trading system could be strengthened. Specific proposals had been made, notably the call for a high-level meeting in July to prepare for the launching of a new round of trade negotiations. He was glad to see that the fundamental issues were being discussed formally in GATT. Given the widespread desire to push this debate further, this item would be placed on the agenda of the Council meeting in July. As a number of delegations had proposed, informal consultations would be held in order to narrow differences of view and to start the process of synthesisisation. Discussions in the next meeting of the Consultative Group of Eighteen should also be useful.
A number of representatives supported the Chairman's summary.

The Chairman proposed that the Council take note of the statements made before and after his earlier observations on the discussion. He would reflect on this matter and discuss with the Director-General and interested delegations how the Council might best pursue this item, which remained on the Agenda.

The Council so agreed.

At the Council meeting on 17-19 July 1985, the Chairman noted that since the 5-6 June meeting, a number of delegations had sent communications setting forth their views on this matter (L/5827, L/5831, L/5833-5838, L/5842, L/5846 and L/5848-5852).

The representative of the European Communities called on the Council to give an appropriate answer, at the present meeting, to the Community's November 1984 proposal for a high-level meeting in GATT to explore the possibilities of launching a new round of multilateral trade negotiations (SR.40/5, page 12).

The representatives of Chile, Switzerland, Korea, Singapore on behalf of the ASEAN countries, Colombia, United Kingdom on behalf of Hong Kong, Sweden on behalf of the Nordic countries, Spain, Portugal, New Zealand, Israel, Japan, Australia, United States, Peru, Austria, Tunisia, Canada, Romania, Nigeria, Ghana, and Trinidad and Tobago joined the Community in calling for a high-level meeting, with the widest participation possible, to discuss the modalities and subject matter of a new round. Convening such a meeting would neither prejudice launching a new round nor commit any contracting party to take part in it. The meeting would enable each contracting party to assess whether its interests would be taken into account in a new round and whether it wanted to join a decision to launch the negotiations. A number of these representatives said the Council should decide at the present meeting to hold the high-level meeting in September 1985.

The representative of Chile, in a statement circulated as L/5850, said one pre-condition for a new round would be implementation by all contracting parties of the commitments in paragraph 7(i) of the 1982 Ministerial Declaration. GATT was not competent in the field of services, which was not a high priority item.

The representative of Switzerland, commenting on his delegation's submission in L/5837, said that strengthening the GATT trading system, reducing obstacles to trade, and improving the economic environment for developing countries were essential and were tied to the need to adapt the General Agreement to existing economic and commercial structures.

The representative of Korea, in a statement circulated as L/5851, said that in a new round of trade negotiations, implementing the Work Program was more important and urgent than negotiations on trade in services. Absence of a new round would harm Korea's, and other developing countries', national interests.
The representative of the United Kingdom, on behalf of Hong Kong, reiterated that any moves to strengthen the trading system by further liberalization should preserve the results of the 1982 Ministerial meeting. The main omission in the US submission (L/5846) concerned commitment to the m.f.n. principle in the area of safeguards. Fundamental GATT commitments on m.f.n. and non-discrimination were not up for renegotiation. Procedural matters, such as the question of holding a high-level meeting, should be subsidiary to and follow from matters of substance.

The representative of Uruguay said that developing countries felt increasingly compelled to look for solutions within the framework of regional integration. They wanted a new round of negotiations on goods, but adequate transparency would be essential, and fulfilment of the Work Program would have to be the backbone of the new round, with a clear indication of the developed countries' positions on the implementation of Part IV. Standstill and roll-back of protectionist measures should be the starting point; Uruguay could not accept the idea of exchanging concessions on goods against concessions on services. His delegation would agree to any reasonable proposal which took account of these concerns and attracted general consensus in the Council.

The representative of Brazil, in a statement circulated as L/5852, said his country was gravely concerned by the growing erosion of GATT rules and the spread of protectionist measures not in conformity with GATT obligations and/or representing a distorted exercise or abuse of GATT rights. Many elements in the developed countries' submissions were alien to GATT, thus blocking progress in its traditional area of trade in goods. A clear link should be established between any negotiations on goods, and international monetary reform. New issues such as services could not be discussed outside the specific confines agreed by the CONTRACTING PARTIES at Ministerial level in 1982 (BISD 29S/21) and the Agreed Conclusions of 1984 (L/5762). He then read two proposals (C/W/479) which he said were intended to break the impasse on holding a new round.

The representative of Singapore, on behalf of the ASEAN countries, drew attention to an extract from the joint communiqué issued by the ASEAN Ministerial meeting in July 1985, concerning the launching of a new round (L/5848). The preparatory process for the new round should, where possible, include all contracting parties. The ASEAN countries hoped for the broadest possible consensus in the Council to start this process by calling for a high-level meeting.

The representative of Colombia accepted the need for a new round of negotiations to implement the Work Program, but said that neither the new round nor even the preparatory work could be started without commitments and action on standstill and roll-back of restrictive measures, as provided in paragraph 7(i) of the Ministerial Declaration. Negotiations on goods would have to take account of certain time-tables, and full recognition would have to be given to the principles and commitments in Part IV. A two-track system for handling trade in goods and in services, as proposed by Brazil, would be the only way to progress.
The representative of Argentina was concerned by references in some submissions, such as Japan's (L/5833) and the Nordic countries' (L/5827), to the possibility of limited agreement on the key issue of safeguards, which required a comprehensive understanding. His delegation would have liked the Community's emphasis (L/5835) on the need for evolution in GATT to apply to agriculture as well. Other troubling ideas concerned differentiation of developing countries into new categories, and the unrealistic hope that a new round could include successful negotiations on new subjects such as intellectual property and investment.

The representative of Sweden, on behalf of the Nordic countries, said that their submission (L/5827), which gave details of what the objectives and specific issues of a new round should be, aimed at broadening the consensus in favour of moving towards a new round.

The representative of Spain referred to his delegation's statement on this matter at the 5-6 June Council meeting. Spain believed that new negotiations leading to binding agreements would give fresh impetus to GATT's work in improving the multilateral trading system.

The representative of the European Communities said there was no question of setting prior conditions for the high-level meeting. It had become necessary to push forward implementation of the Work Program through a new round of negotiations to exchange contractual concessions. The concept of standstill and roll-back had little chance of success unless it fitted into the overall context of a new round. The Community saw important problems in Brazil's two proposals and suggested that they be forwarded for discussion at the high-level meeting.

The representative of Portugal shared the concern over growing protectionist trends, and supported launching a new round in GATT. It should be possible to reconcile the idea of separate negotiations on trade in services and the need for those negotiations to take place within GATT.

The representative of India reiterated the concerns expressed in L/5818. He reserved specific comments on the most recent submissions by developed contracting parties. A procedural decision, particularly if it concerned a high-level meeting, should follow a preliminary examination of the submissions by developed contracting parties. Subject to the concerns, sequences and priorities reflected in L/5818, India had no objection to convening such a meeting to explore the consensus on the need, subject matter and modalities for multilateral negotiations on trade in goods. India supported Brazil's proposals. Considering the fundamental nature of issues arising out of the subject matter of services, India wanted to make clear its position that (1) GATT did not cover the services sector; (2) GATT and the CONTRACTING PARTIES had competence only in the areas covered by the Articles of the General Agreement; (3) jurisdictional and legal realities could not be altered because some major trading nations held a different view; and (4) unless there was unanimity, neither the Council nor the Secretariat could embark upon areas of work not mandated by the CONTRACTING PARTIES.
The representative of Egypt reiterated support for the views in L/5818, and supported Brazil's two proposals. The General Agreement, the 1982 Ministerial Declaration and the 1984 Agreed Conclusions on services could not be renegotiated without unanimous consent. The inclusion of services, being outside GATT's competence, would make it more difficult to reach a consensus on holding a high-level meeting to discuss a new round.

The representative of New Zealand referred to his delegation's submission in L/5831 and to its statement on this matter at the 5-6 June Council meeting. Progress on important aspects of the Work Program had been inadequate, and a new round would provide the best operational means for contracting parties to honour commitments in paragraph 7(i) of the Ministerial Declaration.

The representative of Israel referred to his delegation's statement on this matter at the 5-6 June Council meeting. Participation in a new round should be as wide as possible, and all important subjects, including high-technology and services, should be discussed at a preparatory high-level meeting. It was up to the CONTRACTING PARTIES to decide what fell within GATT's field of competence.

The representative of Japan recalled that at the 1983 session, his country had proposed a new round of multilateral trade negotiations (SR.39/3, page 11). The majority of contracting parties now shared Japan's sense of urgency for a new round to combat protectionism and to build a viable trading system for the rest of the century. He referred to his delegation's statement at the 5-6 June Council meeting and to its submission (L/5833) on the subject matter and modalities for the new round. GATT now had to address itself to the realities of the 1980s, including ever-growing international trade in services. The preparatory process for the new round would proceed together with further implementation of the 1982 Work Program.

The representative of Australia said that a high-level meeting was the only way to make progress on key unresolved issues. He saw nothing in the statement by 24 developing contracting parties (L/5818) which would be prejudiced by convening such a meeting. All matters of substance and procedure for a new round should be discussed formally in GATT. Australia's submission in L/5842 set out its views on a new round; the Work Program could not be satisfactorily implemented without new multilateral trade negotiations, and priority should be given to negotiating on goods ahead of services.

The representative of Yugoslavia said his delegation continued to support the statement in L/5818, and joined in supporting Brazil's two proposals.

The representative of the United States reiterated that the best way to carry out the 1982 Work Program would be through a new round of multilateral trade negotiations. The United States was determined to secure a high-level meeting in order to get negotiations underway.
Severe pressures for protectionist action were building in the United States, and there had been a marked loss of confidence in GATT's ability to deal with the world's trading problems. This issue was important enough to be taken directly to the CONTRACTING PARTIES if necessary, so that officials at a higher level could start the necessary negotiations quickly.

The representative of Peru said that the possibility of new multilateral negotiations on goods should be discussed at a high-level meeting. He reiterated Peru's support for the statement in L/5818. The question of services needed to be analysed in depth and with great care, and could not be dealt with at the high-level meeting, since only the CONTRACTING PARTIES as a whole could decide on inclusion of questions presently alien to GATT.

The representative of Austria referred to his Government's statement in L/5849 setting out its views on the objectives and modalities of a new round and the reasons why comprehensive trade negotiations were necessary.

The representative of Tunisia supported the statement in L/5818. A high-level meeting would contribute to clarifying and balancing the objectives, modalities and participation of a new round.

The representative of Canada reiterated his delegation's support for a new round of multilateral trade negotiations. The point had come where the Work Program was unlikely to be concluded satisfactorily outside a new round. A new round would serve to enhance the rule of law in international trade and to restore dynamism towards further liberalization.

The representative of Jamaica said his country would join a consensus to convene a high-level meeting to continue discussion of this matter at an appropriate time. It was essential to address the steps that could be taken to roll back protectionist measures, and whether these steps would be limited to GATT's traditional areas of competence; this could be done at the Council's special meetings held twice a year to review developments in the trading system and to monitor implementation of paragraph 7(i) of the Ministerial Declaration.

The representative of Chile said that it should be made clear at the high-level meeting that a precondition for any new round would be fulfilment of the 1982 Work Program.

The representative of Zaïre was sceptical about suggestions that a new round was needed to carry out commitments already undertaken. Zaïre was concerned that traditional GATT subjects would be used as a screen behind which negotiations would be carried out on new subjects foreign to GATT's field of competence. He reiterated Zaïre's support for the statement in L/5818 and joined in supporting Brazil's two proposals.
The representative of Nicaragua said that certain basic elements would have to be discussed before or during a high-level meeting. The 1982 Work Program could not be renegotiated. Services were not covered by the General Agreement, and negotiations on them could not be tied to negotiations on goods. Confidence was essential to any negotiation, and solutions would have to be found for problems caused by unilateral trade restrictions. Part IV would have to serve as a guide throughout any new negotiations.

The representative of Romania reiterated his delegation's support for the statement in L/5818. Trade possibilities for developing countries should be liberalized through further implementation of more favourable treatment provided in GATT for them.

The representative of Pakistan said that Brazil's proposals offered the best means of breaking the impasse on convening a high-level meeting. The General Agreement did not cover trade in services, and any decision to negotiate on them could be taken only after the exploratory process provided for in the 1982 Ministerial decision had been concluded.

The representative of Venezuela, speaking as an observer, supported Brazil's two proposals and most of the ideas in L/5818.

The representative of the European Communities clarified that the Community's proposal in C/W/480 did not mean that contracting parties could not undertake to negotiate, but that they would be able to decide this for themselves. He reiterated the Community's view that protectionist pressures could not be contained unless operators in market economies saw confidence-building actions. It was not reasonable to exclude any subject in advance of a high-level meeting.

The representative of Nigeria said his delegation's position remained fully reflected in L/5818. Nigeria was sceptical about the need for a new round, but supported holding a high-level meeting to discuss a possible new round of negotiations on goods only. Nigeria supported the two proposals by Brazil.

The representative of Ghana said that the time to comment on the recently circulated submissions would be at the high-level meeting. Ghana's position remained reflected in L/5818.

The representative of Trinidad and Tobago said his delegation continued to support the statement in L/5818, and joined in supporting Brazil's proposals.

The representative of the United States said the Brazilian proposal on services was not acceptable. Difficult issues could be worked out at the high-level meeting.

After a recess, and following informal consultations among delegations, the Chairman reported to the Council on those consultations, which had aimed at reaching a consensus on the question
of holding a high-level meeting; the main problem had been how to handle the question of trade in services. In addition to the proposals by Brazil (C/W/479) and the European Communities (C/W/480), other proposals had been put forward informally by Korea and Jamaica. Sweden had informally submitted a proposal (C/W/481) aimed at bringing together the divergent positions. The consultations had not achieved a consensus.

The representative of Brazil proposed that the Council decide on the proposals that had been formally submitted, in the order that they had been tabled.

The representative of Sweden said that based on support in the consultations for his delegation's proposal, he had decided to submit it formally for the Council's consideration at the present meeting.

The representative of Colombia reiterated that the 1982 Work Program should be completed and implemented as far as possible, and that the General Agreement did not cover trade in services. Colombia welcomed Brazil's proposal that negotiations on goods and services be handled separately. All these elements were covered by the Swedish proposal, which Colombia supported.

The representative of Canada supported the Swedish proposal, which offered a genuine compromise.

The representatives of Finland also on behalf of Iceland and Norway, Singapore on behalf of the ASEAN countries, New Zealand, Switzerland, United Kingdom on behalf of Hong Kong, Australia, Israel, Korea, Chile, Austria, United States, European Communities, Spain and Japan joined Colombia and Canada in supporting the Swedish proposal.

The representatives of Brazil, Egypt, Yugoslavia, India, Gabon and Nigeria opposed the Swedish proposal.

The representatives of Egypt, Yugoslavia, Argentina, India and Gabon supported the Brazilian proposal.

The representatives of the United States, Japan and Canada opposed the Brazilian proposal, while the representative of the European Communities said it should be submitted for consideration at a high-level meeting in September.

The representatives of Pakistan, Nigeria and Nicaragua said that while their delegations' views were closest to Brazil's proposal, further efforts should be made towards reaching a full consensus.

The representatives of Zaïre, Uruguay, Cuba, Hungary, Peru and Colombia also proposed that further efforts be made towards finding a new compromise which could lead to broad agreement.
The representatives of Egypt, India and Brazil opposed the Community's proposal.

The representative of Uruguay suggested a new compromise proposal based on acceptance of Sweden's proposal on the understanding that a substantial number of contracting parties had made clear their position on services in paragraph 4 of C/W/479.

The representative of Colombia suggested that a new compromise might be reached by agreeing on the Swedish proposal, together with a statement by the Chairman summarizing the divergent positions on the question of services.

The representative of the United States preferred a proposal even stronger than the Community's, but would support Sweden's proposal on condition that all other Council members did so.

The representative of the European Communities said that the Community would not oppose Sweden's proposal, even though it contained weak points which could lead to further ambiguities. The Community's proposal (C/W/480) remained on the table.

After an exchange of views on procedure, the representative of the United States said it was evident that there was no consensus for either Brazil's or the Community's proposal. If agreement could not be reached on Sweden's proposal, the discussion should be terminated.

In answer to a question by the representative of Brazil, the Chairman said there did not seem to be a consensus in favour of Brazil's proposals in C/W/479.

After being invited by the Chairman to respond to Colombia's earlier suggestions on how a compromise solution might be reached, the representative of Sweden said he was ready to examine what progress might be made on the basis of those suggestions.

The representative of the European Communities proposed that the meeting be suspended and that this problem be addressed later in a more propitious atmosphere.

A number of representatives expressed support for further efforts at compromise based on the suggestions by Colombia, Sweden and Uruguay.

The representative of the European Communities was concerned that Uruguay's suggestions might lead to continued ambiguities on services.

The Chairman said it appeared that there was no full consensus in favour of Brazil's or Sweden's proposals, but that there seemed to be a larger possibility for consensus in favour of the Swedish proposal.

A number of representatives supported the proposal that the meeting be adjourned and reconvened when differences had been resolved.
The representative of the United States said that the Council should recognize its failure to reach agreement and should find some other way of tackling this issue.

After a recess, and following consultations among delegations, the representative of Colombia reported that no consensus had been reached.

The Chairman proposed that the Council suspend the meeting, that consultations be held on the date for resumption, and that in the meantime, consultations continue to try to reach a consensus on this issue.

The representative of the European Communities asked under what conditions a contracting party could call for a session of the CONTRACTING PARTIES.

The Director-General said that a session of the CONTRACTING PARTIES could be called by the Council (BISD 9S/8), or at the initiative of the Chairman of the CONTRACTING PARTIES, or at the request of a contracting party concurred in by the majority of the contracting parties (BISD 12S/10).

The representative of the United States said he saw little use in further consideration of this issue by the Council at a later date since -- at least at the present level of representation -- the Council was incapable of taking a decision. His delegation felt compelled to follow normal GATT procedures and ask the Chairman of the CONTRACTING PARTIES to convene a session of the CONTRACTING PARTIES in September 1985.

The representatives of the European Communities, Canada, Japan, Spain and Portugal supported the US intention to call for a session of the CONTRACTING PARTIES.

The Council took note of the statements.

3. Reviews of developments in the trading system (special meetings on Notification, Consultation, Dispute Settlement and Surveillance) (C/W/189)

At their Thirty-fifth Session in November 1979, the CONTRACTING PARTIES had adopted the Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/210). In March 1980, the Council had adopted a proposal which provided for the Council to review developments in the trading system at sessions specially held for that purpose (BISD 27S/20). At its special meeting in July 1983, the Council had agreed that these meetings would also serve to monitor paragraph 7(i) of the 1982 Ministerial Declaration (BISD 29S/9) and that such special meetings would preferably be held twice a year.

At the special meeting on 5 June 1985, the Chairman drew attention to the Secretariat's papers on "Developments in the Trading System, October 1984 - March 1985" (C/W/470 and Corr.1) and on "Improvement of Notification Procedures" (C/W/471).
The representatives of the European Communities, Jamaica, Pakistan, Yugoslavia, Korea, Cuba, Spain, Norway on behalf of the Nordic countries, the United Kingdom on behalf of Hong Kong, Canada, Uruguay, Australia, Turkey, New Zealand, Japan, Nicaragua, the United States, Egypt, Colombia, and of China as an observer, spoke on the matter under discussion. A number of representatives clarified and gave additional information on points concerning their national trade policies and régimes as referred to in C/W/470 and Corr.1; several representatives said their delegations would submit suggested corrections in writing to the Secretariat after the meeting.

A number of representatives expressed satisfaction with document C/W/470, noting that the Council's task of surveillance provided a key mechanism for improving transparency and assessing world trade developments in the context of the evolving GATT system. Some representatives suggested that the analysis and overview section of such documentation be made a permanent feature and further developed so as to help contracting parties carry out the surveillance exercise. It was observed that diagnosis of the GATT system was tending to be made in various external fora and bodies instead of being carried out, as it should be, by the CONTRACTING PARTIES collectively, within GATT. It was suggested that C/W/470 had relied too much on compiling data and not enough on analysis, and that future such documents should refer more to the trade effects of measures listed and should judge as to their GATT conformity. It was also suggested that the Secretariat could, through closer co-operation with delegations, improve the substance and presentation of the documentation for future special Council meetings.

Representatives gave their authorities' views of developments in international trade during the period under review, including their assessments of the success or failure of governments in resisting protectionist pressures, and of how the GATT multilateral system was coping with those developments.

