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MINUTES OF MEETING

Chairman: Mr. A. Szepesi (Hungary)

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I. INTRODUCTORY REMARKS BY THE CHAIRMAN OF THE COUNCIL

1. The Trade Policy Review of South Africa was held on 1 and 2 June 1993. The Chairman, introducing the review, welcomed members of the Council, the South African delegation, headed by Dr. Stefan Naudé, Director-General of the Department of Trade and Industry, and the discussants, Mr. Pierre Gosselin and Mr. Jorge Riaboi.

2. The Chairman recalled the objectives of the Trade Policy Review Mechanism, as decided by the CONTRACTING PARTIES on 12 April 1989 (BISD 36S/403). The Council was to base its work on two reports, one by the Government of South Africa contained in document C/RM/G/37 and the other by the GATT Secretariat contained in documents C/RM/S/37A and C/RM/S/37B. He reminded the Council of the new procedures for the review meetings, circulated in document L/7208. An outline of the main issues the discussants intended to address had been circulated in document C/RM/W/8. Advance questions submitted by Australia, Canada, the European Communities, Finland (for Finland, Iceland and Norway) and Hong Kong had been transmitted to the delegation of South Africa and copies were available to Council members.
II. OPENING STATEMENT BY THE REPRESENTATIVE OF SOUTH AFRICA.

3. Before turning to the main body of his statement, the representative of South Africa took the opportunity to express his Government’s belief that the establishment of the TPRM had significantly enhanced the ability of the GATT to promote transparency, thereby strengthening multilateral discipline. In addition, he expressed appreciation for the competence with which the Secretariat had produced its fair and well-written report and the constructive approach that it consistently adopted.

4. A review of South Africa’s trade policies, he stated, must give due regard to the background against which these policies were formulated since the early 1980s. Over some years, a number of contracting parties had introduced certain trade-restricting measures against South Africa. These actions not only prevented South Africa from playing its rightful rôle in the GATT but also distorted the environment in which trade policy had to be formulated. These measures, with a few minor exceptions, had not been notified to the GATT; nor had South Africa notified measures it was forced to take to safeguard its national interests.

5. Although many of the restrictions against South Africa had been lifted over the last two years, certain important trade and financial measures remained in force. For example, South Africa still had no access to IMF loans, and more than 100 sub-national entities in the United States continued to maintain restrictions against South Africa.

6. The international attitude towards South Africa had improved steadily over the last twelve months and the normalization of trade relations was in sight, providing the basis for a thorough review of South African trade policy. Complete normalization of international trade relations was conditional on the removal of all measures imposed by other contracting parties.

7. The South African economy was currently in the grip of its longest recession since 1908. Real gross domestic product had fallen for the third year in a row last year, and was unlikely to grow by more than 0.5 per cent in 1993. More than 250,000 jobs had been lost and over 40 per cent of the economically active population could not find work in the formal sector. Falling living standards had exacerbated socio-economic problems and complicated the constitutional process towards a new South Africa. A significant improvement in economic performance was a sine qua non the successful introduction of constitutional changes and urgently needed social upliftment.
8. All aspects of economic policy including trade policy, were debated in the National Economic Forum, established in 1992 and consisting of representatives from Government, business and organized labour. In March 1993, the Minister of Finance and of Trade and Industry had submitted the "Normative Economic Model" as a discussion paper in the National Economic Forum. A summary of this document was attached to the Government Report as Annex A. Also on the Forum's agenda was the economic status of South Africa, regarded by the African National Congress as a developing country. Whatever the view, contracting parties should recognize that the transition occurring in South Africa affected the pace of trade policy reform.

9. The South African Government did, however, intend to introduce a reform package aimed at increasing competitiveness. The elements of the package included: (i) a reduction in industrial tariffs; (ii) monetary and fiscal reform; and (iii) assistance directed towards upgrading technology and labour skills.