A number of representatives considered that the trade environment had deteriorated. They said that the standstill and roll-back commitments in the Ministerial Declaration had not been carried out, particularly concerning elimination of measures inconsistent with the General Agreement. The view was expressed that the trading system was in serious danger and that confidence in the principles of non-discrimination and multilateralism was at stake. As C/W/470 pointed out, strong pressures for protective action had been evident in the recent past, despite the brisk expansion of world trade. Such pressures were increasing and were resulting in a policy shift to a more bilateral, or regional, or even unilateral approach to trade problems. The comment was made that these pressures reflected not only cyclical factors in the world economy, but also structural factors such as labour market rigidities, delayed adjustment in uncompetitive industries, and inability to accept technological innovation.
It was remarked that in order to deal with threats of market disruption, the application of measures outside GATT and based on new concepts relating to the regulation of trade, was becoming more frequent and widespread; these included voluntary export restraints, unilateral and arbitrary restrictions, orderly marketing arrangements, determination of the permissible level of import penetration and market share, and implementation of various safeguards. Such mechanisms were becoming increasingly diversified and were applied to an ever larger number of so-called sensitive sectors, posing a threat to the future of the multilateral trading system and having serious effects and social implications for developing countries in particular.

Some representatives commented that there had been major negative actions by industrialized nations in the agricultural sector, undermining the credibility of past commitments. In addition to subsidies and other trade problems in agriculture, further difficulties had arisen in trade in dairy products and meat. It was suggested that negotiations on agriculture in a new round of multilateral trade negotiations would be far more difficult as a result of the current atmosphere of confrontation between the United States and the Community.

There had also been a marked rise in the number of anti-dumping and countervailing measures applied by major world traders; such actions were increasingly being used for protectionist purposes. While the acceleration of Tokyo Round tariff cuts constituted concrete action to liberalize trade, such action had to be accompanied by substantial improvement in the GSP so as to ensure that tariff margins were not eroded and that the GSP was effective in improving market access for developing-country products. Heavily-indebted developing countries could not deal effectively with their overall trade policies while struggling to increase their exports in order to service their debts. While many of the above-mentioned problems might be resolved by negotiations, it was suggested that greater efforts would have to be made to carry out undertakings already accepted in the 1982 Work Program.

A number of other representatives expressed the view that recent developments in world trade and in the GATT system, although giving cause for serious concern, were not as bad as some contracting parties had described them. It was commented that general improvements in the world economy, while uneven, had had positive effects on restoring markets for all contracting parties; world trade was expanding once again, several countries had taken trade-liberalizing steps and most had resisted protectionist pressures; the outlook for sustained and balanced growth in the world economy was better than it had been for years, although for many countries the resumption of sustainable growth was tenuous. While unemployment, interest rates, budget deficits and international debt remained serious problems, efforts were being made to address them. Although protectionist pressures were increasing, no single government could be expected to reverse such pressures alone; this had to be a collective effort. If a healthy world growth rate was to be sustained to the benefit of each contracting party, all would need
to work with renewed vigour and urgency to reverse the erosion in the observance of GATT disciplines, to further open markets, and to restore predictability and stability to international trade relations.

Several representatives pointed to the increasing US current account deficit and to variations in the currently high value of the dollar, saying that the impact of these factors on world trade relations should be taken into account. Appreciation was expressed for the fact that paragraph 6 of C/W/470 implicitly recognized that monetary and financial problems had an effect on commerce and on trade policy.

Regardless of whether their assessments of trade policy developments over the past months tended towards pessimism or optimism, a number of representatives suggested that one of the most significant and encouraging developments since the November 1984 special Council meeting was the growing awareness among many contracting parties that immediate action had to be taken to tackle current problems and to strengthen the trading system, possibly through a new round of multilateral negotiations aimed at further liberalizing trade and at remedying deficiencies in the system. This realisation was coupled by several representatives to their rejection of unilateral or arbitrary action as a means of resolving problems, and to their emphasis on the collective benefits to be gained from multilateral negotiations. Recognition of these facts by both developed and developing contracting parties presented a crucial opportunity which should not be missed because of misunderstandings and differences of perception.

One representative, speaking on behalf of developing country exporters of textiles and clothing, recalled that they had persistently called for concrete actions by developed countries to carry out commitments, particularly on textiles and clothing, in paragraph 7 (viii) of the Ministerial Declaration. The period under review had witnessed few encouraging developments, which had largely been outweighed by new trade restrictions, pressures for protective action and recourse to measures outside GATT. He reiterated a number of concerns of developing country textile exporters, such as the calls for consultation made under the US additional criteria announced in 1983, US country-of-origin rules which had since entered into force despite a ruling by the Textiles Surveillance Body (TSB) that they upset the bilateral agreements between the United States and developing country exporters, and US countervailing duty investigations on textiles and clothing imports from 13 developing countries. An increasingly protectionist trend was developing in the major importing countries, particularly the United States, where the proposed Textile and Apparel Trade Enforcement Act of 1985, known as the Jenkins Bill, would — if enacted -- substantially reduce trade from developing suppliers.

Representatives of several developing country exporters of textiles and clothing endorsed the concerns expressed on their behalf. It was remarked that the textiles and clothing industry was a main engine of economic development for many developing countries, and in some cases was their sole means of joining the ranks of the developed nations. While the developing countries wanted textiles trade to be left to free-market forces and the principle of comparative advantage, it had
instead been the target of protectionism and had become a symbol of restrictive trade practices and pressures against developing countries' efforts for economic advancement. The significance of the use of legislation, such as the proposed Jenkins Bill, as a means of extracting concessions from the US Administration, could not be underestimated. It was noted that the developing countries' desire to negotiate liberalization of textiles trade had been publicly stated in the Karachi Declaration of July 1984 and reiterated in Mexico in April 1985. It was now up to the importing countries to demonstrate their real intentions; a liberalization of textiles trade would be excellent proof of the will and interest of other contracting parties to liberalize world trade as a whole.

On the issue of improving notification procedures, several representatives supported the basic thrust of C/W/471, although one representative said that trade policies, not notifications as such, should be the main focus of the Council's special meetings. Detailed comments were made on the suggestions in C/W/471. One representative did not agree with the Secretariat's interpretation in paragraph 6 concerning notifications under the MTN Agreements and Arrangements; such notifications should be compiled by the Secretariat and reviewed in the Council. Attention was drawn to the Nordic countries' proposal for establishing a working party to examine the need, priorities, periodicity and best use for notifications. It was suggested that while country-specific notification requirements tended to be fully met, further improvements could be made in the area of general periodic notifications. The Nordic countries drew attention to paragraph 16 of C/W/471, concerning standardization and computerization of information provided in notifications. It was also suggested that contracting parties could be asked to assess the effects of their own trade policies and measures, along the lines of the protection balance sheet proposed in the Study Group's Recommendation 1. The view was expressed that the Secretariat should be enabled to evolve in its capacity to encourage contracting parties to live up to their GATT obligations; one of GATT's basic functions was to support governments seeking to do the right thing when faced with the demands of powerful sectoral pressure groups; greater transparency, in which improved notification procedures were a vital element, helped in this regard. It could be said that ideally, the responsibility for notification should rest with the member governments; however, the Secretariat could to some extent act as the CONTRACTING PARTIES' conscience.

The Director-General referred to the dispute settlement aspect of the Council's special meetings and said that his report on the status of work in panels (C/134) was being circulated to delegations. He recalled the CONTRACTING PARTIES' Decision of 30 November 1984 (L/5718/Rev.1) on a roster of non-governmental panelists, and said that a list of such people would be circulated for the Council's consideration. Regarding comments on a possible expansion of the Secretariat's evaluation of the information in document C/W/470, he underlined that the main objective of the special meetings was to allow the CONTRACTING PARTIES collectively to assess trade policies and the trading system. He suggested that before the next special Council meeting, contracting parties might try to agree on one or two subjects on which to focus their examination of developments in trade policy and of the impact of paragraph 7(i) of the
Ministerial Declaration. Turning to notification procedures, he said the important point was the link between the obligation to notify and the examination of the measures by the notifying country itself. He said that the Study Group's Recommendation 8', which contained a series of suggestions on surveillance and notification, deserved attention; he saw a clear link between those proposals and an increase in the utility of the special Council meetings. These views sprang from his own concern to assure a strengthened surveillance exercise, which would be one way of improving the CONTRACTING PARTIES' collective capacity to meet problems facing the trading system.

The Council agreed that the review of developments in the trading system (special meeting on Notification, Consultation, Dispute Settlement and Surveillance) had been conducted.

4. Consultative Group of Eighteen (C/M/184, 185, 186, 187, 190)

At the Council meeting on 17 December 1984, the Chairman recalled that at the fortieth session of the CONTRACTING PARTIES, the Director-General had said that due to difficulties encountered by one group of contracting parties, he was unable to inform the CONTRACTING PARTIES of the Group's entire membership for 1985, which would be subject to a final decision by the Council. These difficulties had not yet been resolved.

The Council took note of this information and agreed to revert to this matter at its next meeting.

At the Council meeting on 29 January 1985, the Director-General announced the Group's full composition for 1985, as follows: Argentina, Australia, Brazil, Canada, European Economic Community and member States, Egypt, Finland, India, Indonesia, Japan, Nigeria, Pakistan, Peru, Poland, Spain, Switzerland, United States and Zaire. Alternates would be Austria, Hungary, Israel, Ivory Coast, Jamaica, Korea, New Zealand, Norway and Yugoslavia.

The representative of Korea expressed his country's dissatisfaction with its continued status of alternate member in the Group, given the fact that Korea was now the thirteenth largest trading partner in GATT.

The Council took note of the statement and approved the Group's composition for 1985.

At the Council meeting on 12 March 1985, the Director-General gave a brief account of the February 1985 meeting of the Consultative Group of Eighteen. He had put the following three questions to members of the Group in advance of the meeting: (i) what concrete results did each member want from the Work Program and over what time-scale? (ii) what actions would each member's government consider as contributions to the

1See item 5.
achievement of these results? (iii) what could be done to give a sense of urgency and forward movement to the work? The Group had generally agreed that the present state of the trading system was a matter for serious concern, and that there was a need for action to restore confidence in the system and in the capacity of governments to follow coherent and mutually supportive trade policies. He added that at the forthcoming special meeting of the Development Committee of the World Bank and the International Monetary Fund, he would give a short account of the state of trade and trade policy, and of current work in GATT relating to the wider context of monetary and resource transfer operations.

The representative of Jamaica hoped that the Director-General would in future give such reports to the Council after each meeting of the Group. His delegation wanted to stress that finance should serve trade, and not vice-versa. He also reiterated the need for consultations aimed at making the Group more representative.

The representative of the United States questioned the usefulness of highlighting one or other aspect of the Director-General's reports on the Group's discussions. He agreed that the Group should be made more representative, and to that end it was necessary to use the value or volume of each contracting party's trade as a major determining factor to see which contracting parties should be represented in the Group.

The Council took note of the statements.

At the Council meeting on 30 April and 1 May 1985, the Director-General said that following consultations among the ASEAN countries, it had been agreed that Malaysia should occupy, for the remainder of 1985, the seat occupied so far in the Consultative Group of Eighteen by Indonesia, and that Indonesia would take up the seat again in 1986.

The Council took note of this information.

At the Council meeting on 5–6 June 1985, the representative of Korea recalled that at its November 1984 meeting, the Council had requested the Director-General to hold informal consultations on the Group's composition, the results of which would be reported to the CONTRACTING PARTIES at their forty-first session. Korea urged the Director-General to start these consultations immediately.

Mr. Kelly, Deputy Director-General, said that the Director-General intended to hold such consultations but that an exact schedule had not yet been set.

The Council took note of the statements.

At the Council meeting on 12 March 1985, the Director-General recalled that in 1983, seven eminent persons had accepted his invitation to examine the problems facing the international trading system and to consider how these might be overcome during the remainder of the 1980s. The Chairman of the Study Group had informed him that the Group would publish its report on 27 March 1985. As the report had obvious relevance to the special session of the World Bank/International Monetary Fund Development Committee to be held in April 1985, copies would be sent to the members of the Committee in time for that meeting.

The Council took note of this information.

At the Council meeting on 30 April and 1 May 1985, the Chairman drew attention to document C/133, with which the Director-General had circulated to contracting parties the Study Group's report which he had received in March 1985.

The Director-General explained why he had decided to take the responsibility and the risk of setting up the Study Group, and said it appeared that not only were member governments finding it increasingly difficult to translate into practice their professed attachment to open market principles, but the decline in respect for the rules which sustained the system was accelerating. The slow progress in implementing the 1982 Ministerial Work Program was especially worrying. Consequently, he had thought that a fresh view of the problem, from a group of independent persons with no direct involvement in the formulation of trade policy, would be useful. He said that the report was concise and clear, and was intended to be accessible to the widest possible public, and not just to trade policy professionals. The report's main value was to provoke and focus debate. It was important that the Group had been able to present a unanimous report which reflected their agreement on the need for open and non-discriminatory trade policies and their conviction that adjustment to change was the motor of growth.

He described three broad categories into which the Group's recommendations could be seen as falling, and drew attention to several of its recommendations, including the proposal for a protection balance sheet, the suggestion that the Secretariat's rôle in surveillance of trade policies be expanded, the recommendation for reinforcing GATT's dispute settlement procedures, and the proposal to establish a permanent Ministerial-level body in GATT. He noted that many of the recommendations concerned better observance and strengthening of GATT rules, and that nearly all subjects treated appeared in the Work Program. He added that the Group had stressed the need for better coordination of trade, financial and macro-economic policies, for increased flows of development finance and for satisfactory resolution of the debt problem; action at the level of trade policy alone would
not be effective if these wider problems were neglected. The implementation of many of the Group's recommendations would require negotiated solutions, and it was therefore logical that the Group supported the launching of a new round of negotiations in GATT. He emphasized that it would be the views of the contracting parties, rather than his opinions, which would determine the report's impact.

Many representatives commended the report for its clarity, precision and brevity, for its emphasis on the need to combat protectionism and the erosion of the GATT system, and for its stress on the importance of open and non-discriminatory trade policies. Since their authorities were still studying the report, their comments were preliminary, and they reserved their rights to comment further on the report in the future.

The representative of Canada said his delegation considered it particularly important that the Director-General had emphasized the need for Ministers to involve themselves in GATT's work. He noted that two Canadian Ministers had endorsed Recommendation 13 for a new round of multilateral trade negotiations in GATT.

The representative of New Zealand said that for too long there had been a reluctance to confront and rectify the inadequacies of the multilateral trading system. In some areas, such as agriculture, contracting parties had ignored GATT rules from the beginning. The Group's recommendations constituted a direct challenge to all contracting parties to translate them into practical remedial measures.

The representative of Norway said the report brought out the gospel of free trade in clear and simple language, but that in some cases the ideas were over-simplified. The report's free-trade philosophy concerning agriculture seemed somewhat unrealistic; however, its recommendation for strengthened rules in this sector was positive. The Group went too far in excluding any asymmetry between developed and developing countries, and could have been more specific on the need for preferences for the least-developed countries. Norway strongly supported the Group's call for greater political involvement by Ministers in GATT's work.

The representative of the United States said the report was an indictment of protectionism and would be useful only if viewed as a package. It was significant that the Group's members, coming from diverse backgrounds, had unanimously called for a new round of trade negotiations.

The representative of Japan said that all 15 recommendations in the report deserved careful and serious attention; they were essentially correct, but some would require time to be translated into action.

The representative of Sweden said his delegation would like the report to be considered further within GATT, including in the Consultative Group of Eighteen. Sweden agreed that the solution to
present problems must be found within the framework of the multilateral trading system, and fully supported the recommendation for a new round of trade negotiations.

The representative of Finland said that the Consultative Group of Eighteen would be an appropriate place to discuss the report. Special attention should be given to the recommendation for a new round of trade negotiations.

The representative of Colombia welcomed the Group's analysis of the problems facing developing countries, but said the omission of the crucial factor of commodity prices and their influence on developing countries' trade balances was a serious defect. The call for greater participation by Ministers in GATT's work was particularly important. The Group's recommendations needed further study, and Colombia believed that the Consultative Group of Eighteen or the Council could be appropriate places to discuss how to implement them.

The representative of Switzerland said the report placed international trade relations in a long-term dynamic perspective and pointed to basic weaknesses in the GATT system as well as to possibilities of extending its application to new fields. The Group had been careful not to isolate trade from other aspects of economic policy. Even though the Group's focus had sometimes been too narrow, the report should be an integral element in future GATT discussions, whether in the Council or in other bodies.

The representative of Spain said his delegation particularly agreed with the Group's call for a protection balance sheet, and also with its proposal to set up a permanent Ministerial-level body in GATT. However, the Group had not sufficiently taken into account the special characteristics of agriculture. Regarding customs unions and free-trade areas, the report contained statements which were not correct.

The representative of India noted that the Director-General had asked for the report on his own responsibility; India considered that the report should be treated in that context. His authorities were still examining the report, and he reserved his delegation's position on its substance.

The representative of Uruguay said that the report, especially its comments on protectionism and the weakening of the GATT system, was useful. However, parts of the report were a bit simplistic, such as those dealing with developing countries.

The representative of Chile said it was now up to the contracting parties to follow up on the report. Three aspects of the Group's analysis and conclusions were particularly important; those concerning subsidies, distortions caused by the application of Article XXIV, and the issue of dispute settlement.
The representative of Korea said that while some of the Group's recommendations were not entirely in line with the developing countries' trade interests, the report showed the basic direction that GATT should follow in its future work.

The representative of Jamaica noted the similarities and differences between this report and the 1958 Haberler Report, and saw the current report as a positive contribution to the adoption of appropriate trade policy measures in the GATT framework. Jamaica supported in particular the Group's Recommendations 1, 8, 12 and 14. However, Recommendations 2 and 10 were less than realistic.

The representative of Yugoslavia said his delegation continued to consider that the 1982 Ministerial Declaration constituted the best possible program for trade policies for a better future.

The representative of Argentina said the report reflected the commitment of the contracting parties towards an open trading system. While his delegation had reservations about the Group's analysis of the situation of developing countries in GATT, Argentina supported Recommendation 15 calling for better international coordination of macro-economic policies and greater consistency between trade and financial policies.

The representative of the European Communities said that contracting parties should avoid extracting from the report only those elements they found convenient. The implementation of the report's fifteen recommendations could have as yet incalculable consequences on each contracting party's trade policy. As a message against protectionism, bilateralism and sectorialism, and in favour of joint action, the future would show what contribution the report had made to strengthening the multilateral trading system.

The representative of Brazil said it should be made clear that the report had been requested by the Director-General on his own responsibility, and expressed regret regarding the circumstances of its circulation. Brazil considered that the 1982 Work Program remained the best guide for GATT's future work. He agreed that contracting parties should not make selective use of parts of the report.

The representative of Australia noted his Government's official support for the general direction of the Group's recommendations; however, his delegation felt the Group had tended to rely on so-called improvements to GATT rules as distinct from pursuing real trade liberalization solutions. The report was timely for the purpose of influencing the agenda of a new round of multilateral trade negotiations. It would be regrettable if the Group's recommendations were not followed for reasons of narrow, sectoral or general domestic interests.
The representative of Egypt endorsed the views expressed by Brazil. His delegation had reservations concerning the Group's composition and several aspects of the report, which had created a misleading impression concerning the contracting parties' support for the study. Egypt particularly disagreed with the report's implications concerning the Generalized System of Preferences and special treatment for developing countries.

The representative of the United Kingdom, on behalf of Hong Kong, said his delegation could accept most of the Group's recommendations. The report could serve a useful purpose by helping to develop a will among contracting parties to observe GATT rules.

The representative of Indonesia reserved her delegation's right to comment on the report at a later date.

The representative of the European Communities said the Community felt that the Director-General had in this case taken a valuable initiative, even though it withheld final judgement on the report's substance.

The representative of Peru said that the Group's 15 recommendations would not prevail over the 1982 Ministerial Work Program. Developing countries were still reflecting whether a new round of GATT negotiations would be appropriate to their interests.

The representative of Sri Lanka said that the report lacked a certain balance and perspective in its treatment of developing country problems. Special treatment for developing countries had to remain an integral part of the GATT system.

The representative of Czechoslovakia said it was unnecessary to discuss this report in a GATT body other than the Council. However, contracting parties could take account of the report when discussing implementation of the 1982 Work Program.

The Director-General said he believed there had never been any ground for misunderstanding the report's independent nature.

The Council took note of the statements.

At the Council meeting on 5-6 June 1985, the text of the Director-General's statement at the Council meeting on 30 April and 1 May was distributed to representatives.

6. Sub-Committee on Protective Measures (C/M/184)

The Committee on Trade and Development had established the Sub-Committee on Protective Measures in March 1980, in accordance with the CONTRACTING PARTIES' Decision of 28 November 1979 on the Examination of Protective Measures Affecting Imports from Developing Countries.
That Decision provided that the Sub-Committee would report on its work to the Committee on Trade and Development and through it to the Council.

At its meeting in November 1984, the Committee on Trade and Development had adopted the report (COM.TD/SCPM/7) of the Sub-Committee on its seventh session and had forwarded it to the Council.

At its meeting on 17 December 1984, the Council adopted the report.

7. **Committee on Tariff Concessions (C/M/187)**

In January 1980, the Council had agreed to establish the Committee on Tariff Concessions, and had authorized the Chairman of the Council to designate the Chairman and Vice-Chairman of the Committee in consultation with interested delegations.

At the Council meeting on 30 April and 1 May 1985, the Chairman announced the designation of the Chairman and Vice-Chairman of the Committee.

The Council took note of this information.

8. **Committee on Balance-of-Payments Restrictions**

(a) **Arrangements for consultations in 1985 (C/M/185)**

Arrangements for consultations in 1985 (C/W/459) were presented to the Council meeting on 29 January 1985.

The Council took note of the arrangements.

(b) **Appointment of Committee Chairman (C/M/186)**

At its meeting on 12 March 1985, the Council appointed the new Chairman.

(c) **Consultations with Portugal and Korea (C/M/184)**

At its meeting on 6-8 and 20 November 1984, the Council had been informed of the outcome of the Committee's consultations with Portugal and Korea in October and November 1984.

At the Council meeting on 17 December 1984, the Chairman of the Committee said that the balance of payments of both Portugal and Korea had continued to improve, thereby opening the possibility of a relaxation and simplification of trade-restrictive measures in those countries.

The Council took note of the statement and adopted the reports on the consultation with Portugal (BOP/R/145) and Korea (BOP/R/146).
(d) **Examination under simplified procedures**

(i) **Consultations with Bangladesh and the Philippines (C/M/184)**

At its meeting on 6-8 and 20 November 1984, the Council had been informed of the simplified consultations with Bangladesh and the Philippines in October and November 1984.

At the Council meeting on 17 December 1984, the Chairman of the Committee said that in the case of Bangladesh, the Committee had concluded that full consultations were not necessary. With regard to the Philippines, the Committee had decided that full consultations should be held.

The Council took note of the statement, adopted the report (BOP/R/147 and Corr.1) and agreed that Bangladesh be deemed to have consulted with the CONTRACTING PARTIES and to have fulfilled its obligations under Article XVIII:12(b) for 1984.

(ii) **Consultation with Pakistan (C/M/187)**

In March 1985, the Committee had held a consultation with Pakistan under the simplified procedures. The report was presented to the Council on 30 April and 1 May 1985.

The Council adopted the report (BOP/R/150) and agreed that Pakistan be deemed to have consulted with the CONTRACTING PARTIES and to have fulfilled its obligations under Article XVIII:12(b) for 1985.

(e) **Note on the Committee's meetings (C/M/187)**

At the Council meeting on 30 April and 1 May 1985, the Chairman of the Committee drew the Council's attention to the main points of the report (BOP/R/151) on the Committee's meeting in March 1985. The Secretariat had been requested to follow up on countries identified by the Group on Quantitative Restrictions and Other Non-Tariff Measures to have invoked balance-of-payments reasons for import restrictions.

The Council took note of the statement and of document BOP/R/151.

(f) **Consultations concerning proposals by Chile and Colombia (C/M/184, 186, 187)**

In November 1984 the Council had agreed that the Chairman of the Committee on Balance-of-Payments Restrictions would hold consultations concerning the proposals by Chile and Colombia.

At the Council meeting on 17 December 1984, the Chairman of the Committee said that early in 1985, a first round of informal consultations with all interested delegations would be held on these proposals.

The Council took note of the statement.
At the Council meeting on 12 March 1985, the Chairman of the Committee, pending the circulation of a full report, made some personal observations on the background to the proposals as well as to the earlier proposals by Brazil and the study by Korea. An increasing number of developing countries had recently taken or intensified balance-of-payments measures, leading to new calls for full consultations. At the same time, there seemed to be a widespread perception in consulting countries that market access had an important bearing on the restoration of confidence and the search for lasting solutions to balance-of-payments problems. He suggested that apart from the examination of the trade aspects of debt problems in balance-of-payments consultations with individual countries, across-the-board consideration might also be given to this question by the Council or some other appropriate GATT forum.

The representative of Chile said her delegation would co-operate fully towards ensuring that the report on the Chairman's consultations would be circulated as soon as possible and that it would be considered by the Council at its next meeting.

The representative of Colombia said his delegation's proposal was supplementary to those made by Chile and Brazil and to the study by Korea, and went beyond the framework of the Committee. The aim of Colombia's proposal was to bring about a greater symmetry between the obligations of developed and developing contracting parties in the examination of import restrictions. Many restrictive measures taken by developed countries fell outside the scope of the General Agreement and were not the object of consultation in any GATT body. The Sub-Committee on Protective Measures had not produced the results expected of it, and the consultations under Part IV had been slow and without prospect of any result. Import restrictions adopted by countries such as his own were often taken because they faced closed markets for their products in developed countries. He believed that the matter should be looked at not only in the Committee but also in a broader forum.

The representative of Jamaica supported the proposals by Chile and Colombia, and said they should be examined in a broader context than the Committee. Such discussion should go beyond the linkage with indebtedness and should address the situation of the general imbalance in international trade.

The Chairman of the Committee noted that it was difficult to distinguish between the effects of balance-of-payments measures taken by severely indebted countries and of those taken by countries with balance-of-payments difficulties of a more or less ad hoc nature. He therefore agreed with the view that attention should not focus exclusively on balance-of-payments measures taken by or affecting indebted countries, but that the wider implications of measures taken for balance-of-payments reasons should be addressed.

The representative of the European Communities said the Community would not oppose a broader examination of problems involved in balance-of-payments measures taken by or affecting indebted countries, but that the wider implications of measures taken for balance-of-payments reasons should be addressed.

1Subsequently circulated as C/132.
payments restrictions, but such discussion would have to be well prepared, and careful thought would have to be given to which GATT forum would be appropriate.

The representative of Japan said that it would be premature to hold such discussion either in the Council or in a GATT forum other than the Committee.

The Council took note of the statements.

At the Council meeting on 30 April and 1 May 1985, the representative of Chile expressed satisfaction that her country's initiative, namely, that a preventive mechanism be added to supplement existing provisions regarding balance-of-payments measures, had been accepted. Her delegation considered that pre-consultations should be carried out within the Committee as foreseen in Articles XII:4(a) and XVIII:12(a). The consultations on this issue had confirmed that the Committee's present mandate enabled it to carry out pre-consultations.

The representative of Colombia said that his country's proposal had not been fully considered in the consultations, as it went beyond the Committee's scope. Recommendation 8 in the Study Group's report embodied the idea proposed by Colombia, namely, that there should be greater transparency in the trade policies of all contracting parties. His delegation reserved the right to revert to its own proposal and to Recommendation 8 when the Study Group's recommendations were considered.

The representative of Jamaica said that despite Brazil's efforts, there had been no progress in solving the problems to which that country's proposal was addressed. He hoped that Chile's proposal would lead to positive and concrete results for countries with balance-of-payments problems. He said there seemed to be less than full consensus on the specific suggestions in [paragraphs 2 and 3 of] C/132, and hoped that this would not be the spirit in which the proposal would be implemented.

The Council took note of the statements and of document C/132.

9. Emergency action

- Canada - Article XIX action on imports of footwear (C/M/186)

At the Council meeting on 12 March 1985, the representative of Canada said that his country had held bilateral consultations under Article XIX with the European Community on Canadian measures concerning leather and non-leather footwear which had taken effect in December 1984. These consultations would continue, and it was hoped that agreement could be reached. Canada noted that the Community, in its notification (L/5351/Add.22) of compensatory measures, had not acknowledged that the modifications made by Canada to the quotas also applied to leather footwear, nor that the level of the leather footwear import quota had been increased for the 12-month period of extension. Canada did not question the right of a contracting party to suspend concessions under Article XIX:3(a) if a mutually satisfactory settlement could not be found. However, the contracting party was required to limit such

See page 40.
suspensions to substantially equivalent concessions or other obligations. Canada considered that the Community's proposals did not meet that requirement; his delegation did not accept the basis used to establish the level of the proposed suspensions, or that a total embargo on the import of any product could be justified as a suspension of substantially equivalent concessions or other obligations. If the Community proceeded with its proposed suspensions, Canada would ask the Council to establish a panel under Article XXIII:2 to examine the Canadian complaint that the European Community was acting inconsistently with the obligation of Article XIX:3(a) and was thus nullifying or impairing benefits due to Canada under the General Agreement. Canada would then request, on the basis of the Panel's findings, that the Council consider disapproving the Community's action under Article XIX:3(a).

The representative of the European Communities said his delegation also hoped that the ongoing bilateral consultations with Canada on this matter would lead to agreement. If the Community did proceed with the suspensions, and if Canada questioned these before the Council, his delegation considered it would be correct to establish a panel under Article XIX:3(a) and not under Article XXIII.

The representative of the United Kingdom, on behalf of Hong Kong, said that this measure, introduced in 1977, had been extended on three occasions and was now in its eighth year, a period which seemed excessive for what was supposed to be an emergency action. Canada's application of price breaks in the context of this Article XIX action was another area of concern; such devices could produce such a narrow and selective definition of source that the action could no longer be said to be truly non-discriminatory. This would appear to conflict with the fundamental principles of the General Agreement. His delegation reserved its GATT rights.

The representative of Korea said the measure had lasted too long; Article XIX should only be invoked as an emergency measure and not for prolonged protection of a particular industry. Korea hoped that Canada would lift this measure as early in 1985 as possible.

The representative of India said his delegation opposed the long duration of Canada's measure, and also the concept of the price break incorporated in it. Both aspects were alien to the principles of Article XIX.

The representative of Canada agreed that resort to Article XIX should be temporary and said that the measure in question had not lasted continuously for as long as had been suggested. He referred to document Spec(82)18/Rev.3 (Appendix A) which showed that other contracting parties had maintained Article XIX actions for some time. His delegation, as a participant in the informal group on Safeguards, would like to reach a working agreement on what was meant by the term "temporary".

The Council took note of the statements and that Canada and all other contracting parties had the right to raise this matter again in the future.
10. United States - Proposed restrictions on imports of non-rubber footwear (C/M/191)

At the Council meeting on 17-19 July 1985, the representative of Brazil said that the US International Trade Commission (USITC) had made a determination of injury to the US non-rubber footwear industry in May 1985, only one year after it had found no serious injury for such imports. The proposed US quantitative restrictions would have serious repercussions on Brazil's balance-of-payments, and were unwarranted under Article XIX.

A number of representatives expressed concern over the proposed US action and its incompatibility with efforts to launch a new round of negotiations to liberalize trade.

The representatives of Korea, Spain, Portugal, Uruguay, Philippines and Romania said that their respective exports of non-rubber footwear to the United States were too small to injure the US industry.

The representatives of Spain and Uruguay said that Article XIX action should not be substituted for structural adjustment.

The representative of Korea said that before Article XIX was invoked, it was necessary to determine whether imports were injuring the US industry.

The representatives of Spain and of the United Kingdom, on behalf of Hong Kong, reserved their delegations' rights under Article XIX.

The representative of the European Communities said that transparency sometimes led to a degree of harassment. The Community challenged the US justification for possible safeguard action on non-rubber footwear and reserved its rights to withdraw concessions should such action be taken. The United States was ill-placed to support a new round of negotiations to liberalize trade while simultaneously closing its market.

The representative of the United States stressed that the notification in L/5828 was a USITC recommendation to the President, who would decide on appropriate action. The United States did not accept the argument that transparency was a form of harassment. The implications of another closed market were recognized by his authorities, and this was partly why efforts had to be made to improve the world trading system and to further liberalize commerce.

The Council took note of the statements.

11. United States - Ban on imports of steel pipes and tubes from the European Communities (C/M/184, 185)

At the Council meeting on 17 December 1984, the Chairman drew attention to documents L/5747 and Add.1 containing communications from
the European Communities concerning the US ban on imports of steel pipes and tubes from the European Communities.

The representative of the European Communities wanted to know the GATT provisions under which the United States justified its action, and whether the United States had notified the measure.

The representative of the United States said that in 1982 his country had entered into a bilateral arrangement with the Community outside GATT, i.e. a "grey-area" measure, and had made clear that it would have to include a satisfactory arrangement on steel pipes and tubes as well as other products relating to carbon steel. While his delegation believed that GATT was not the appropriate place to review bilateral agreements made outside GATT, he noted that both arrangements had been notified by the United States in January 1983 (L/5448). The United States believed that it had implemented what it had agreed with the Community, and that all aspects of the arrangement covering steel pipes and tubes were still in effect.

The representative of the European Communities said he was surprised to hear the representative of the United States say that GATT was not the appropriate place to discuss the US measure. Until an effective safeguards mechanism was brought into effect, it was sometimes necessary to take measures outside GATT so as to avoid even greater prejudice to the multilateral system. It was in this context that the arrangement on carbon steel under discussion had to be evaluated. In November 1982, the Community's notification (L/5413) of this bilateral arrangement with the United States had mentioned only carbon steel products, while the US notification (L/5448) had mentioned two arrangements. The Community considered that it had responded to US concerns regarding trade diversion by reaching a procedural arrangement on pipes and tubes with the United States; this should not be confused with a self-restraint agreement since it contained neither numbers nor forecasts. The Community had denounced the procedural arrangement on 27 November 1984, so that it no longer existed. Following that date, the United States had banned all imports of steel pipes and tubes from the European Communities alone, without notifying GATT.

The representative of the United States said his delegation considered these to be classic voluntary restraint arrangements, and that the steps according to which the arrangement concerning steel pipes and tubes would become null and void, had not been followed through. The United States considered that the arrangement still existed, while the Community said that it did not. He said that it was not for the Council to interpret bilateral "grey area" arrangements.

The representative of Australia said it was difficult to see how GATT could be brought to bear on this bilateral dispute. Part of the problem might be that there was no mechanism in GATT for examining voluntary restraint agreements. There was a need to increase the focus in the Council's special meetings so as to improve surveillance of the increasing number of protectionist measures, and in particular those
arising out of voluntary restraint agreements, with the aim of seeing how such measures could be brought more effectively within GATT disciplines.

The representatives of Brazil, Chile, Singapore and Yugoslavia supported the statement by the representative of Australia.

Several representatives said they could not agree that the Council could not deal with a matter which had evolved outside GATT. Furthermore, they wanted to know under which GATT provision(s) the US action had been taken, and whether it would be notified to GATT. In the absence of such information and notification, it was difficult for the Council to search for a solution.

The representative of Chile said that the US measure was clearly a discriminatory safeguard action which had not been notified to GATT, but he did not see how the Council could pronounce on a dispute when the facts and reasoning had not been presented fully to the CONTRACTING PARTIES.

The representative of Argentina said that steel products represented an important part of the exports not only of his country but of many developing nations which were showing themselves to be the most competitive and probably the most efficient producers in certain sectors of steel production. Protectionism was practised by more than one developed country and was affecting steel and other sectors of particular interest to his country, such as agriculture.

The representative of Korea said that the United States had apparently set an informal deadline in the immediate future for implementing a unilateral import control program covering steel products from Korea. Such unilateral action, if taken, would seriously affect his country's exports and steel industry. Korea was ready for further consultations with the United States to resolve outstanding problems in a mutually satisfactory way, and believed that the interests and positions of late-comer exporting countries, particularly developing countries, should be given due consideration in such consultations. Korea would reserve its GATT rights if such a unilateral control were to be applied.

The representative of Singapore said that in recent years there had been a trend, especially among developed contracting parties, to resolve trade problems bilaterally outside GATT. The problem of steel pipes and tubes now before the Council was only a symptom of the failure of contracting parties to observe GATT rules. The fact that selective bilateral market-sharing arrangements were so openly reported in the press showed how ineffective GATT had become and how blatantly its rules were being flouted. If the discussion at the present meeting was limited only to the case in point, very little would be achieved; bilateral "grey-area" measures would continue to be taken outside GATT, giving rise to further disputes, whether this particular case was resolved or not. However, if consideration of this case led to a realization that bilateral "grey-area" measures were not the solution to
problems of international trade, and hence that there was a need to eliminate them, much would have been achieved. There would then be a better chance of working out a comprehensive understanding on safeguards based solely on GATT principles, in other words the preservation of the multilateral system through close observance of GATT rules and non-discriminatory application of Article XIX. Notwithstanding any action which might be taken at the present meeting on this case, or on any other "grey-area" measures which might be brought before the Council later, such action could in no way confer any legitimacy or legality to them.

The representative of Yugoslavia said that her delegation wanted to have full information on bilateral trade arrangements such as the case under discussion.

The representative of Colombia said that if a new round of multilateral trade negotiations in GATT was to be launched, it would be necessary first to resolve outstanding trade problems among the contracting parties.

The representative of Sweden, on behalf of the Nordic countries, said that the US measure under discussion had not been notified to GATT despite the clear-cut provisions in the 1979 Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/210). Cases such as the present one proved the importance of the special Council meetings for monitoring the commitments in paragraph 7(i) of the 1982 Ministerial Declaration. US measures on steel were particularly disturbing against the background of the ongoing discussion on "standstill" and "roll-back". The Nordic countries were deeply concerned about developments in the United States during the past few years with regard to trade in steel; they would give further thought to the question of how this matter should be dealt with in GATT, but meanwhile appealed to the United States to make all efforts to minimize the effects on international steel trade of decisions taken.

The representative of Pakistan supported the statements by the representatives of Australia and Singapore. He added that steel was increasingly being linked with textiles in counter-trade deals, making it more difficult for countries that exported textiles but which did not import steel.

The representative of the European Communities said that this was a test case which gave GATT an opportunity to show its effectiveness and come to grips with the "grey-area". It was clear that there was a divergence of interpretation between the United States and the Community concerning the exchange of letters on this case in 1982. This matter should be dealt with according to the normal procedures and under the relevant provisions of the General Agreement; it was not acceptable to his delegation that this case be kept outside GATT. The Community had still not received answers to the two questions it had put to the United States.
The representative of India said that this discussion provided further evidence of the urgent need for a comprehensive understanding on safeguards, and reinforced the need for such an understanding to be based on GATT law, rather than reducing the law to that of the jungle of "grey-area" measures.

The representative of Spain said it was important to find solutions to disputes arising out of "grey-area" measures, because unresolved disputes of this nature would weaken GATT's credibility.

The representative of Switzerland said his delegation was concerned that a contracting party had unilaterally banned imports of products from a group of other contracting parties without prior consultation, especially since the prohibition -- contrary to international trade practice -- also covered products already under shipment. Switzerland wondered whether the interested parties in this case intended to submit all such "grey-area" measures to the Council for examination, or whether this was one more case of contracting parties searching for multilateral confirmation of certain positions which could then be carried into negotiations outside GATT. If the second alternative was the case, Switzerland would have a whole series of questions as to the use being made of the General Agreement. His delegation supported the statements by the representatives of Australia and Singapore.

The representative of the United States reiterated that his delegation had notified the arrangements on steel pipes and tubes and on carbon steel to GATT in January 1983 (L/5448). The United States saw no need or requirement to notify a measure which implemented a previously notified restraint agreement. He agreed that if the Council were to deal with this case in isolation, it would achieve nothing; but if the Council dealt with the entire range of "grey-area" measures, something might be achieved. He said the record over the past year showed that the US delegation had been much more willing than some other delegations to participate in trying to achieve a comprehensive understanding on safeguards. Furthermore, there were other measures in the "grey-area" concerning steel, which had not been notified.

The representative of Australia endorsed the view that discussion in the Council on "grey-area" measures could give no legitimacy to them. His delegation was pleased to hear that the Community was complaining about the selectivity of the particular trade restrictive measure under discussion; perhaps this case would enable the Community to understand better the effects of "grey-area" measures on contracting parties and the concern of a number of countries over the erosion of GATT's non-discriminatory principle.