10. For historical and strategic reasons, South Africa had, until fairly recently, pursued a policy of import replacement. This had resulted in an industrial sector dependent on tariff protection, with a consequent loss of international competitiveness. A shift towards a more outward-looking trade policy was now both possible and essential. Greater emphasis on growth through exports would help achieve international competitiveness by reducing the anti-export bias inherent in the present structure. Policy reform in preparation included lowering, simplifying and stabilizing tariffs. Formula duties, the main instrument used to counter disruptive competition, would be phased out in tandem with the introduction of a measure to counter unfair trade practices.

11. South Africa's provisional tariff offer, together with existing bindings, would result in approximately 55 per cent of its industrial tariff lines being bound in GATT. Since this offer had been made, however, a fundamental review of South Africa's economic, trade and industrial policy had been undertaken, aimed at the promotion of a competitive and export-orientated manufacturing sector. In the course of this review, it was found that South Africa's existing industrial tariff offer provided an inadequate base for fundamentally rationalizing the present tariff structure. A revised offer, to be submitted, would permit a fundamental restructuring of the tariff and meet Uruguay Round objectives.
12. Lowering tariffs would put pressure on South African industries to improve their competitiveness. Other factors affecting the country's competitiveness included high rates of inflation and taxation and high financing costs.

13. South African industries received relatively little direct or indirect financial support. Rapid population growth and requirements in respect of social and educational expenditure in South Africa left little scope for either development and investment programmes or tax reductions. Direct financial support to industry had been mainly limited to some regional development assistance and to export assistance in the form of the present GEIS.

14. GEIS was regarded as essential to stimulate an export awareness and, particularly, to compensate for the anti-export bias created by the tariff structure. The South African representative pointed out that this view was supported by a recent unpublished report by the World Bank, stating that GEIS played a crucial rôle in stimulating exports. While he recognized the undesirability of using a cash subsidy to counter a policy-induced anti-export bias, present circumstances did not allow for either immediate tariff reform or the abolition of the subsidy. However, he assured the Council that the export incentive would be phased out in parallel with tariff liberalization.

15. In view of the present severe economic recession and political instability, the process of trade reform would have to be managed carefully and in a gradual and co-ordinated way in order to avoid retrenchment. In addition, South Africa had to consider the industrial development needs of its partners in the Customs Union, namely Botswana, Lesotho, Swaziland and Namibia. Nevertheless, by rationalizing and lowering its tariff and phasing-out quantitative import restrictions, South Africa was moving in the direction of a transparent tariff system exhibiting moderate levels of protection.

16. He assured members that South Africa had not, and would not, resort to non-tariff barriers such as voluntary trade restraints. In contrast, South African traders faced non-tariff barriers in major markets and increasing protectionism.

17. The Government was committed to a more market-oriented approach in agriculture. During the late 1980s, trade policy reforms had already been introduced to expose certain sectors of agriculture to market forces. To further this process, a committee, appointed by the Minister of Agriculture, had investigated the statutory marketing of agricultural products. Released in January 1993, the report
of the committee recommended further liberalization and a Policy Evaluation Committee had been appointed to recommend implementation. Meanwhile, tariffication and deregulation were continuing. In summary, agricultural policy needed to be guided by sound economic principles, while ensuring the optimal use of the country’s natural resources.

18. As a relatively small trading nation, South Africa had a vital interest in the successful conclusion of the Uruguay Round and the strengthening of the multilateral trading system. The Round, once completed, would further stimulate reform of South African trade policy as it complied with the rights and obligations in the Uruguay Round agreements. South Africa was on the brink of a new political and economic era. Part of the process included reintegration into the world trading system. Future trade policies would reflect such integration and should be responsive to the rapidly changing international trading environment. Sustainable economic growth over the long term was, more than ever, of vital importance for the survival of not only South Africa, but of the Southern African region as a whole.
III. STATEMENT BY THE FIRST DISCUSSANT

19. The first discussant (Mr. Riaboi) said that South Africa's economy was currently undergoing a number of simultaneous transition processes, concerning efforts to find a basis for ending domestic uncertainty and overcoming external limitations affecting production, capital flows, investment, fiscal revenue and savings; implementation of the new Normative Economic Model, whose aim was to replace import substitution with expansion and reorientation of exports, moderate tariffs and gradual market opening; finding the right measure of adjustment for a country with serious fiscal and social problems; and ensuring that South Africa could participate actively in the world economy without clashing with multilateral disciplines governing financial relations and international trade.