The representative of the European Communities said that the representative of Australia appeared to be anticipating the maturing of the Community's way of thinking on the issue of selectivity. He confirmed that the Community did have a voluntary restraint arrangement with the United States on carbon steel products, but that it had never had such an arrangement on steel pipes and tubes; for these products, there was a procedural arrangement between the two parties. In July
1984, the US International Trade Commission had rejected the contention that there had been injury to the US steel industry due to imports of pipes and tubes. Furthermore, the US Court of International Trade, in a judgment in December 1984, had considered that the measure taken was based solely on Section 805 of the 1984 US Trade and Tariff Act and had nothing to do with the procedural arrangement. This was a clear, unprecedented case of a unilateral, protectionist and discriminatory trade restrictive measure. The US prohibition would last until the end of 1984; the Community understood that for 1985 its exports of steel pipes and tubes would be limited to 5.9 per cent of the US market, meaning a loss for the Community of roughly US$700 million. He said that the Community could find many appropriate articles in the General Agreement on which to base its complaint. He emphasized that contrary to normal practice, the US prohibition also covered goods in warehouses, under shipment or under signed contract. The Community asked the Council to appeal to the United States to reconsider its measure. Furthermore, under GATT provisions concerning the protection of concessions, in other words Article XXIII, the Community wanted to have immediate consultations with the United States on this matter. In the absence of a speedy and satisfactory result, and if the Community so requested, the CONTRACTING PARTIES should consider authorizing the Community to suspend, vis-à-vis the United States, the application of any concession or other obligation resulting from the General Agreement as they determined to be appropriate in the circumstances.

The representative of the United States said that further bilateral consultations on this matter appeared to be warranted. However, there was fundamental disagreement over whether or not an agreement was in effect between the United States and the Community on the products under discussion. His delegation considered that the Council had no rôle in bilateral consultation procedures. He noted that in document L/5747/Add.1 the Community had indicated its intention to ask for immediate consultations with the United States. So far as he knew, such consultations had not been requested. If they were, his delegation would respond in the normal manner.

The representative of Jamaica said that this discussion seemed to be a case of a bilateral consultation being aired in the Council without a clear indication as to what GATT disciplines should be applied.

The representative of Portugal supported the statements by the representative of the Community and others who had expressed concern over the US measure. Portugal joined in appealing to the United States to reconsider the measure with a view to finding a solution which would conform with the General Agreement.

The representative of Australia considered that the next appropriate step should be a bilateral consultation between the Community and the United States; the results could then be reported to the Council.
The Chairman suggested that the Council: take note of the statements; propose that the two parties consult in the immediate future on this matter; and agree, in view of the strong interest shown at the present meeting, that this matter remain on the Council's agenda.

The representative of the European Communities wondered what had become of his proposal that the Council should appeal to the United States to reconsider its measure and bring it into conformity with the General Agreement.

The Chairman noted that bilateral consultations were by nature meant to permit re-examination and reconsideration of measures under discussion.

The representative of the European Communities said his delegation would prefer that the Council itself appeal to the United States to reconsider its measure and bring it into conformity with the General Agreement.

The representative of the United States suggested that the Community put its request for consultations in writing; the United States would then reply.

The representative of Jamaica said that should the two parties reach an agreement which did not fully conform with the General Agreement, there would be no reason to infer from the discussion at the present meeting that such an agreement would have Council approval.

The representative of the United States said that his delegation could fully accept the statement by the representative of Jamaica.

The Chairman suggested that the Council, in taking note of statements at the present meeting, should take particular note of those made by the representatives of Singapore and Jamaica.

The representative of the European Communities said that the Council appeared to be ignoring the Community's request that the United States notify its measure. His delegation was not against the Council agreeing to the three-point suggestion by the Chairman, but wanted to record its disappointment and its intention to draw the appropriate conclusions from a situation which was not equitable for the Community.

The representative of Jamaica asked whether it was the sense of the Council that any agreement reached by the parties should fully conform with the General Agreement.

The representative of the United States could not agree with the statement by the representative of Jamaica which, in his view, would amount to giving the Council an override on any agreement reached by the two parties.
In summing-up, the Chairman proposed, and the Council agreed, that the two parties consult on this matter in the immediate future, on the understanding that if they reached any agreement not in conformity with the General Agreement, there could be no inference of approval by the Council. The Council also took note of the statements, including the one by the Chairman that bilateral consultations were by nature meant to permit re-examination and reconsideration of measures under discussion. The Council further agreed to keep this matter on the Agenda.

At the Council meeting on 29 January 1985, the representative of the European Communities said that consultations had led to his authorities concluding an arrangement with the United States, notified in L/5773, concerning trade in steel pipes and tubes.

The representative of the United States confirmed that his authorities had reached a satisfactory bilateral arrangement on this matter with the Community and had notified this in L/5448/Add.1.

The representative of Singapore said that his delegation noted with surprise the Community’s claim that its notification had been made under paragraph 3 of the 1979 Understanding (BISD 26S/210); notification under that paragraph could not create any legal rights. It should be made clear that in disposing of this matter, the Council had in no way conferred any legitimacy or legality to this or any other grey-area measure.

The representative of Australia reiterated his delegation's view that there was a need to increase the focus in the Council's special meetings on the increasing number of protectionist measures, including voluntary restraint arrangements.

The representative of Japan said there was general awareness of the reasons and circumstances which had led the United States to take the measure under discussion. However, all contracting parties should renew their efforts to live up to their commitment to resist protectionism, as contained in paragraph 7(1) of the 1982 Ministerial Declaration (BISD 29S/11); his delegation believed that this and similar measures should be dealt with in the context of implementation of that paragraph.

The Council took note of the statements.

12. United States - Trade measures affecting Nicaragua (C/M/188, 190, 191)

At the Council meeting on 29 May 1985, the Chairman drew attention to documents L/5802 and L/5803, containing communications from Nicaragua and the United States concerning this matter.

The representative of Nicaragua asked the Council to condemn the trade embargo and the other restrictive measures taken by the United States against his country, and to request the United States to revoke the measures immediately. These measures, which had taken effect on 7 May 1985, violated both the general principles and certain specific
provisions of the General Agreement, and had been taken as a form of coercion for political reasons. The embargo had obliged Nicaragua to re-direct its exports and imports, thus increasing commercial and transport costs and forcing changes in Nicaragua's buying and selling systems, as well as causing serious injury to its production. He said that the Council of the Latin American Economic System (SELA) had condemned the embargo, and that the Contadora Group had disapproved the US measures which had been taken just after those countries had appealed for reduced tensions in the area in order to help the negotiation process. Because the economic weakness of developing countries limited their capacity to retaliate, they had to rely on international institutions for the fulfilment of international commitments. He asked how developing countries could hope to participate in the international trading system, or in a new round of multilateral trade negotiations, when basic principles and rules were repeatedly disregarded by a large developed country. It was absurd to suggest that Nicaragua, a small and underdeveloped country, could pose a threat to the national security of the United States; there was no relation or proportion between the motives cited by the United States and the nature and extent of the measures imposed. He noted that the UN Security Council had supported Nicaragua's rights. Nicaragua had come to GATT to request compliance with the principles and rules of the General Agreement. The US measures threatened the multilateral trading system, both because of their repercussions and because of the arguments brought forward in their defence. GATT principles and rules should preserve all countries from the temptation of acting in each case according to the interests of the moment. The US measures contravened Articles I, II, V, XI, XIII, XXXVI, XXXVII and XXXVIII of the General Agreement. Nicaragua was putting its case to the GATT Council to strengthen the institutions of international trade and to show its confidence in them.

The representative of the United States said that the US measures notified in L/5803 had been taken for national security reasons and fell squarely within the national security exception contained in Article XXI (b)(iii). GATT was not the appropriate forum for debating political and security issues, such as the reasons for the US action. The United States did not anticipate any effects from these measures on the GATT rights of third countries. He emphasized that Article XXI left to each contracting party the judgement of what was necessary to protect its own essential security interests, and that it was not for GATT to question, approve or disapprove such judgement; GATT was a trade organization, with no competence to rule on such matters. His country continued to believe that GATT's effectiveness in addressing trade issues would only be weakened if it became a forum for debating political and security issues. The United States hoped that other contracting parties, regardless of their position on the particular measures in question, would recognize that GATT was not the appropriate place to discuss them.

The representative of Cuba said that this dispute concerned all contracting parties and that GATT was the proper forum to discuss its
implications for the General Agreement. The United States had applied economic sanctions and was putting forward political pretexts, including a reference to Article XXI, for doing so. It was a mockery of the CONTRACTING PARTIES for such a powerful country to cite Article XXI as a basis for imposing economic sanctions on a small country that could not possibly threaten US security. Cuba believed that recourse to Article XXI had to be backed by certain facts, otherwise there would be no effective guarantees for any contracting party against abuse of the General Agreement. His country considered that the US measures violated the basic principles of the General Agreement and breached the provisions of Articles I, II, XI, XIII and Part IV, and paragraph 7(iii) of the 1982 Ministerial Declaration. The measures were arbitrary and formed part of a US destabilization policy in Nicaragua; they had been condemned by the Council of the Latin American Economic System (SELA), by the Caribbean Community and by non-aligned countries. He noted that allies of the United States had not joined in the embargo. The question before the Council was whether the contracting parties would defend the commitments they had undertaken, or would allow the basic principles of the General Agreement to be abused.

The representative of Argentina deplored the US measures, which would not lead to any positive result. They constituted a serious setback for the Contadora Group's efforts by disturbing the balance of political and trade relations in Central America. The coercive political measures taken by the United States were incompatible with the provisions of the UN charter, the General Agreement, the Ministerial Declaration, and the 1982 Decision concerning Article XXI (L/5426), and also contravened Resolutions by many other international bodies. Argentina knew from recent experience how damaging such measures were when applied to a developing country. The principles of non-interference and self-determination were especially important in light of the imbalance resulting from retaliatory power which industrialized countries could exercise. There had to be a guarantee that international contractual undertakings would be immune to the use of force. His authorities remained determined to explore all possibilities of dialogue to resolve this matter.

The representative of Peru expressed deep concern at the harmful effect of the US measures, which violated the basic principles of international law as reflected in the UN Charter and in many other international legal instruments. The measures were disproportionate and were one more step in US efforts to destabilize Nicaragua; they were damaging the Contadora Group's efforts and would worsen the fragile situation in Central America. Peru could not accept the US justifications for the measures; it was not plausible that a small country with modest resources could threaten the national security of the United States. Peru urged the United States to remove the measures, which violated the spirit and certain specific provisions of the General Agreement and which contravened paragraph 7(iii) of the 1982 Ministerial Declaration.
The representative of Colombia said his Government deplored the US measures as a source of tension in Central America, and urged the United States and Nicaragua to renew talks immediately so as to resolve their differences. Colombia would continue with the Contadora Group's efforts to bring peace, freedom and democracy to Central America. His country was convinced of the need to preserve international order through respect by all countries for the Charters of the United Nations and of the Organization of American States, and for the resolutions of GATT and UNCTAD.

The representative of Brazil referred to his country's interventions in the UN Security Council and in the Council of the Latin American Economic System (SELA), and said that negotiation, as pursued through the Contadora Group's efforts, was the only road to durably resolve the critical situation in Central America. Brazil deplored the use of unilateral economic measures which were incompatible with the Charters of the United Nations and of the Organization of American States. Contracting parties should abstain from taking restrictive trade measures for non-economic reasons, not consistent with the General Agreement; particular restraint should be exercised when the contracting party against which such measures were taken was a developing country and as such, had no countervailing power to redress the balance of rights and obligations in its trade relations. The right to invoke Article XXI should only be exercised in the light of other international obligations such as those assumed under the UN Charter.

The representative of Poland expressed deep concern at the multiplication of coercive trade measures motivated by exclusively political objectives, such as the US measures against Nicaragua. Apart from legal objections to the measures, it was disturbing that these actions were proliferating when contracting parties were about to embark on a new round of multilateral trade negotiations intended to lead to a safer trading environment. It was unacceptable that smaller contracting parties should come to the negotiating table with an additional disadvantage resulting from discriminatory, unilateral and arbitrary actions. The fact that such actions had been initiated by a major trading partner which was a driving force behind the initiative for a new round, undermined confidence in the multilateral trading system. Poland believed that GATT was a proper forum for discussing all trade-related disputes, whatever their origin, and fully recognized Nicaragua's right to bring to the Council a matter in which its rights under the General Agreement had been nullified and impaired.

The representative of Chile rejected the use of economic pressure to achieve political aims. Resort to Article XXI should be qualified by the contracting party invoking it; the Article did not imply that the trade consequences of measures taken under it could not be discussed in GATT. Chile appealed to the United States and Nicaragua to search for a peaceful solution to their dispute within the context of the Contadora Group's efforts.
The representative of Uruguay strongly supported a politically negotiated solution to this dispute within the framework set by the Contadora Group. Uruguay was resolutely attached to the principles of international law, particularly non-intervention. His Government deplored the US measures, which eroded the Contadora Group's efforts, and appealed for dialogue and peaceful negotiation between the two sides, leading to implementation of the Group's proposals.

The representative of Hungary expressed deep concern over the US trade embargo against Nicaragua. Politics and trade should ideally be kept separate, but a total separation was not realistic, as had been recognized in the provisions in the General Agreement covering cases in which political and commercial considerations were opposed. Extreme caution and moderation should be exercised so as not to abuse these provisions, and the greatest self-restraint was expected from the most powerful trading partners. The US action was damaging GATT's key rôle -- to bring law and order into international economic relations, to reduce the damage and danger of arbitrary exercise of economic power, and to provide protection to the weaker trading partners. Paradoxically, the United States was at the same time promoting a major exercise to revitalize and strengthen the GATT system.

The representative of Spain said that the US measures ran counter not only to specific Articles but also to the spirit of the General Agreement; the measures could not be justified under Article XXI. Recourse to economic measures as an instrument of political pressure was not acceptable, as had been made clear in paragraph 7(iii) of the 1982 Ministerial Declaration. His Government reiterated its active support for the Contadora Group's efforts, on which the US measures had a negative impact. Spain urged both parties to resolve their dispute immediately and peacefully.

The representative of Austria said that economic measures were inadequate means to reach political aims, except when such measures were imposed as a result of a UN Security Council decision. His delegation hoped that this dispute would be settled as soon as possible in a manner satisfactory to both parties.

The representative of Sweden said that the recent increase in politically motivated trade measures tended to erode GATT rules. Whereas it was up to each country to define its essential security interests under Article XXI, contracting parties should be expected to exercise their rights under that Article with utmost prudence, particularly when smaller countries, developed and developing alike, were involved; the larger trading nations had the greatest responsibility in this regard. It was natural to discuss in GATT the balance between measures taken and their effects on the multilateral trading system. In this particular case, the United States had not shown the necessary prudence and had interpreted Article XXI too broadly. Sweden hoped that efforts would be undertaken elsewhere to reach a mutually acceptable solution to this dispute.
The representative of Czechoslovakia said that the US measures violated Articles I, II, V, XI, XIII and Part IV of the General Agreement and ran counter to the provisions of the 1982 Ministerial Declaration. If the US interpretation of Article XXI were to be accepted, this would allow any contracting party to justify trade measures taken against another contracting party simply by declaring that its security was threatened. This Article dealt with emergency situations and had to be applied according to its specific provisions, none of which were relevant to this particular case. There was no legal basis to justify the US measures, which had been taken for purely political reasons.

The representative of the Dominican Republic said that only a negotiated peace in accordance with the principles of international law could guarantee an effective solution of the conflict in Central America. The Contadora Group's efforts were the best way to achieve peace in Central America. The principles of non-interference and self-determination should be respected, and all parties in the Central American conflict should work towards constructive dialogue and negotiation.

The representative of India expressed deep concern over the US measures. Under Article XXI(b)(iii), to which the United States had specifically referred, only actions taken in time of war or other emergency in international relations could be given the benefit of this exception. The two contracting parties in this case could not be said to be in a state of belligerency. There should be a genuine and demonstrable link between the trade action taken by a contracting party under Article XXI and that party's security interests; the security exception should not be used to impose economic sanctions for non-economic purposes. Such a link had not been established by the United States in this case, and its action thus did not conform with the General Agreement. India supported Nicaragua's request that the measures be revoked.

The representative of Finland stressed the importance of maintaining GATT as a forum for discussing and negotiating trade matters. Contracting parties should exercise utmost prudence when invoking Article XXI, so as not to jeopardize the effectiveness of the international trading system, and should abstain from taking restrictive trade measures for reasons of a non-economic character, not consistent with the General Agreement. Finland doubted whether, in the present case, a balance had been observed between prudence, the measures taken, and their effects on the multilateral trading system. He hoped efforts would be undertaken elsewhere to reach a mutually acceptable solution of this problem.

The representative of Switzerland regretted that GATT was again being faced with an autonomous measure to restrict international trade in a bilateral manner, independently of the legal basis invoked.
Subject to the provisions of Article XXI, Switzerland opposed the application of trade measures for political purposes, and the use of political means for trade purposes. Since Article XXI gave overriding weight to the judgement of the country invoking it, any contracting party considering recourse to this Article should take particular care to avoid any erosion of the General Agreement and any deterioration in international economic co-operation.

The representative of Trinidad and Tobago expressed concern over the imposition of the US measures, which were likely to jeopardize the Contadora Group's efforts supported by her Government. She stressed the importance of an early return to constructive dialogue between the two parties.

The representative of Romania said that no contracting party should take trade restrictive measures that were incompatible with the objectives and principles of the General Agreement and of the Ministerial Declaration. Romania supported Nicaragua's position and urged both parties to engage in the dialogue necessary to find a solution to this problem.

The representative of Egypt said that the provisions of Article XXI should be invoked in a limited and careful manner, especially when applied by a developed country, and due regard should be given to the essential interests of developing countries in the spirit of Part IV. Egypt hoped that this dispute would be settled satisfactorily as soon as possible.

The representative of Yugoslavia said that contracting parties should abstain from taking restrictive measures for reasons of a non-economic character, not consistent with the General Agreement. The US measures had been taken against the trade interests of a developing country, contrary to the spirit of Part IV. Yugoslavia hoped that the two parties would arrive at a mutually acceptable solution in accordance with their obligations under the UN Charter and in the framework of the Contadora Group's efforts.

The representative of Canada said that the United States had the right to invoke what it considered to be the relevant GATT provisions in applying the trade measures at issue. At the same time, Nicaragua retained its rights under the General Agreement. This was fundamentally not a trade issue, but one which could only be resolved in a context broader than GATT; his delegation urged the two parties to seek a solution in that other context.

The representative of Australia said that his Government's position had been outlined in the UN Security Council. While his country regretted the imposition of trade sanctions against Nicaragua, the United States was permitted under Article XXI to take such measures with no requirement to justify them. Nevertheless, contracting parties
should avoid any action which could threaten GATT's credibility and undermine attachment to the principles of an open multilateral system. In principle, Nicaragua retained its GATT rights, including the right to take retaliatory action, but in practical terms, the US action had rendered this right inoperative. Australia hoped that both parties would urgently negotiate a resolution of the underlying issues in their dispute and that this would lead to removal of the US measures.

The representative of the European Communities said that the Community's concern was to protect the GATT multilateral system from being damaged by any ill-considered development of a situation that could neither be dealt with nor settled in the GATT framework. The US trade measures were only part of a much broader overall situation on which each of the Community's member States had already expressed its views in other bodies. GATT was not the appropriate forum for the Community to make any appreciation on the substance of this issue. GATT had never had the role of settling disputes essentially linked to security; such disputes had only rarely been examined in the context of the General Agreement, which had neither the authority nor the competence to settle matters of this type, or political disputes. Article XXI left to each contracting party the task of judging what was necessary to protect its essential security interests. This discretion should be exercised in a spirit of responsibility, discernment and moderation, ensuring that discretion did not mean arbitrary application. The Community hoped that the tensions between the United States and Nicaragua would be settled as rapidly as possible.

The representative of Norway said the efficiency of the GATT system depended on maintaining GATT as a forum for discussion and negotiation on trade matters. Norway stressed the need for utmost care in exercising rights inherent in Article XXI, particularly when smaller and less-developed contracting parties were involved. Norway doubted whether such prudence had been exercised in the present case. He endorsed the Community's view that contracting parties should show responsibility, discernment and moderation when resorting to Article XXI, and that discretion did not mean arbitrary application. Norway hoped that efforts would be undertaken elsewhere to bring about a mutually acceptable solution of this dispute.

The representative of Iceland stressed GATT's basic role as a forum for discussing and negotiating trade matters. Iceland did not question the sovereign right of every contracting party regarding recourse to Article XXI. However, utmost care should be taken in applying that Article, especially against smaller and less developed contracting parties. Iceland hoped that efforts undertaken elsewhere would lead to a solution of this and other underlying problems.

The representative of Jamaica regretted the events that had led to convening the present meeting. Contracting parties should refrain from taking restrictive economic measures for political reasons, except in cases where a decision by the UN Security Council called for such action.
The representative of Japan said that in order to maintain the effective functioning of the GATT system, it was essential to separate trade issues from political factors. While a complete separation of political from economic aspects might be an ideal, the trade expansion which had contributed to the development of many countries had been brought about through GATT's prudence in this regard. The trade aspect of the present case stemmed from deep roots, with which GATT was not competent to grapple. He hoped that both parties would make every effort to reach a solution.

The representative of Portugal opposed the use of restrictive economic measures for political ends; such action was contrary to GATT's spirit and to the Ministerial Declaration. Article XXI provided for exceptions based on reasons of national security, and it was up to the contracting party invoking it to determine what was necessary in this regard; however, great caution should be exercised. His delegation hoped that negotiations between the two parties in the appropriate fora would result in a satisfactory settlement.

The representative of Mexico, speaking as an observer, said that dialogue and negotiation were the only and ideal way to settle current disputes in Central America. Mexico urged the United States to revoke its measures against Nicaragua, which inhibited the efforts of the Contadora Group.

The representative of China, speaking as an observer, opposed US pressure on Nicaragua through a trade and transport embargo and by other means, as this violated GATT principles and provisions and jeopardized international economic and trade relations. China hoped that the United States and other parties concerned would respond to the Contadora Group's efforts to relax tensions in Central America.

The representative of Costa Rica, speaking as an observer, expressed deep concern at the deteriorating situation in Central America. The US economic measures were a sign of the increase in tension in this region. Costa Rica supported the purpose of the US measures to apply pressure for an internal dialogue in Nicaragua, but for international legal reasons could neither participate in them nor take similar measures; any such participation would also hinder the initiative of the Contadora Group, which his Government supported.

The representative of Nicaragua summarized the statements and said it seemed that the majority supported his delegation's position. Article XXI should not be applied arbitrarily; there had to be some correspondence between the measures adopted and the situation giving rise to their adoption. He quoted from Article XXXVII:3(c) to which it was clear no consideration had been given when the US measures were imposed, and referred to the negative impact of such measures on the GATT system and on the atmosphere in which a new round of trade negotiations was being contemplated. GATT should turn to the practical aspects of this issue, so that a specific solution might be reached. He
then presented a draft decision (C/W/475), which he said reflected the main ideas expressed at the present meeting, and asked the Council to consider it.

The representative of the United States said there could be various interpretations of the statements made. Most had recognized that it was up to each contracting party to determine what was necessary to protect its own essential security interests. As the representative of Japan had stated, it should be recognized that the root of the present problem was well outside GATT's scope. The United States could not accept any decision along the lines proposed by Nicaragua and saw no use in recourse to the dispute settlement process when the problem clearly lay outside GATT's field of competence.

The representative of Nicaragua said that since this matter involved commercial measures, GATT, as the institution responsible for the conduct of international trade, should express a view on this issue. No delegation had separated Article XXI from the provisions of the UN Charter or denied that Nicaragua retained its full rights under Article XXIII. Moreover, several had said that the embargo on exports as well as imports had removed Nicaragua's right to react to the US measures.

The representative of Cuba said that since no decision had been adopted, it was the CONTRACTING PARTIES' duty to pronounce on this issue by means of a resolution, as the matter could not be left outstanding.

After a recess, and following consultations among delegations, the representative of the European Communities said that the draft decision would not only be ineffective but would set a dangerous precedent regarding the disapproval of measures taken by a contracting party and the application of dispute settlement procedures to a question outside the competence of the General Agreement. Such a draft decision would neither reduce tensions between the two parties concerned nor protect the multilateral trading system from damaging repercussions, such as politicization.

The representative of Nicaragua said that the language in the draft decision was of the same type as that found in the General Agreement. Like any draft, it was negotiable, and Nicaragua felt that it contained no element likely to cause real concern to any contracting party. It merely said that the US measures were inopportune and untimely, and urged both parties to use the GATT dispute settlement system.

The Council took note of the views expressed in the debate, the proposal made by Nicaragua (C/W/475) and the statements made in connexion with the proposal.

The Council noted that the Chairman would consult with delegations to determine how this matter could be dealt with at a future Council meeting.
At the Council meeting on 5-6 June 1985, the representative of Nicaragua said that her delegation, in its first consultation with the Council Chairman regarding the US measures, had asked that consultations with other countries on this subject be accelerated so that the item could be included on the Council's agenda for its meeting in July.

The Council took note of the statement.

At the Council meeting on 17-19 July 1985, the Chairman noted that the informal consultations which he had convened had not resulted in a consensus on how to deal with this issue.

The representative of Nicaragua said that in view of the lack of progress in the informal consultations, Nicaragua had formally requested Article XXII:1 consultations (L/5847), which the United States had refused. His Government now asked for establishment of a panel to review this case and to report to the CONTRACTING PARTIES.

The representative of the United States reiterated that the US measures had been taken for national security reasons; accordingly, resolution of the trade measures in question depended on the broader security situation. While invocation of Article XXI did not preclude recourse to Article XXIII, a panel had no power to address the validity of, or motivation for, invocation of Article XXI:b(3). As there was no function for a panel to perform in this case, Nicaragua's request for a panel was a further attempt to politicize GATT. There was no precedent for establishing a panel in cases involving Article XXI.

The representative of Nicaragua said that paragraph 10 of the 1979 Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 295/210) clearly set forth a contracting party's right to a panel.

Many representatives expressed regret that the consultations held so far had not resolved this issue.

The representatives of Colombia, Argentina, Poland, Uruguay, Peru, Brazil, Cuba, Spain, India, Hungary and Canada said that their delegations' positions on this matter had been clearly stated at previous Council meetings.

Nicaragua's request for establishment of a panel was supported by the representatives of Colombia, Argentina, Poland, Uruguay, Peru, Brazil, Cuba, Chile, Spain, Romania, Jamaica, India, Hungary, Yugoslavia, Trinidad and Tobago, and Czechoslovakia, as well as Venezuela and Mexico, speaking as observers.

The representative of Colombia recalled that practice, tradition and case law was that, following unsuccessful consultations, a contracting party not be denied a request for a panel.
The representatives of Argentina and Chile supported the statement by Colombia.

The representative of Poland said that the reluctance of any contracting party to discuss an issue should not curtail any other contracting party's rights under GATT dispute settlement procedures.

The representative of Uruguay said that the requested panel's terms of reference should include a reference to the spirit and letter of paragraph 7(iii) of the 1982 Ministerial Declaration (BISD 29S/11).

The representative of Brazil supported Uruguay's suggestion.

The representative of Peru said that no contracting party could be denied the right to ask for a panel.

The representative of Cuba said that the Ministerial decision was clear on the right of every contracting party to ask for a panel. All the US measures applied in this case violated the General Agreement.

The representative of Jamaica hoped that a consensus respecting GATT principles could be reached in the Council.

The representative of Japan said that while every contracting party had the right to request a working party or a panel, this might not be an efficient means of finding a solution in the present case. The parties concerned should undertake consultations urgently in order to reach an equitable solution.

The representative of the United States quoted from Article XXI(b), and said it was clear that a panel could neither examine the national security reasons for the US action, nor determine the appropriateness of invoking the security exception.

The representative of Nicaragua said that the panel should take into consideration all GATT provisions, including Article XXI; it would be for the CONTRACTING PARTIES under Article XXIII:2 to investigate any action taken under Article XXI and to give a ruling on it.

The representative of the United States asked if Nicaragua was saying that a panel could interpret Article XXI.

The representative of Nicaragua held that Article XXIII rights remained valid in cases involving Article XXI.

The representative of the United States said that GATT was not empowered to examine the motivation behind an action taken for national security reasons. A panel could do nothing useful in this case.
The representative of Nicaragua said that her delegation would be flexible regarding the panel's terms of reference.

The representative of the European Communities said that the facts in this case were clear, as were the provisions of Article XXI which each party had to judge on its own whether to invoke. The Community could not oppose a contracting party's request for a panel, provided the terms of reference clearly did not include interpretation of Article XXI.

The representative of Israel reserved his country's position on the establishment of a panel in this case.

The representative of the United States said that in view of the conflicting points of view, it would be inappropriate to establish a panel at the present meeting or at any time.

The representative of Nicaragua said that her delegation would limit itself to discussion of the purely trade aspects of this problem.

The Chairman proposed that the Council take note of the request for a panel by Nicaragua, supported by a number of representatives; that it authorize the Chairman to carry out consultations on possible terms of reference and the rôle of such a panel, in the light of the issues raised in the Council; and that it revert to this matter at its next meeting, taking account of the results of these consultations.

The representative of Nicaragua asked whether a delegation could prevent the implementation of provisions of the 1979 Understanding.

After consideration of other items and following informal consultations, the Council reverted to this item.

The representative of Sweden said his delegation would not oppose establishment of a panel.

The representative of Canada said that this matter could be resolved only in a context broader than GATT. Only the individual contracting party itself could judge questions involving national security; a panel could not make that judgement. Nevertheless, measures taken under Article XXI could have trade effects which could be considered in GATT. Every contracting party had a right to request and to receive a hearing in a panel on any GATT-related issue, even where a panel was unlikely to be able to make a useful finding. While a panel would serve no purpose in the present case, Canada would not block a full consensus in favour of establishing a panel to review this matter.

The representative of Israel quoted from the consultation procedures adopted on 10 November 1958 (BISD 7S/24) and said it was clearly out of order to ask for a panel at the present time.
The representative of Czechoslovakia said that the US refusal of consultations with Nicaragua contravened Article XXII:1. Paragraph 1 of the Annex to the 1979 Understanding (BISD 26S/215) stated that the CONTRACTING PARTIES were obliged, pursuant to Article XXIII:2, to investigate any matter submitted to them and to make a recommendation or ruling as appropriate.

The Chairman asked that his earlier proposal be considered.

The representative of the United States said that, in accepting the Chairman's proposal, the United States continued to object to establishing a panel; his delegation would continue to maintain that a panel would be inappropriate in this case, that it could not examine the validity of, or motivation for, invocation of Article XXI(b)(iii), and that the US judgement regarding protection of its essential national security interests could not be the subject of a dispute settlement procedure or a debate in any GATT forum.

The Council took note of the statements and agreed to the Chairman's proposal.

The representative of Nicaragua said that establishment of a panel should not be seen as subsidiary to agreement on its terms of reference.

13. Recourse to Articles XXII and XXIII

(a) Brazil

- Treatment of electronic data processing equipment (C/M/185)

At the Council meeting on 29 January 1985, the representative of the United States said his Government had requested consultations (L/5775) under Article XXII with Brazil regarding the latter's informatics policy and law; the purpose was to discuss with Brazil how these might affect the operation of the General Agreement and to gather more information on the new law and its potential trade effects. The consultations had been requested pursuant to the 1958 procedures under Article XXII on questions affecting the interests of a number of contracting parties (BISD 7S/24).

The representative of Brazil said that the US request had been sent to his authorities, who were considering whether there was a basis under the General Agreement to accept it.

The Council took note of the statements.
(b) **Canada**

(i) **Measures affecting the sale of gold coins (C/M/185)**

In November 1984, the Council had decided to establish a panel to examine South Africa's complaint concerning Canadian measures affecting the sale of gold coins. It had also authorized the Chairman to decide, in consultation with the parties concerned, on appropriate terms of reference and to designate the Panel's Chairman.

At its meeting on 29 January 1985, the Council was informed of the Panel's terms of reference.

The representative of the European Communities reserved his delegation's right to appear before the Panel when it addressed the question of the applicability of the General Agreement in the light of Article XXIV:12.

The Council took note of the statement.

(ii) **Import, distribution and sale of alcoholic drinks by provincial marketing agencies (C/M/186)**

At its meeting on 12 March 1985, the Council considered document L/5777 concerning recourse by the European Economic Community to Article XXIII:2 over the import, distribution and sale of alcoholic drinks by provincial marketing agencies in Canada.

The representative of the European Communities said that several aspects of the regulations and application of Canada's provincial marketing systems were contrary to provisions of the General Agreement. He recalled that during the Tokyo Round negotiations, this problem had been the subject of a Canadian provincial statement of intention which had not been converted into action. The Community was concerned that various bindings and concessions by Canada on imports of alcoholic drinks had been nullified or impaired by the regulations and actions of provincial marketing agencies, and asked that a panel be established under Article XXIII:2 to examine this matter.

The representative of Canada said that his federal authorities continued to be in frequent contact with the provincial authorities on this issue, with a view to reaching a satisfactory solution. Nevertheless, Canada did not object to establishment of a panel.

The representatives of the United States, Spain, New Zealand and Australia reserved their delegations' rights to make a submission to the panel should it be set up.
The representatives of Jamaica and Trinidad and Tobago asked that their delegations be included in whatever consultations took place on the Panel's terms of reference and composition.

The representative of New Zealand supported the Community's request for a panel.

The Council took note of the statements, agreed to establish a panel to examine the complaint by the European Communities, and authorized the Chairman, in consultation with the parties concerned, to draw up the Panel's terms of reference and to designate its Chairman and members.

(c) European Economic Community

(i) Production aids granted on canned peaches, canned pears, canned fruit cocktail and dried grapes (C/M/186, 187, 188, 190, 191)

In March 1982, the Council had established a panel to examine the complaint by the United States.

At its meeting on 12 March 1985, the Council considered the Panel's report (L/5778).

The representative of the United States said that his delegation, while disappointed at the Panel's conclusion concerning dried grapes, considered that the report contained sound legal reasoning. The United States proposed that the Council revert to this item at its next meeting.

The representative of the European Communities agreed with this proposal.

The Council took note of the statements and agreed to revert to this item at its next meeting.

At the Council meeting on 30 April and 1 May 1985, the representative of the United States said that the Panel had considered a number of legal and factual issues relating to four different products and had unanimously recommended, with respect to three of the products, that the Community find a way to restore the competitive conditions derived from certain tariff concessions. The United States hoped that the Community would implement the Panel's recommendation, and urged the Council to adopt the report. He recalled his delegation's view that the Panel should have concluded that the Community's scheme nullified or impaired tariff concessions on dried grapes. Nonetheless, the United States could accept the report as it addressed the conditions of competition for US canned fruit exporters, reaffirmed some well-established legal precedents and clarified important principles; he
specifically referred to the Panel's findings in paragraphs 50, 45, 77 and 46 of the report. The United States hoped that bilateral consultations would yield an economic solution to this dispute, and that after adoption of the report, discussion could continue with the Community on ways and means to restore the value of tariff concessions. He urged the Council to follow established GATT practice and to adopt the report at the present meeting.

The representative of the European Communities said that the Community had severe problems with some of the Panel's conclusions. Great care should be taken, not only over the practical matters resolved by a panel, but also over the precedents which might be created. The Panel had interpreted the conclusions of the 1955 Working Party (BISD 3S/222) concerning the relationship between tariff concessions and domestic subsidies, without taking sufficient account of the Subsidies and Countervailing Measures Code which had been subsequently negotiated and to which both parties in this dispute were signatories. This had led to the belief, as evidenced by the US position, that any subsidy could endanger a tariff concession. The Community was concerned that the Panel's results might be interpreted incorrectly. Regarding dried grapes, the Community accepted the factual conclusions, but felt that the logic applied might set a regrettable precedent.

The representative of the United States said the Community had made the same points to the Panel, which had fully considered them.

The representative of the European Communities said that individual contracting parties had to be informed of the dimensions of the problem and be fully aware of the importance of their decisions, before participating in a collective decision. The Community had not yet completed evaluating the consequences of the Panel's findings and conclusions.

The representative of the United States said that the report had been ready since July 1984 and did not establish any new precedents. He asked the Community if it was now prepared to have the Council adopt the report.

The representative of the European Communities said that the Community could not yet take a position, as it needed more time to study this matter; he suggested that its consideration by the Council be postponed so that his delegation could come back to the Council with an appropriate position.

The representative of the United States said that his Government pursued cases such as this one in GATT in an attempt to avoid taking more severe action. Yet with regard to agricultural disputes involving the Community, the dispute settlement process did not seem to exist.
The Council took note of the statements and agreed to revert to this item at its next meeting.

At the Council meeting on 29 May 1985, the representative of the United States asked the Community again if it could accept adoption of the report.

The representative of the European Communities said that the Community's position on the Panel report had been explained at the April Council meeting. The Community was circulating at the present meeting a short paper (C/W/476) setting forth this position. The Community was still reflecting on how to approach the request for adoption of the report and suggested that the Council revert to this item at its next meeting.

The Council took note of the statements and agreed to revert to this item at its next meeting.

At the Council meeting on 5-6 June 1985, the representative of the European Communities said his delegation was still unable to adopt the Panel report and asked that the Council revert to this item at its next meeting.

The representative of the United States said that the points in C/W/476 had been repeatedly made to and considered by the Panel and did not affect the results in this case. C/W/476 raised issues of much broader application than this dispute and should not further delay adoption of the report and action to implement the Panel's recommendation. He hoped that the Community would be able to adopt the report unconditionally at the next Council meeting.

The Council took note of the statements and agreed to revert to this item at its next meeting.

At the Council meeting on 17-19 July 1985, the representative of the United States called on the Community to accept adoption of the report and to implement its recommendation.

The representative of the European Communities said that the Community was not in a position to adopt the report, but had already substantially reduced its aids for canned fruit. His delegation suggested that the report be looked at as a whole, taking account of further decisions on aids shortly to be taken.

The representative of Australia said that while parts of the report, particularly the conclusions on dried vine fruit, were not satisfactory to Australia, the Council should act on it immediately.

The representative of the United States said the Director-General had made it clear that adoption of a report did not preclude further discussion of the issues involved. He urged the Council to adopt the report as it had been submitted.
The representative of the European Communities said that an amicable solution to this matter would not exclude a reduction in aids, but would have to take account of reductions already effected as well as possible future reductions.

The Council took note of the statements and agreed to revert to this item at its next meeting.

(ii) Tariff treatment on imports of citrus products from certain countries in the Mediterranean region (C/M/186, 187, 190)

In November 1982, the Council had established a panel to examine the complaint by the United States.

At its meeting on 12 March 1985, the Council considered the Panel's report (L/5776).

The representative of the United States said the Panel had unanimously concluded that the Community's tariff preferences on fresh oranges and fresh lemons nullified or impaired US benefits under the General Agreement, and had made a pragmatic recommendation to limit the adverse effects which these preferences had on US exports of these products. His delegation supported adoption of the Panel report and its recommendation, which would enable a fair resolution of the issue, despite the fact that the recommendation addressed only two of the nine products cited. It was important to the GATT dispute settlement process to ensure that panel reports were adopted and recommendations implemented promptly. Regarding the conformity of the Community's preferential agreements with Article XXIV, the Panel had merely restated the fact that the CONTRACTING PARTIES had neither approved nor disapproved any of the agreements nor ruled on their GATT consistency. Its conclusions did not question the validity of these agreements or Article XXIV arrangements generally. Moreover, neither the findings nor the recommendation required the Community to amend its preferential arrangements or to take action inconsistent with them. The United States, in bringing this complaint, had exercised its Article XXIII rights which had been reserved when all these Article XXIV arrangements were examined in GATT. The United States sought an economic solution to an economic problem and would, therefore, accept a non-violation ruling. He called on the Community to carry out the recommendation.

The representative of the European Communities said that the Panel's recommendation was not politically viable, since it asked the Community to take action which might upset existing agreements with other contracting parties. The intent of Article XXIV was to promote trade liberalization, and the effects of the customs unions and free-trade areas which this Article envisaged had to be assessed on a global basis. The Panel's report contained highly controversial and perhaps unjustified findings and conclusions concerning both GATT in general and the Community in particular. He outlined the Community's
concern in four points: (1) the lack of coherence in the Panel's approach to the question of the conformity of the agreements as a whole with Article XXIV; (2) the interpretation of Article XXIV:7 by the Panel according to which Article XXIV agreements had to be explicitly approved by the CONTRACTING PARTIES; (3) the unjustified exclusion of the applicability of Part IV to Article XXIV; (4) the legal inferences which might explicitly or implicitly be drawn from the report, introducing an element of uncertainty and permanent conflict in respect of all such agreements, including preferences granted under Article XXV derogations, or under the GSP, to developing contracting parties. There were formidable implications in the report for the General Agreement, for the dispute settlement process and for the developing countries. It would be impossible for the Community to implement the Panel's recommendation.