20. These goals were not easily attainable for an economy which had been in recession since 1989 and recorded a 2 per cent fall in GDP in 1992. Nor was it easy to reduce inflation running at an annual rate of 14 per cent when the political situation (with unemployment of nearly 42 per cent among the black population) required a sharp increase in social spending.

21. South Africa did not face serious balance-of-payments imbalances; it had a strong trade surplus as well as an external debt which, at the end of 1991, amounted to only 17 per cent of GDP. On the other hand, it had experienced difficulties in obtaining capital to stimulate domestic and external savings to enhance investments. Foreign exchange reserves were equal to less than two months of imports.

22. The budget deficit was considerably higher than planned; thus, public debt service could mortgage fiscal resources that could be used for higher-priority objectives. For these reasons, a cautious approach to trade policy reforms was understandable.

23. South Africa's current average import tariff (including the import surcharge) was 27 per cent. The Government intended to eliminate the import surcharge, specific duties and additional formula duties when the fiscal situation allowed. This would bring average tariff protection down to 18 per cent. South Africa also continued to apply import licensing for some 2,000 tariff items, covering most of the agricultural sector among others.

24. The level of effective protection was much higher than nominal levels would indicate, amounting to 94 per cent for textiles, 40 per cent for wood and wood products, 114 per cent for jewellery,
51 per cent for chemicals and 63 per cent for other manufacturing sectors, with an overall average of 30 per cent for the manufacturing sector as a whole.

25. He called attention to the nineteen Control Boards governing foreign trade, and sometimes local production, of tea, citrus fruits, dairy products, fruit, eggs, meat and so forth. Other measures aimed at sectoral promotion included substantial State credits and selective tax and credit incentives for manufacturing. Altogether, South African policies bore out the impression of a lack of transparency and excessive State intervention in the economy. There was a clear anti-export bias that the Government itself viewed with concern.

26. The export promotion policy, aimed at reducing the country's dependence on income from its traditional export products, was based on equally complex mechanisms, including the General Export Incentive Scheme (GEIS) which, as the Government acknowledged, was based on rules foreign to GATT. Under the new model, the GEIS would remain in force, although its subsequent continuation would depend, among other things, on the conclusion of the Uruguay Round.

27. Other promotional measures included subsidized sectoral development and credit, drawback, selective duty-free temporary admission of imports incorporated in exports, an implicit exchange-rate guarantee by the Reserve Bank, multiple exchange rates, an accelerated tax write-off process for exports, export cartels, subsidies for the development of new external markets, and exemption from direct taxes for the development of plants geared towards exports. These export promotion schemes, which sought to compensate for the anti-export bias of the protected and closed market policy were self-neutralizing. Goods aided by such subsidies (which were not in line with accepted multilateral disciplines) involved a fiscal sacrifice which benefited neither exporters or their international clients, and served merely to provide additional tax incomes to the treasury of the importing country.
IV. STATEMENT BY THE SECOND DISCUSSANT

28. The second discussant (Mr. Gosselin) called attention to the vast political, economic and social change taking place in South Africa. The economic model used by South Africa had been one of import replacement, spurred by its geographic and increasing political isolation and funded by its considerable mineral wealth. The model implied import barriers to protect domestic producers from more competitive outside sources of supply, considerable government support for the establishment of production, and restriction on competition within South Africa. These policies were financed by high domestic prices for protected goods and by taxes and levies on the traditional sector of metals and minerals. The apartheid system placed constraints on labour mobility and land use and created rigidities in the allocation of resources and distribution. All of these led to a high cost, inefficient economy with an inherent bias against the export sector. Political isolation, sanctions, loss of investors’ confidence, prolonged recession and a decline in earnings from the metals and minerals sectors had pushed South Africa to embark on political as well as social and economic change.

29. The changes recorded in recent years, moving towards more emphasis on internationally competitive industries, were welcome; but there was still a continuing attraction to intervention in both domestic and export industries. More vigorous commitment to an open economy was required to restore competition and remove barriers to the full realization of industry’s export potential.