The representative of the United States said that the Community's position would eliminate third parties' Article XXIII rights when a preferential arrangement was concluded and notified under Article XXIV, regardless of its conformity to the explicit criteria of that Article. There was nothing in the General Agreement to support the view that Article XXIII procedures were not available in cases involving Article XXIV. The United States was troubled not only by the Community's unwillingness to accept adoption of a panel report, but by the impact of such an approach on future preferential arrangements. The Community seemed to be saying that unless the CONTRACTING PARTIES affirmatively rejected an arrangement under Article XXIV:7(b), it must be presumed to be consistent with the General Agreement. The Community's argument elevated Article XXIV to a position of greater importance than Article XXIII, and seemed to ignore Article I altogether. He emphasized that the United States was seeking an economic solution to an economic problem.

The representative of Pakistan agreed with the Panel's recommendation and proposed that the Council adopt the report.

The representative of Spain recalled that his country had asked for a working party instead of a panel, in order to include directly all parties with interests at stake in this dispute. The Panel's mandate had been established on the understanding that the Mediterranean countries would have an adequate opportunity to participate in its work where relevant. However, the Panel had failed to inform the other interested parties of its conclusions and recommendation when these were presented to the two parties to the dispute. The Panel's interpretations would affect not only the parties to the dispute but many other contracting parties, and could affect GATT's credibility. Spain recommended that the Council not adopt the Panel's report.

The representative of Turkey could not agree with some of the Panel's findings and conclusions and objected to its recommendation. Examination of the relationship between Turkey and the Community, and of the compatibility of that relationship with the General Agreement,
had been carried out in a working party whose report (L/3750) had been adopted by the CONTRACTING PARTIES in 1972. The Panel report's omission of any reference to the Working Party's finding as to the GATT conformity of the Community's agreements with Mediterranean countries prejudged the compatibility of the agreements with the General Agreement, and constituted an important weakness in the report. Turkey supported the statement by the representative of the European Communities.

The representative of Egypt said that while the Panel had stated it would not be proper for it to pass judgement on the conformity of the Community's agreements as a whole with Article XXIV, it had nevertheless concluded that their legal status remained open. Article XXIV:7(b) did not support such a conclusion. In his delegation's view, the agreements conformed until such time as the CONTRACTING PARTIES pronounced to the contrary. The objective of Article XXXVI was that developed countries offering preferences to developing countries should not expect reciprocity. Furthermore, the Panel report did not preserve the commitments contained in Article XXXVII. Egypt supported the statements by the representatives of the European Communities, Turkey and Spain.

The representative of Tunisia said that the Council's decision on this matter would affect the vital interests of many contracting parties. It was difficult to accept that a panel, which itself had deemed the issue of GATT conformity to be outside its purview, should call the agreements into doubt. The contracting parties should give more thought to the legal implications of the report for Article XXIV and for the social and economic interests at stake.

The representative of Yugoslavia could not accept certain of the report's proposals due to the precedents that would be set. Her delegation was concerned by the report's finding in paragraph 4.11 that Part IV and the Enabling Clause (BISD 26S/203) were not relevant. Yugoslavia agreed with the statements by the representatives of Spain, the European Communities, Egypt and Tunisia regarding Article XXIV:7 and other GATT provisions.

The representative of Cyprus, speaking as an observer in the Council, said that the Panel had no mandate to rule on the GATT conformity of any of the agreements in question; this was for the CONTRACTING PARTIES themselves to determine. Nor could the compatibility of the Community's citrus concessions granted to Cyprus be questioned in any way, as GATT approval was not required for their establishment. Cyprus could not accept the Panel's conclusions.

The representative of Korea said the Panel report should be respected as much as possible unless there was a compelling reason not to do so. The panel procedure was the principal means of dispute settlement, and it would be a bad precedent, especially in a case involving the United States and the Community, to reject the report. This case involved m.f.n. treatment, a key GATT principle, which should be upheld unless there was an exception to it under Article XXIV or some other GATT provision.
The representative of Austria, speaking on behalf of the EFTA countries, said that the legal questions to which the Panel report gave rise should be dealt with by the CONTRACTING PARTIES themselves and not by a panel. A main objection to the report was that parts of it could call into question the status of arrangements under Article XXIV. The EFTA countries felt it was too early to take a decision on the report, and proposed that the Council revert to this matter at its next meeting.

The representative of Brazil said the panel's findings and conclusions appeared to be well-founded, and the report should be respected. Brazil would agree to the Council having a further opportunity to discuss the report, and would contribute its own detailed views on this matter.

The representative of Australia said that while some contracting parties had argued that the report threatened Article XXIV arrangements, his delegation considered that the Panel had skillfully avoided the Article XXIV issue. The real question was whether the rights of third parties could be nullified or impaired by measures which did not violate a GATT obligation. The Panel had concluded that this could and did happen regarding US trade in fresh oranges and fresh lemons. Australia supported adoption of the report.

The representative of Israel doubted whether certain of the Panel's interpretations and conclusions regarding Article XXIV were pertinent or correct; for example, its conclusion that under Article XXIV, approval by consensus was needed appeared to be contrary to both GATT rules and practice. Israel's main concern stemmed from the Panel's failure to take account of the Council's decision calling upon the Panel to provide adequate opportunity for Mediterranean countries to participate in its work. The Panel's failure to submit the descriptive part of its report to the parties concerned constituted a serious flaw in its proceedings, and put its work in question. Israel required more time to consider the legal issues involved.

The representative of Canada supported the statements by the representatives of Korea and Australia and said that the Panel had clearly and properly placed consideration of Article XXIV conformity outside its conclusions. The fact was that there had been no decision by the CONTRACTING PARTIES under Article XXIV on the Community's arrangements with the Mediterranean countries. He recalled that Canada had reserved its rights on this issue, and cautioned that an in-depth examination of the question of Article XXIV arrangements should be done on its own merits and not in the context of a single panel report. The Panel's recommendation appeared to be reasonable.

The representative of Japan said the Panel report would provide a useful basis for a settlement among the parties concerned, and supported its adoption by the Council.
The representative of Uruguay said the report contained a number of useful elements but others which were questionable.

The representative of New Zealand said the Panel had relied not on an assessment of the conformity of the agreements but on working parties' reports and common sense. New Zealand disagreed with the Community's claim that the report introduced an element of uncertainty and permanent conflict for all other free-trade areas and customs unions.

The representative of Chile said that the Panel's findings and conclusions seemed appropriate and adequate. Chile urged adoption of the report, as it was important to reaffirm the principle of non-violation nullification or impairment included in it.

The representative of Romania said that efforts to settle this dispute under the rules and procedures of the General Agreement should continue.

The representative of Morocco, speaking as an observer, supported the statement by the representative of the European Communities and said that the Panel report was a time-bomb for all countries and for developing countries in particular.

The representative of the African, Caribbean and Pacific (ACP) Group, speaking as an observer, said that the CONTRACTING PARTIES' allowance of preferential schemes in favour of developing countries had been a landmark in GATT's history. This Panel report could be a dangerous precedent, putting in question any of the trade liberalization arrangements operated by developed countries in favour of developing countries. He hoped that the Council would find a pragmatic solution to this dispute.

The representative of Jamaica said his authorities' preliminary view was that the Panel's findings and conclusions went beyond its terms of reference. Referring to statements made by some contracting parties which appeared to be based on self-interest regarding the adoption or rejection of the Panel report, he said that ad hoc approaches to dispute settlement were not likely to lead to respect for GATT procedures.

The representative of the United States reiterated that his country was seeking an economic solution to an economic problem. He pointed to the implications of the position that Article XXIV overrode rights under Article XXIII. Developing countries, which had repeatedly argued that the m.f.n. principle was vital, seemed in this case to be reversing their position. Should the principles implicit in these positions be followed, there was nothing to stop the United States or any other contracting party from negotiating preferences bilaterally with any country prepared to do so, or from blocking any consensus in the Council to prevent this.
The representative of the European Communities said this was not merely a bilateral question between the Community and the United States, but one which concerned many contracting parties. The United States was asking the Community to make an offer based on a recommendation, the very basis of which the Community challenged. Furthermore, the Community was bound by contractual obligations in each of the agreements at issue, and could not agree to any action affecting the interests of the parties to those agreements without consulting with them. His delegation doubted the usefulness of discussing the report further. He recalled that the Community had initially asked for a working party, which might have led to a more satisfactory situation. He then summarized the Community's position on the Panel report and the legal consequences that its adoption could entail.

The representative of the United States said that a contracting party's participation in a panel proceeding with no intention of acting on the panel's conclusions, called into question the vitality of the dispute settlement system.

The Council took note of the statements and agreed to revert to this item at its next meeting.

At the Council meeting on 30 April and 1 May 1985, the Chairman drew attention to communications from the European Communities (C/W/462) and the United States (C/W/465).

The representative of the European Communities said the US paper (C/W/465) seemed to aim at convincing the Community that its concerns over the Panel's report were not justified, and he recalled the basis of these concerns. The possible application of Article XXIII:1(b) to agreements examined under Article XXIV would open a Pandora's box of potential complaints for a whole series of preferences which conformed with the General Agreement. The US suggestion that the Council only take note of the report and that the Community agree to implement "an economic solution to an economic problem" amounted to asking the Community to grant concessions free of charge with no legal requirement to do so.

The representative of the United States said that the Community was putting Article XXIV on a higher plane than Article XXIII. The Panel's recommendation offered a pragmatic solution which would redress the real harm to US exports of oranges and lemons without affecting the Community's preferential arrangements as a whole. He said that the most difficult aspect of this case was the notion of refusing to make concessions free of charge, and the protective attitude behind it.

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1 Subsequently issued as C/W/462.
The representative of the European Communities said that all its Agreements with the Mediterranean countries included a political dimension and that the citrus preferences were but one element in a delicate structure. Contrary to what the United States had suggested, the level of the m.f.n. duty had an impact on the trade of a preference receiving country, even if the percentage margin of preference was not touched. The Community was trying to protect the common interest of all the associated countries. Regarding the concept of concessions free of charge, the Community had meant that it could not grant concessions without reciprocity, as this might harm the interests of its preferential partners.

The representative of Austria, on behalf of the EFTA countries, made a statement on several legal aspects of the Panel's report which were of paramount importance to those countries, and suggested how the Council might proceed on this matter.

The representative of the United Kingdom, on behalf of Hong Kong, said that Hong Kong was concerned in this case for the integrity of GATT's dispute settlement mechanism, in which the panel procedure was the main element. All efforts should be made to reach an equitable settlement of a dispute, but the mechanism itself should not be undermined by failure to adopt panel reports or by undue delay in doing so.

The representative of Spain said the Community was wise in not accepting the Panel's recommendation, and reiterated many of the reasons cited by the Community in support of this position. He also reiterated that there had been an error in the Panel's procedure and that it had not examined all the relevant factors. He agreed with the EFTA countries' proposal that the Council take note of the report.

The representative of Turkey recalled that at the most recent Council meeting his delegation had explained why it rejected some of the Panel's arguments and conclusions. Turkey felt that the report should neither be adopted nor its recommendation implemented. His delegation hoped that the Council could revert to the EFTA proposals at some future time.

The representative of Chile commented on several paragraphs of the Community's document (C/W/462), regarding the rights of CONTRACTING PARTIES to take action against, and receive compensation for, the negative impact of preferences granted under Article XXIV. Chile had reserved its rights when the Community's Agreements were examined. She reiterated her Government's position that neither Part IV nor the Enabling Clause (BISD 268/203) permitted a developed country to discriminate between beneficiary developing countries, with the exception of the least-developed countries. Chile supported adoption of the report.

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1 Subsequently circulated as C/W/468.
The representative of Egypt reiterated his delegation's view that the Panel's work was incomplete. By adopting the report, the CONTRACTING PARTIES would be accepting the principle that a third country could require modification of a preferential agreement without consulting with the preference recipient. Egypt felt that the EFTA proposals warranted consideration by the Council.

The representative of Tunisia welcomed the United States' pragmatic proposal that the Council take note of the report, but reiterated that these Agreements were a structure composed of a number of inter-dependent elements, of which the economic aspect was particularly important. Tunisia supported the statement by the European Communities.

The representative of Peru said the Council should continue to reflect on the report's legal consequences. Any solution reached should not erode the Generalized System of Preferences, which was fundamental to the functioning of the General Agreement.

The representative of Israel recalled his delegation's doubts concerning certain of the Panel's interpretations and conclusions, and reiterated that Israel's was mainly concerned about procedure, namely, the Panel's failure to submit the descriptive part of its report to all the parties concerned. He said that as a result, certain important factual aspects of Israel's agreement with the Community had not been reported in a correct and even-handed manner, and he gave examples of these errors. Had the Panel sought Israel's comments on this part of its report, its conclusions might have been completely different. The integrity of the dispute settlement mechanism was an important part of the GATT framework, and it was essential that the procedures, as laid down in the 1979 Understanding (BISD 26S/210), be strictly followed.

The representative of Yugoslavia maintained the position that the Panel's conclusions and recommendation were not legally justified. The EFTA proposals needed time to be studied and should be taken up at the next Council meeting.

The representative of Brazil reiterated his delegation's support for adoption of the Panel's report. Nevertheless, his delegation felt that, even if an agreement was found to conform with Article XXIV, any contracting party had the right, under Article XXIII:1(b), to complain against nullification or impairment stemming from another contracting party's measure. Article XXIII provisions were applicable in the present case, and the Panel was correct in basing its recommendation on the trade effects of the Community's Mediterranean Agreements.

The representative of Argentina said more time was needed for further reflection on the report. His authorities agreed with the Panel's conclusions that the CONTRACTING PARTIES had not taken a specific decision on the Community's Agreements under Article XXIV.
The representative of Morocco, speaking as an observer, supported the statements by Spain and Tunisia that these Agreements constituted a whole from the trade, political and historical points of view. He agreed with the Community's position that the Mediterranean countries concerned should continue to receive the preferences granted within this larger context.

The representative of the United States said it seemed that the major point being argued was that a preference margin was more important than major GATT principles, and that Article XXIV was supreme over Article XXIII. Regarding the EFTA countries' suggestion, he said that if the Community was prepared to offer a practical solution to an economic problem, the United States would be willing to hold bilateral consultations with a view to resolving this matter before the next Council meeting. As to the broader issue of the treatment of preferential arrangements in GATT, the United States agreed that examination of Article XXIV and other relevant provisions could be useful; however, Article XXIII rights should not be limited in the process. Given the status of several agricultural trade disputes between the Community and the United States in recent years, his delegation was sceptical about the EFTA proposal leading to any practical solution.

The representative of the European Communities said that this case involved the Community's responsibility and respect for negotiated commitments. There was nothing in the dispute settlement procedures that stipulated automatic adoption of a panel report. Also, a panel's conclusions and recommendations were not undisputed facts, and mistakes were possible. The Community did not exclude the Council's rejection of the Panel's report. He said it would be helpful to know what specific proposals the EFTA countries intended to make, and that the Community would consider all suggestions made. Discussions on this matter between the United States and the Community had never stopped.

The representative of the United States referred to three other panel reports which the Community had not accepted and said this was not an isolated case. Consultations with the Community on this issue had never even begun. By pursuing this case in GATT, his delegation was trying to avoid more drastic action. He emphasized that there were other remedies available in the United States.

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

At the Council meeting on 5-6 June 1985, the representative of the United States asked whether the Community was now in a position to accept adoption of the report and its recommendation.

The representative of the European Communities said previous Council discussions had shown it was unlikely that the Community would be ready to offer what the United States termed an economic solution to this problem. The Community could not be expected to agree to adopt a
report about which it had so many and such strong concerns and doubts, particularly when these were shared by so many other contracting parties. The Community was prepared to see if the EFTA countries' proposal (C/W/468) might provide a useful way out of the present situation.

The representative of the United States said his authorities were convinced that further discussion in the Council would not lead to resolving this issue. Nor would any attempt to address the broader questions raised in this dispute be fruitful without resolving the specific citrus problem. Every agricultural dispute involving Community practices which the United States had recently brought to GATT had been stalled, blocked or shelved by the Community. While the United States preferred to resolve this matter by means of the GATT dispute settlement mechanism, the Community's position offered the United States no alternative but to seek a solution outside that framework.

The representative of Austria, on behalf of the EFTA countries, said that the questions raised in C/W/468 should be thoroughly examined within GATT, as part of the follow-up to the Panel's report. The EFTA countries felt that questions of this type could best be examined in a special working party.

The representative of Malta, speaking as an observer in the Council, said that his delegation supported the Community's position.

The representative of the United States said that while his delegation appreciated the EFTA countries' efforts to move this issue forward, the United States could not, in the context of this dispute, accept their proposal for a working party.

The Council took note of the statements.

(d) Japan - Quantitative restrictions on imports of leather footwear (C/M/186, 190, 191)

At the Council meeting on 12 March 1985, the representative of the United States said his authorities had asked for Article XXIII:1 consultations with Japan to discuss Japanese restrictions on imports of leather footwear. He noted that Japan's system of restrictions on such imports was virtually identical to those features of the system on leather imports which had been found to be inconsistent with the General Agreement.¹

¹See page 89 (Follow-up on Panel report concerning Japanese measures on leather imports).
The representative of Japan said his Government was ready to accept the US request for such consultations.

The representative of the European Communities said that for many years the Community, whose exporters were competitive in this sector, had bilaterally asked Japan to enlarge its footwear import quotas, but in vain. The Community would thus follow with interest, and would look forward to results from, the consultations between the United States and Japan on this matter.

The Council took note of the statements.

At the Council meeting on 5-6 June 1985, the representative of the United States said that the bilateral consultations which his country had held with Japan under Articles XXII and XXIII:1 regarding the Japanese system of quantitative restrictions on imports of leather footwear had not produced a satisfactory resolution of US concerns. If no acceptable solution were to be found, the United States intended to pursue this matter under Article XXIII:2.

The representative of Japan said that during the consultations held so far, his delegation had proposed measures to enlarge access to Japan's leather footwear market; Japan would continue to make efforts to resolve this question.

The Council took note of the statements.

At its meeting on 17-19 July 1985, the Council considered a communication from the United States (L/5826).

The representative of the United States said that L/5826 was not a traditional request for establishment of a panel under Article XXIII:2, but rather a request for more direct action by the CONTRACTING PARTIES due to the unique circumstances of the US complaint. The administrative and legal scheme used to restrict imports of leather footwear was the same as that used for leather; therefore, the same conclusion reached by the Panel on leather imports (L/5623) should apply to Japan's leather footwear restrictions, i.e. that these contravened Article XI:1. His delegation believed that the CONTRACTING PARTIES were empowered under Article XXIII:2 to apply the conclusions of the leather panel to Japan's import restrictions on leather footwear, and should make the same recommendation to eliminate those restrictions.

The representative of Japan said that his Government had made concrete proposals aimed at improving access to the Japanese leather footwear market, during bilateral consultations under Article XXIII:1. It would be hasty to refer this matter to the CONTRACTING PARTIES under Article XXIII:2. His delegation could not accept the US request to apply the leather panel conclusions automatically to the footwear case.
The representative of Australia considered that it would be an infringement of Japan's rights for any recommendation to be made at this stage. Contracting parties needed more information on the relevant Japanese import arrangements.

The representative of the United States suggested that a panel be established at the present meeting under Article XXIII:2 to consider whether the two schemes were the same and, if they were, to apply the pertinent conclusions of the leather panel decision to the Japanese leather footwear quota. The requested panel should have narrowly drawn terms of reference, and do its work quickly as provided under paragraph 20 of the 1979 Understanding.

The representative of the European Communities reserved the right to make a submission to a panel. The Community had reservations regarding the proposal to apply one panel's recommendation to another dispute, as only a panel could determine whether the cases were identical. The Community preferred the US proposal for prompt establishment of a panel to examine this case under expedited procedures, and hoped that a new panel's recommendation would be much firmer than that of the leather panel.

The representative of Japan said that his Government was prepared to refer this matter to the CONTRACTING PARTIES under Article XXIII:2, provided the customary practice of GATT dispute settlement was assured.

The representative of Spain reserved the right to make a statement to a panel should one be established.

The Council took note of the statements, agreed to establish a panel pursuant to Article XXIII:2 and paragraph 20 of the 1979 Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance, and authorized the Chairman of the Council, in consultation with the parties concerned, to draw up appropriate terms of reference and to designate the Panel’s members.

(e) New Zealand - Imports of electrical transformers from Finland (C/M/191)

In October 1984, the Council had established a panel to examine the complaint by Finland.

At its meeting on 17-19 July 1985, the Council considered the Panel's report (L/5814).

The representative of New Zealand said that his authorities accepted the Panel's findings and recommendations. The Panel had accepted New Zealand's finding that Finnish transformers had been exported to New Zealand at dumped prices, but had ruled that material injury could not be attributed to the imports in question and accordingly had not upheld the imposition of anti-dumping duties.
The representative of Finland said that his Government would accept the report in its entirety, even though some of Finland's arguments had not been upheld, and he asked the Council to adopt it.

The representative of Canada supported adoption of the report and fully endorsed the conclusion in paragraph 4:4 that injury determinations could, as appropriate, be reviewed by the CONTRACTING PARTIES.

The representative of Hungary said that New Zealand's action contributed to strengthening the GATT system and to the credibility of its dispute settlement process.

The representative of Pakistan shared Hungary's views.

The representative of the United Kingdom, on behalf of Hong Kong, said this case had shown that the attitudes of the parties concerned determined the effectiveness of the dispute settlement mechanism.

The Council took note of the statements and adopted the Panel report.

(f) United States

(i) Tax legislation (DISC-FSCA) (C/M/185)

At the Council meeting on 29 January 1985, the Chairman drew attention to a recent communication from the European Communities (L/5774).

The representative of the European Communities recalled that at the November 1984 Council meeting, his delegation had proposed informal consultations on this matter so that interested contracting parties could examine the question of taxes deferred under DISC which the FSCA had forgiven, and the GATT compatibility of the FSCA. However, the United States had rejected this request, suggesting that any problems could be dealt with under Articles XXII and XXIII. The Community remained convinced that paragraph 22 of the 1979 Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/210) provided for the type of consultation that it was requesting; however, in view of the US attitude, it had decided to follow the procedures adopted on 10 November 1958 under Article XXII on questions affecting the interests of a number of contracting parties (BISD 7S/24). The Community believed that the consultations it was requesting should focus on the GATT compatibility of the FSCA legislation, including the provision for forgiveness of taxes deferred earlier under DISC.

The representative of the United States said that the United States considered that the FSCA conformed with US obligations under GATT. His delegation was nevertheless prepared to consult under Article XXII with
the Community and any other contracting parties which demonstrated a substantial trade interest in this matter. The United States was puzzled by the Community's motives in this matter, since the Community had never taken up previous US offers to consult bilaterally, and given that six Community member States had requested and received certification by the US Government as host countries for US foreign sales corporations under the FSCA. The United States continued to believe that the Community's preoccupation with the forgiveness of taxes deferred under DISC was a quest for back damages, which had never been awarded in GATT dispute settlement proceedings and which were inappropriate to this case. He asked countries asserting a substantial trade interest in the FSCA to notify his delegation.

The Chairman read out the text of the procedures adopted on 10 November 1958 (BISD 7S/24).

The representative of Argentina noted that his Government maintained a reservation, made in December 1981 (C/M/154, page 8), concerning the criterion of substantial interest in the context of Article XXII consultations. His delegation wanted to leave open the possibility of Argentina's having a substantial interest in the matter under discussion, in the light of that reservation.

The Council took note of the statements.

(ii) Restrictions on imports of certain sugar-containing products (C/M/186)

At the Council meeting on 12 March 1985, the representative of Canada said that Article XXIII:1 consultations with the United States concerning its recent import restrictions on certain sugar-containing products had not yet resulted in a satisfactory adjustment of the matter but were continuing. However, in light of the immediate damaging effect that the US restrictions were having on Canadian interests, his delegation was asking for immediate establishment of a panel (L/5783). Canada had also asked that the Council agree, in principle, that the circumstances of this case could be serious enough to warrant the authorization of immediate suspensions by Canada on an interim basis, pending the result of the Panel's deliberations. However, following consultations with the United States, Canada was not pressing its second request at the present meeting, and might withdraw it later if the bilateral consultations concluded satisfactorily.

The representative of the United States considered that Canada's request for a panel was premature, as bilateral consultations were continuing. Nevertheless, if Canada insisted that a panel be established, the United States would not object. The United States believed that the actions against which Canada had complained were consistent with the terms and conditions of the Section 22 waiver (BISD 3S/32), which provided for emergency action to be taken as provided by US law.
The representatives of Brazil and Colombia supported Canada's request for a panel.

The representative of the European Communities said that his delegation had an interest in this matter and reserved its right to make a submission to a panel.

The representative of New Zealand said that the twenty-seventh annual report (L/5772) by the United States included no details of significant progress on the question of the US waiver, and the imposition of further import restrictions placed removal of the waiver still further in the future. While the United States might be persuaded to work towards a commitment to alter the agricultural programs which had given rise to the waiver, this would not provide a solution to the immediate problems faced by Canada and others. His delegation supported Canada's request for a panel, and reserved its GATT rights to make submissions to it.

The representative of Australia said his delegation hoped that continued bilateral discussions would solve this matter, but would not object to Canada's request for a panel.

The representative of the United States said his delegation agreed that problems of trade in the sugar sector needed to be addressed. Turning to the general issue of dispute settlement in GATT, he said that until the United States reached a better understanding with the European Community on other disputes, the dispute settlement process in GATT was all but dead between those two parties, as far as he was concerned.

The Council took note of the statements, agreed to establish a panel, and authorized the Chairman of the Council to draw up the Panel's terms of reference and to designate its Chairman and members in consultation with the parties concerned.

14. Japan - Measures on imports of leather

- Follow-up on the Panel report (C/M/186, 187, 190, 191)

In May 1984, the Council had adopted the Panel report (L/5623) on the complaint by the United States, and in November 1984 had discussed the follow-up to the report.

At the Council meeting on 12 March 1985, the representative of the United States said his delegation understood that the Japanese Tariff Council had recommended that the tariff on semi-finished leather be eliminated, and that the Diet was expected to act on this recommendation shortly. His Government welcomed this step but was concerned by Japan's failure to implement the Panel's recommendation, i.e., to eliminate the system of quotas found by the Panel to be inconsistent with the General Agreement. The United States wanted to know what steps Japan would take to eliminate the quotas, particularly those limiting imports of finished leather, and when these steps would be implemented.
The representative of Japan said his Government had been doing its utmost to implement various measures with a view to expanding leather trade, but this process needed a certain amount of time due to the serious difficulties involved. A bill to eliminate the tariff on bovine and equine wet-blue-chrome grain was already before the Diet; the import quota for bovine and equine wet-blue-chrome had been expanded since September 1984 and would be further expanded to satisfy any additional needs. The system on wet-blue-chrome amounted to automatic import licensing. Furthermore, the size of the import quota on leather had been published since October 1984. The Government would continue its efforts to expand leather trade, including measures to improve trade in finished leather.

The representatives of Australia, Norway, the European Communities, New Zealand, Pakistan, Uruguay and India welcomed the steps taken by Japan towards implementing the Panel's recommendation, and recognized the efforts that it was making. However, the implementation remained incomplete, and they urged Japan to implement the recommendation fully and as soon as possible.

The representative of the European Communities said that in bilateral consultations with Japan, the Community had asked for reduction of tariffs, complete liberalization of restrictions on imports of wet-blue leathers and substantial liberalization of quotas on finished leather imports. His delegation hoped that Japan's remaining quotas, during the period before their final elimination, would be administered in a manner compatible with the provisions of the Agreement on Import Licensing Procedures (BISD 268/154).

The representative of the United States said he appreciated the difficulties faced by Japan in this matter, but stressed the difficulties also faced by US leather exporters to Japan.

The representative of Brazil reiterated his delegation's support for the Panel's recommendation, and his delegation's view that all recommendations by panels should be promptly implemented by the contracting parties concerned.

The representative of Egypt reiterated his delegation's view that Japan should implement the Panel's recommendation as soon as possible.

The Council took note of the statements.

At the Council meeting on 30 April and 1 May 1985, the representative of the United States said his authorities had made a thorough evaluation of recent Japanese measures on wet-blue leather, had consulted with the US tanning industry, and did not believe that the measures responded to the Panel's recommendation. The United States wanted to know what steps Japan would take to make its practices on finished leather conform with the Panel's recommendation.
The representative of Japan reiterated that his authorities had been making every effort to implement the Panel's recommendation and had successfully implemented all the measures announced by his delegation when the Panel report had been adopted in May 1984. Consideration was being given to improving measures on finished leather.

The representative of Uruguay agreed with the United States that Japan's measures had not satisfied the Panel's recommendation. His Government wanted to know when and how the quotas were to be eliminated, particularly for finished leathers.

The representative of the European Communities said that the Community would like to be informed of Japan's implementation of the Panel's recommendation.

The representative of Argentina supported the statements by Uruguay and the European Communities.

The representative of Japan said that his authorities were studying possible improved measures for finished leathers, but he could not indicate when or how such improvements would be effected.

The Council took note of the statements and agreed to revert to this item at its next meeting.

At the Council meeting on 5-6 June 1985, the representative of the United States said it was apparent from Japan's actions and from its statements in the Council over the previous year that it had no concrete plans at this time to comply fully with the Panel's recommendation, particularly concerning finished leather. His delegation had therefore proposed in C/W/474 that this matter be referred to the CONTRACTING PARTIES, as provided under paragraph 22 of the 1979 Understanding on Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/210), in order to facilitate a satisfactory solution. Specifically, the United States requested that the Council authorize its Chairman to hold consultations to assist the CONTRACTING PARTIES in finding an appropriate solution to this matter. The United States believed it would be appropriate for all interested contracting parties to be invited to participate in these consultations.

The representative of Japan reiterated that his Government had been making sincere efforts to implement various measures in response to the Panel's recommendation. Three such measures, announced when the report had been adopted, had been implemented despite great difficulties. As the report had acknowledged, this matter was associated with socio-economic difficulties in the Japanese leather industry, and therefore a solution had to be sought in step-by-step approaches. Japan was aware of the strong interest of other contracting parties in this case, and placed top priority on pursuing steps to improve its leather import measures, which might, however, be jeopardized by any precipitate
action. Japan would report to the Council as soon as any concrete results had been achieved, and would respond at the next Council meeting to the US request in C/W/474.

The representatives of Canada, Australia, Argentina, Brazil, New Zealand, India and Yugoslavia reserved their delegations' right to participate in any paragraph 22 consultations on this matter.

The representative of Uruguay said that Japan's liberalization of wet-blue leather imports was of only relative value and did not satisfy Uruguay. His delegation supported the statement by the United States and wanted to participate in the proposed consultations.

The representative of the European Communities noted that the Community had a major interest in exporting leather to Japan and consequently would want to participate in the consultations.

The representative of Australia recommended that Japan seriously consider the US request, as consultations were useful for advancing understanding and avoiding precipitate action on difficult matters.

The representative of Argentina reiterated his delegation's view that Japan should improve access to its leather market. The measures taken so far were timid and did not go far in responding to the Panel's recommendation.

The representative of Japan reserved his delegation's position on the US request for paragraph 22 consultations.

The Council took note of the statements and agreed to revert to this item at its next meeting.

At the Council meeting on 17-19 July 1985, the representative of the United States asked that the consultations be scheduled without further delay. If Japan's additional liberalization efforts did not include the intent to eliminate the leather quota within a specified time, the United States would maintain its request for consultations in order to discuss what schedule Japan intended to follow to achieve compliance and whether compensatory adjustments pending such compliance were warranted.

The representatives of Australia, Uruguay and Argentina expressed concern over the delay in Japan's implementation of the Panel's recommendation.

The representative of Australia noted that no Japanese measures to improve imports of finished leather had yet been announced. Failing Japan's announcement of new liberalization measures not later than the next Council meeting, and detailed information on implementation of the Panel's recommendation, his delegation would support the US proposal for consultations and would support a decision instructing Japan how to implement the Panel's recommendation.
The representative of Japan said that his Government had been making great efforts to implement the Panel's recommendation, but that it was extremely difficult to eliminate the import quota system on leather. In response to the Panel's recommendation, his Government had decided that new tariff measures would replace the import quota system on leather; following completion of the formulation of tariff measures, Japan would enter into negotiations under Article XXVIII:5 on bound items. In light of this decision, Japan saw no need to initiate surveillance procedures as requested by the United States.

The representative of the European Communities said that the Community was ready to enter into Article XXVIII negotiations necessitated by Japan's proposed replacement of quotas with tariffs.

The representative of Uruguay said that Japan's most recent proposal would require negotiations, in which Uruguay would take into consideration all aspects of this issue.

The representative of the United States welcomed Japan's decision to remove the restrictions on leather imports; however, the proposal to replace the quotas with higher tariffs might have greater trade restrictive effects.

The representative of Argentina said that the alternative proposed by Japan at the present meeting would lead to the opposite of liberalization.

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

15. Customs unions and free-trade areas; regional agreements

(a) Agreement between Israel and the United States (C/M/187)

At the Council meeting on 30 April and 1 May 1985, the representative of Israel said that in April 1985 his country and the United States had signed an agreement establishing a free-trade area between them. The Agreement would enter into force subject to completion of domestic legal procedures by the two signatories, which would provide details of the Agreement at a future Council meeting.

The representative of the United States supported the statement by Israel.

The representative of the European Communities looked forward to receiving the relevant notifications.

The representative of Spain congratulated Israel and the United States on their Agreement.
The representative of Korea said that the world was being divided into various preferential groups, to none of which his country belonged. The terms of Article XIX:1(b) meant that Korea could stand to lose from the type of agreement which the United States and Israel had concluded.

The representative of Israel said the Agreement would be notified under Article XXIV:8(b), which had no relevance to Article XIX:1(b).

The representative of Chile asked when, where and how the Agreement would be discussed in GATT.

The Director-General said the two parties would have to notify the Agreement to the CONTRACTING PARTIES, after which the Council would consider the best way to deal with the matter. The normal procedure would be to establish a working party which would examine the Agreement and report to the Council.

The Chairman said that the contracting parties were looking forward to receiving the notifications by Israel and the United States.

The Council took note of the statements.

(b) Enlargement of the European Economic Community (C/M/187, 191)

At the Council meeting on 30 April and 1 May 1985, the representative of the European Communities said that in March 1985, agreement had been reached on all major pending issues for the accession of Portugal and Spain to the European Economic Community. As soon as certain formalities and the ratification process had been completed, the Community would follow GATT's usual notification procedures.

The representatives of Spain and Portugal endorsed the statement by the European Communities.

The representative of the United States said that his country wanted the maximum possible amount of information, as early as possible, on the accession agreements.

The representative of Korea said that his country would examine the effects of the accessions on its trading interests in the light of GATT provisions.

The representative of Israel said his country realized that it would meet greater competition from the enlarged Community, but also expected that its trade with Spain and Portugal would improve as a result of the accessions.

The Council took note of the statements.

At the Council meeting on 17-19 July 1985, the representative of the European Communities said that Spain and Portugal would become members of the Community on 1 January 1986. He gave a brief resumé of
the principal points of the instruments of accession in the commercial field; the Community would notify the instruments in full as soon as possible, in accordance with normal GATT procedures.

The representative of Spain said his Government was convinced that his country's accession would generate new trade flows and closer trade relations, both for Spain's traditional trade partners and for other countries.

The representative of Portugal said that accession to the Community would lead to further development of his country's trade with member States and with other contracting parties.

The representatives of Canada, United States and Australia looked forward to receiving and reviewing documentation specifying the GATT implications of the Community's enlargement.

The representative of the United States hoped that the Community would indicate soon the steps and timing envisaged regarding the review of these arrangements and their implementation.

The Council took note of the statements, including wishes expressed concerning relevant documentation.

(c) **Biennial reports**

(i) **Calendar of biennial reports (C/M/189, 190)**

At its meeting on 29 May 1985, the Council agreed to revert to this item at its next meeting.

At its meeting on 5-6 June 1985, the Council established a calendar (L/5825) for the period October 1985-April 1987, fixing dates by which contracting parties that were members of a regional agreement would be invited to submit a biennial report on developments under the agreement concerned.

(ii) **Association Agreement between the European Economic Community and Turkey (C/M/191)**

At its meeting on 17-19 July 1985, the Council considered document L/5812 containing information given by the parties to the Association Agreement between the European Economic Community and Turkey.

The Council took note of the report.

16. **Waivers under Article XXV:5**

(a) **India - Auxiliary duty of customs (C/M/186, 187)**
By their Decision of 15 November 1973 (BISD 20S/26), as extended until 31 March 1985 (BISD 31S/18), the CONTRACTING PARTIES had waived application of the provisions of Article II of the General Agreement to the extent necessary to enable the Government of India to apply its auxiliary duty of customs on certain items included in its Schedule XII.

At the Council meeting on 12 March 1985, the Chairman drew attention to a communication (L/5780) from India on this matter.

The representative of India proposed that the Council agree to revert to this matter at its next meeting, when his delegation would be able to announce the Government's decision either that the duty would be terminated or to request a further extension of the waiver which would be retroactive to 31 March 1985.

The representative of the United States said his delegation hoped that at its next meeting the Council would either hear that the auxiliary customs duty had been terminated, or have a discussion on the reasons for a further extension being requested.

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

At the Council meeting on 30 April and 1 May 1985, the representative of India drew attention to L/5780/Add.1 whereby his Government had notified that it was obliged to continue the auxiliary duty of customs at existing rates on several items until 31 March 1986. India was ready to consult with any contracting party which might consider that application of the auxiliary duties was seriously damaging or imminently threatened its trade interests.

The representative of the United States appreciated India's readiness to follow GATT rules.

The Council took note of the statements, approved the text of the draft decision (C/W/463) extending the waiver until 31 March 1986, and recommended its adoption by the CONTRACTING PARTIES by postal ballot.

The Decision was adopted on 3 June 1985 (L/5816).

(b) United States – Caribbean Basin Economic Recovery Act (CBERA) (C/M/184)

At the Council meeting on 17 December 1984, the Chairman recalled that at their fortieth session, the CONTRACTING PARTIES had considered the US request for a waiver (L/5734, Annex II), which had also been discussed at the Council meeting on 6-8 and 20 November 1984, when the report of the Working Party (L/5708) was adopted. At the fortieth session, the United States had requested that the vote on this decision be postponed to the intersessional period when the balloting could be done by postal ballot, thereby enabling all interested contracting
parties to participate. The CONTRACTING PARTIES had agreed to refer this matter to the Council for appropriate action in the light of the statements made at the session.

The representative of Nicaragua asked whether there was any precedent for remitting this matter back to the Council. Nicaragua continued to consider that the United States had not acted in accordance with either the letter or spirit of the General Agreement; further proof of this could be seen in the US response to the Panel's recommendation (L/5607, page 7) on US imports of sugar from Nicaragua and to the decision taken on that matter by the International Court of Justice.

The Director-General said that the normal practice was for the Council to transmit decisions to the CONTRACTING PARTIES for adoption, but that there were also cases in which that process functioned in reverse. The passage of matters back and forth between the Council and the CONTRACTING PARTIES happened frequently. It seemed, however, that Nicaragua's question referred to a specific type of action for which there appeared to be no precedent.

The Council took note of the statements and recommended adoption of the draft decision by the CONTRACTING PARTIES (L/5734, Annex II) by postal ballot.

The decision was adopted on 15 February 1985 (L/5779).

(c) Uruguay - Import surcharges (C/M/190)

By their Decision of 24 October 1972 (BISD 19S/9), as extended until 30 June 1985, the CONTRACTING PARTIES had waived the application of the provisions of Article II of the General Agreement to the extent necessary to allow the Government of Uruguay to maintain certain import surcharges in excess of bound duties.

At its meeting on 5-6 June 1985, the Council considered Uruguay's request for a further extension of the waiver until 30 June 1986 (L/5809).

The representative of Uruguay said his country was engaged in a process of simplifying, reducing and harmonizing its import tariff through a unique system based on customs valuation, but the world economic situation and problems in Uruguay's economy had made this task difficult. As the work would require time to complete, his Government was asking for a further extension of the waiver.

The Council approved the text of the draft decision extending the waiver until 30 June 1986, and recommended its adoption by the CONTRACTING PARTIES by postal ballot.

The Decision was adopted on 8 July 1985 (L/5844).
(d) Reports under waivers

- United States - Agricultural Adjustment Act (C/M/185, 186)

Under the Decision of 5 March 1955 (BISD 38/32), the CONTRACTING PARTIES are required to make an annual review of any action taken by the United States under the Decision, on the basis of a report to be furnished by the United States.

At its meeting on 29 January 1985, the Council considered the twenty-seventh annual report (L/5772) submitted by the United States.

The representative of the United States gave additional information to that in L/5772. The United States considered that in presenting the twenty-seventh annual report, it had fulfilled its obligation under the 1955 Decision.

The representative of Australia said his country was disappointed that there had been no opportunity to modify the US waiver over the past 30 years. The Section 22 program and the associated waiver remained a fundamental factor in determining world agricultural policies. His delegation proposed that a working party be established to examine the twenty-seventh annual report.

The representatives of Canada, New Zealand and Peru supported the proposal to establish a working party.

The representative of Canada said the explanations in L/5772 were less than fully adequate and did not meet the intent of the waiver's conditions. His delegation was specifically concerned by actions recently announced by the United States to restrict imports of additional sugar-containing products. Furthermore, Canada considered that the US prohibition of June 1983 on the importation of certain sugar blends had been implemented contrary to the terms of the waiver.

The representative of New Zealand expressed concern that the report made no attempt to address seriously the question of alternative approaches to measures maintained under the waiver. The most recent Working Party's report (L/5707) had invited the United States to provide a detailed examination and critical evaluation of the reasons why measures consistent with the General Agreement did not constitute a feasible alternative to those maintained under the waiver. Such an examination was missing from the twenty-seventh report.

The representative of the European Communities questioned the usefulness of setting up yet another working party. The US waiver had become a permanent derogation from the General Agreement and had created a situation of serious imbalance of legal and economic obligations in world agricultural trade. He wondered whether a decision taken in the circumstances of the 1950s still had any relevance to the realities of
international agricultural trade in the 1980s. Some way had to be found to persuade the United States to abandon the waiver. The proper forum for dealing with the issue was the Committee on Trade in Agriculture.

The representative of Peru said that the information in the report did not justify maintenance of the waiver. Establishment of a working party would not prejudice possible examination of this matter in the Committee on Trade in Agriculture.

The Council took note of the statements, agreed to establish a working party and authorized the Chairman of the Council to draw up the terms of reference and to designate the Chairman of the Working Party in consultation with interested delegations.

At its meeting on 12 March 1985, the Council was informed of the terms of reference and designation of the Chairman of the Working Party.

The Council took note of this information.

17. European Economic Community - Proposed measure on video tape recorders (C/M/191)

At the Council meeting on 17-19 July 1985, the representative of Korea expressed his Government's concern over the Community's recent proposal to raise tariff duties on high-technology items such as video tape recorders (VTRs), and urged the Community to reconsider the proposed action.

The representative of the European Communities said that it was too early to discuss the proposed measures in GATT; any decision to take them would follow the procedures under Article XXVIII.

The Council took note of the statements.

18. Accession, provisional accession

(a) Costa Rica (C/M/191)

At its meeting on 17-19 July 1985, the Council considered Costa Rica's application (L/5830) for provisional accession to the General Agreement.

The representative of Costa Rica, speaking as an observer, said that his Government had applied for provisional accession as a prior step towards definitive accession.

The representatives of Nicaragua, Spain, Colombia, Argentina, Uruguay, Brazil, Peru, India, Chile, Singapore, Romania, Israel, European Communities, Korea, Jamaica, United States, Japan, Canada, and Trinidad and Tobago supported Costa Rica's application for provisional accession.
The Council took note of the statements, agreed to establish a working party to examine Costa Rica's application, and authorized the Council Chairman to designate the Chairman of the Working Party in consultation with representatives of contracting parties and with the representative of Costa Rica.

(b) Morocco (C/M/187)

At its meeting on 30 April and 1 May 1985, the Council considered Morocco's application (L/5790) to accede to the General Agreement.

The representative of Morocco, speaking as an observer, said his authorities believed that accession to the General Agreement would offer Moroccan exports more reliable and predictable access to markets, and that liberalization of world trade would in the long run open new opportunities for Morocco and for other developing countries. Morocco was aware of the responsibilities it would incur through accession.

The Council took note of the statement, agreed to establish a working party to examine Morocco's application, and authorized the Council Chairman to designate the Chairman of the Working Party in consultation with representatives of contracting parties and with the representative of Morocco.

19. Consultations on trade

- Hungary (C/M/188, 190)

The Protocol for the Accession of Hungary provides for consultations to be held between Hungary and the CONTRACTING PARTIES biennially, in a working party to be established for this purpose, in order to carry out a review of the operation of the Protocol and of the evolution of reciprocal trade between Hungary and the contracting parties.

At its meeting on 29 May 1985, the Council agreed to revert at its next meeting to consideration of establishing a working party for the next consultation with Hungary.

At its meeting on 5-6 June 1985, the Council agreed to establish a working party to conduct the sixth consultation with Hungary.

20. De facto application of the General Agreement to newly-independent States (C/M/191)

At its meeting on 17-19 July 1985, the Council considered the sixth report by the Director-General on the application of the Recommendation of 11 November 1967 (BISD 15S/64), inviting contracting parties to continue to apply the General Agreement de facto in respect of newly-independent territories on a reciprocal basis (L/5823).
The Council took note of the report and invited the Director-General to remain in contact with the governments of the States concerned and to report again on the application of the Recommendation within three years.

21. New Zealand - Changes in the scheme under the Generalized System of Preferences (C/M/185)

At the Council meeting on 29 January 1985, the representative of India, speaking on behalf of the Informal Group of Developing Countries in GATT, drew attention to proposed changes in New Zealand's scheme under the Generalized System of Preferences (GSP). Developing countries welcomed the improvement in preferential treatment for least-developed countries which would allow their imports to enter New Zealand duty free; however, they were seriously concerned at the provision that any country with a per capita GNP of 70 per cent or more of New Zealand's would cease to benefit from the GSP scheme. They considered that this proposal sought to introduce differentiation among developing countries through unilateral application of arbitrary criteria. Such a move would be inconsistent with the basic objectives and commitments of the GSP, which was intended to accord generalized, non-reciprocal and non-discriminatory preferences to developing countries; it would result in serious erosion of the basic principle underlying differential and more favourable treatment for these countries. Consequently, they urged the New Zealand Government not to implement this proposed change in its GSP scheme.

The representative of Singapore endorsed the statement by India and said that developing countries were now faced with increasingly closed markets for their exports. New Zealand's proposal was the ultimate in restrictive changes to the GSP, and would be a divisive tool used against the common interest and unity of developing nations. He said that per capita GNP had no direct relationship to a country's level of economic and industrial development and competitiveness, and did not take into account other important factors affecting development.

The representative of Korea supported the statements by India and Singapore, and stressed that his country had consistently opposed the concept and practice of so-called graduation within the GSP, regardless of the criteria used.

The representative of the United Kingdom, on behalf of Hong Kong, said the stated purpose of the New Zealand GSP scheme was to improve the export opportunities of developing countries and thus accelerate their economic growth. Fulfilment of this commendable aim was put in question by New Zealand's plan to introduce a new criterion for its scheme. He detailed the reasons why Hong Kong considered that per capita GNP was an unreliable and arbitrary yardstick for determining a beneficiary's level of development, and joined the representative of India in urging New Zealand to reconsider this matter.
The representative of New Zealand said it was important to put the proposed measures in their proper context. New Zealand had been one of the first countries to introduce a GSP scheme which, in common with others, remained unilateral, non-reciprocal and non-binding. The Enabling Clause had subsequently provided a more detailed basis for GSP schemes without setting any particular time period for their existence. He noted that developing countries enjoyed preferential or duty-free treatment on 90 per cent of the items in New Zealand's tariff. Furthermore, under the new measures, imports from the least-developed countries would be exempt from duty. He added that the lack of any specific safeguard mechanism in his country's GSP scheme made it unique, and said that developing countries would benefit from enhanced trading opportunities as liberalization proceeded. The international economic situation and New Zealand's economy in particular had changed dramatically since its introduction of the GSP scheme; so had the economic situation of some of the beneficiaries of that scheme, certain of whom now had a per capita GNP approaching or equal to, and in some cases even exceeding, New Zealand's. The decision to limit GSP beneficiaries to those countries or territories whose per capita GNP was less than 70 per cent of New Zealand's was, in his country's view, the fairest, most transparent and most non-discriminatory method that could be used.

The representative of Trinidad and Tobago supported the statements by representatives of developing countries. Her country disagreed with and was concerned by New Zealand's decision to disqualify developing countries for GSP treatment on the basis of arbitrary criteria, thus introducing the element of differentiation among these countries.

The representative of Singapore noted that when the Enabling Clause had been adopted in 1979, Singapore had placed reservations on paragraphs 3(c), 4, 5 and 7 in the belief that a developing country had the right to determine its own level of development.

The Council took note of the statements.

22. Japan - Further opening of the Japanese market (C/W/184, 187, 191)

At the Council meeting on 17 December 1984, the representative of Japan gave details of new trade expansion measures in the area of tariffs which his Government would put into effect as from 1 April 1985. He said this action was in line with Japan's policy of promoting trade expansion and a new round of multilateral trade negotiations. The

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1 Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries (BISD 26S/203).
tariff reduction measures for import promotion were unilateral, and Japan expected other industrialized countries to move toward implementing similar advanced Tokyo Round tariff reductions.

The Council took note of the statement.

At the Council meeting on 30 April and 1 May 1985, the representative of Japan informed the Council of the external economic measures announced by his Government in April 1985 (L/5795). He said that Japan had already implemented unilaterally a series of economic measures which had made the openness of its market comparable to that of any other country, and outlined some of the salient features of the external economic measures.

Many representatives welcomed the measures announced by Japan.

The representative of the European Communities said the measures were encouraging although their effects were as yet uncertain. He called on Japan to continue its efforts.

The representative of the United States said his delegation recognized the difficulty involved in taking such measures, but that problems remained. The United States was prepared to continue negotiations with a view to achieving concrete results.

The representative of Yugoslavia reminded Japan of her delegation's proposal in its Part IV consultations with Japan, to which her country awaited a positive response.

The representative of Jamaica said Japan's action demonstrated that a round of multilateral negotiations was not necessary for major developed countries to take unilateral measures to improve developing countries' economies.

The representative of Korea said trade liberalization should not result from pressure by a particular country on specific products. It was important that Korea and Japan, as neighbours, have more balanced trade relations.

The representative of Malaysia hoped that the Japanese efforts to liberalize imports would benefit developing countries, and recalled that his delegation had urged Japan to take further measures to help these countries.

The representative of the Philippines hoped that any further trade liberalization by Japan would respond to the interests of its southern neighbours.

The representative of the European Communities, referring to the statement by Jamaica, said that measures taken autonomously by the large trading partners could not replace multilateral trade negotiations.
The representative of Thailand supported the statements by Yugoslavia, Korea, Malaysia and the Philippines.

The representative of Indonesia supported the statements by the ASEAN countries, Korea and Yugoslavia, asking Japan to take account of developing country trade problems when considering future trade liberalization measures.

The representative of Jamaica saw a link, rather than a contradiction, between completion of the 1982 Work Program and a new round of negotiations.

The Council took note of the statements.

At its meeting on 17–19 July 1985, the representative of Japan gave details of his Government's Action Program to enlarge access to the Japanese market; the outline of the tariff component in this program was contained in L/5843 and included goals for tariff reductions on industrial and agricultural products in a new round, as well as measures to be taken by Japan before the start of such negotiations.

The Council took note of the statement.

23. Sweden - Import liberalization (C/M/185)

At the Council meeting on 29 January 1985, the representative of Sweden gave details of a further step taken by his Government to liberalize its import régime, concerning products from Czechoslovakia, Hungary, Poland and Romania.

The Council took note of the statement.

24. Norway - Further liberalization of Norwegian GSP scheme (C/M/187)

At the Council meeting on 30 April and 1 May 1985, the representative of Norway said his country had carried out a further liberalization of its Generalized System of Preferences (GSP) scheme, including improvements which had been notified in L/4242/Add.25. He said new tariff lines in both the agricultural and industrial fields had been added to the scheme for full duty-free treatment, including products of special importance to developing countries. The liberalization represented an effort to strengthen confidence in the international trading system, and constituted Norway's response to the Part IV consultations and to the consultations on tropical products.

The representatives of Colombia, and of Indonesia on behalf of the ASEAN countries, congratulated Norway for its move to further liberalize its GSP scheme.

The Council took note of the statements.
25. **United States - Imports of automobiles (C/M/186)**

At the Council meeting on 12 March 1985, the representative of the United States, referring to calls for confidence-building moves that might lead to a new round of multilateral trade negotiations in GATT, noted the decision by the President of the United States not to urge Japan to extend its voluntary export restraints on automobiles to the United States; in taking this action, the President had expressed the hope that the United States could look forward to reciprocal treatment by Japan. Since a number of other countries still maintained automobile restraints which were stricter than those referred to in the President's announcement, the United States was looking forward to equivalent trade-liberalizing action by the European Community.

The representative of Japan welcomed the decision by the US President, which Japan saw as a confidence-building step for the GATT system.

The representative of the European Communities said the US decision was encouraging. He did not exclude the possibility that the US example might be followed by its trading partners, but he stressed that each major trading partner would have to contribute its fair share to such efforts.

The representative of the United States reiterated the hope expressed by the President that the United States could look forward to reciprocal treatment by Japan.

The Council took note of the statements.

26. **Training activities (C/M/186, 190)**

At the Council meeting on 12 March 1985, the representative of India recalled that at the Council meeting in November 1984, the Director-General had said that he would hold consultations on the GATT commercial policy training course. The developing countries in GATT wanted to know what arrangements the Director-General was making in this regard, so that the results of these discussions could be given to the Committee on Budget, Finance and Administration for its examination of the budgetary and financial implications of the courses. It would also be useful if the Secretariat could circulate a background note explaining current policy for the courses.

The Director-General said that the Secretariat had prepared such a background note, and that he intended to hold consultations in the near future. The consultations would first examine the courses independently of financial considerations; the budgetary aspects could later be examined and decided upon by the Committee on Budget, Finance and Administration.

The Council took note of the statements.
At the Council meeting on 5-6 June 1985, when referring to the tentative program of meetings, Mr Kelly, Deputy Director-General, said that informal consultations on the Commercial Policy Training Courses would be continued and that papers on this subject were being circulated to interested contracting parties.

The Council took note of the statement.

27. International Trade Centre

- Joint Advisory Group (C/M/190)

At its meeting on 5-6 June 1985, the Council considered the report of the Joint Advisory Group on the International Trade Centre UNCTAD/GATT on its eighteenth session (ITC/AG(XVIII)/98 and Add.1).

The Group had noted that a number of least-developed countries' productive capacities and participation in international trade had been severely affected over the past year. The Group had regretted the decline in trust fund contributions to the Centre's technical co-operation program and had recommended an increase in the Centre's regular budget allocation and in its extrabudgetary resources. On the positive side, the value of UNDP-financed projects had continued to increase in 1984. The Group had given special attention to a number of program areas, such as institutional infrastructure for trade promotion at the national level, export-related specialized services, project proposals on commodities in accordance with UNCTAD resolution 158 (VI), and import operations and techniques. The Group had noted progress in strengthening the Centre's technical co-operation with the least-developed countries, and had also agreed that trade promotion oriented to rural development should be absorbed under ongoing and future country projects. The Centre had been encouraged to strengthen technical and economic co-operation among developing countries, and had been asked to intensify activities aimed at expanding their trade with the countries of Eastern Europe. It was encouraging that the trust fund contributions made at the Group's session in April 1985 had included a number of increases by traditional trust fund donors, as well as contributions by new donor countries.

A number of representatives commended and expressed their support for the Centre's valuable work, and stressed the need to increase financial support for it.

The Council took note of the statements and adopted the report.

28. Administrative and financial questions

(a) Pension matters (C/M/185)

At the Council meeting on 29 January 1985, the Director-General drew attention to a number of decisions taken in December 1984 by the United Nations General Assembly regarding the United Nations Joint Staff
Pension Fund, in which GATT was a participating organization. The decisions included a proposed study of the legal questions raised by the introduction as from 1 January 1985 of a new scale of pensionable remuneration with respect to the protection of acquired rights for present staff; the result of the study would be forwarded to the General Assembly later in 1985. Given the intricacies of these decisions, the heads of institutions in Geneva had decided to implement them in a coordinated way pending further examination, in particular by the Governing Body of the International Labour Organization.

The Council took note of the statement.

(b) Committee on Budget, Finance and Administration

(i) Membership (C/M/187, 191)

At its meeting on 30 April and 1 May 1985, the Council agreed to revert to this sub-item at its next meeting to permit more time for consultations.

At the Council meeting on 17-19 July 1985, the Chairman said that he had been consulting informally with delegations on this question. Some contracting parties had requested membership, and others had indicated that they might wish to be members of the Committee.

The Council took note of this information and agreed that the Chairman pursue this matter through further informal consultations.

(ii) Designation of new Chairman (C/M/187, 191)

At its meeting on 30 April and 1 May 1985, the Council agreed to revert to this sub-item at its next meeting to permit more time for consultations.

At its meeting on 17-19 July 1985, the Council appointed the new Chairman of the Committee on Budget, Finance and Administration.

(iii) Final position of the 1984 GATT Budget (C/M/191)

At its meeting on 17-19 July 1985, the Council considered document L/5793. The Chairman noted that the Expenditure Budget for 1984 had closed with net excess expenditure of SwF 263,963, which, coupled with a shortfall on the 1984 income budget and a nearly three million Swiss francs increase in arrears had caused the GATT accounts to close with an accumulated deficit on the surplus account of nearly three and a half million Swiss francs. The Director-General would make appropriate recommendations regarding the covering of the SwF 512,722 deficit remaining after transfers from the Working Capital Fund.
The representative of Jamaica said that L/5793 should first have been discussed in the Committee on Budget, Finance and Administration. The document indicated extra costs resulting from a greater number of meetings other than Council meetings, and an increase in the cost of dispute settlement panels within the MTN Agreements and Arrangements. The shortfall in anticipated income might require closer examination in future budgets.

The Director-General responded to the points raised by Jamaica.

The Council authorized the increase in the appropriations, approved the transfers between budgetary sections as reflected in paragraphs 9 and 10 of document L/5793, and took note of the statements.

29. Council

- Requests for observer status
  - Saudi Arabia (C/M/190)

  At its meeting on 5–6 June 1985, the Council agreed to grant Saudi Arabia observer status for Council meetings.

30. Tentative Program of Meetings (C/M/186, 187, 190)

  At the Council meeting on 12 March 1985, the representative of India suggested that the Secretariat consult with delegations on the preparation of a tentative program of meetings for the coming months.

  The Director-General pointed out that he had consulted with the chairmen of the various GATT bodies in preparing a tentative program of meetings which would serve as a basis for any consultations among delegations concerning its content.

  The representative of Egypt supported the statement by the representative of India.

  The representative of Argentina said that the various points in the 1982 Ministerial Work Program did not enjoy the same degree of transparency.

  The representative of the United States saw the tentative program of meetings as an effort to move discussion on the various points in the Work Program beyond procedure to substance, and said that some additional meetings might be needed.

  The Council took note of the statements.

  At the Council meeting on 30 April and 1 May 1985, the representative of India suggested that the Secretariat consult with delegations on this matter as soon as possible.
The representative of Egypt supported the statement by India.

The representative of Argentina endorsed the statement by India and pointed to the problems faced by certain delegations in receiving instructions from their authorities when documents were produced only a few days before meetings.

The representative of the United States said that everything possible should be done to accelerate implementation of the 1982 Work Program. He considered that the Secretariat's consultations on future meeting dates with the Chairmen of the various bodies were adequate.

The representative of Australia supported the proposal for broader consultations to set future tentative dates for meetings.

The Director-General agreed that there should be consultations on future meetings, but pointed out that these would increase the burden on delegations. The Secretariat would investigate any difficulties brought to its attention by delegations concerning the circulation of documents.

The Council took note of the statements.

At the Council meeting on 5-6 June 1985, the representative of India said that the purpose of consultations on the program of meetings would be frustrated by any further delay in holding them; he suggested that to allow time for them, some activities currently scheduled might be cut down, since the existing program was tentative.

Mr Kelly, Deputy Director-General, said that the Director-General intended to hold the consultations in the very near future.

The representative of Egypt supported the statement by India.

The Council took note of the statements.

31. Items under "Other Business" (C/M/187)

At the Council meeting on 30 April and 1 May 1985, the Chairman said it was difficult for the Council to carry out a proper discussion of substantive issues raised under "Other Business". He encouraged representatives who wanted a substantive debate on an issue to bring it to the Secretariat's notice early enough to have it placed on the airgram in the usual manner.

The Council took note of the statement.

32. Arrangements for the forty-first session

- Dates for the session (C/M/191)

At the Council meeting on 17-19 July 1985, the Council agreed to revert to this item.