30. Despite cautious moves towards the opening of the economy, there remained a bewildering array of import barriers, a willingness by the State to intervene, limited internal competition and export subsidies to compensate for the inherent costs of protection. Eliminating these various barriers and rigidities, would lower costs to the economy, reduce fiscal pressures and increase export competitiveness and investor confidence, while providing some budgetary flexibility. Resources could thus be reallocated to improving the social infrastructure.

31. The customs tariff, the principal instrument of commercial policy, was excessively detailed, complex and lacked stability and transparency in its application. The structure was complicated by formula duties and specific rates. Substantial escalation was no surprise, given the import replacement philosophy; but it was at variance with South Africa’s new economic model seeking to establish an internationally competitive economy, and prejudiced the allocation of resources. The import surcharge,
selective exemptions from the charge, and extensive tariff rebates served to greatly increase the level of effective protection.

32. The coverage of import licensing varied considerably; it was the principal instrument of control in agriculture, forestry and fishing, beverages, tobacco and rubber. The system, which was estimated to add 10 per cent to the cost of production, lacked automaticity, transparency and predictability. Vested interests, such as Control Boards, appeared to have direct control over the approval of licences and served as an additional protective device by regulating the marketing of agricultural products, influencing or deciding the allocation of licences and fixing surplus removal prices.

33. Preferences were provided on government procurement for local content and for regional or sectoral development reasons; in some cases, these could even be given to compensate for the lack of significant tariff protection. In all, these various schemes could further inflate the cost of government intervention by 30 to 40 per cent. Local content requirements gave local industry additional access to excise tax rebates, tariff concession and more favourable export subsidies.

34. South Africa had recently introduced new anti-dumping and subsidy legislation, defining key concepts for the determination of dumping, subsidy and "disruptive competition". Since, as yet, there were no published regulations, transparency was far from assured and there were some doubts as to the consistency of legislation with Code obligations. However, use of these tools was preferable to the formula tariffs that had been the instrument of choice in the past. The "public interest" provision was welcome and, depending on how it was applied, could be useful in curbing abuses of the anti-dumping statute. The term "disruptive competition" sounded like "market disruption" used in the Multi-Fibre Arrangement; he hoped the South African authorities had not decided to use a lower standard than Article XIX for safeguard action.

35. South Africa had taken steps to privatize some government enterprises such as SASOL and ISCOR. Many more were being commercialized (expected to operate on business principles) and eventually readied for privatization. He asked whether commercialization meant that such enterprises were no longer a drain on the Treasury, and whether they still held special positions in the market, acting as barriers to entry.
36. It was difficult to see how exemption from competition law for restrictive practices could be "in the public interest" in such basic commodities as cement and building materials, food, pharmacy and alcoholic beverages, especially where access to the South African market was protected.

37. The costs associated with import replacement and the rigidity of the South African economy implied a need for compensatory subsidies to ensure competitiveness in export markets. Such subsidies seemed to fall in three categories: direct benefits associated with the export of goods that had been upgraded, the extent of subsidy being dependent on the degree of upgrading; input subsidies such as cheap electricity for export industries; and market development assistance. The first was, he said, clearly a prohibited subsidy, while the second and third categories would be actionable. Aside from the GATT legal aspects of this policy, he wondered whether South Africa could afford to transfer wealth in the form of subsidies to its customers.

38. South Africa needed to address the inherent contradictions in its trade policy. It could not foster and sustain internationally competitive industry from a base that was still mired in an import replacement philosophy. Import protection and export subsidies were both drains on the treasury. Eliminating both and creating a more open economy, would lead to savings and more efficient allocation of resources. This would give the business community an opportunity to identify, and capitalize on, South Africa's comparative advantage. The savings realized could more properly be used to address the improvements needed in the social infrastructure.
V. STATEMENTS BY MEMBERS OF THE COUNCIL

39. Council members paid tribute to the quality and scope of the reports submitted by the GATT Secretariat and the Government of South Africa, and thanked the two discussants for their extensive presentations.

40. The representative of Argentina said that his Government was very aware of the socio-economic events occurring in South Africa. Despite the current recession, including a fall in living standards and in its share in world trade, there was tremendous potential in South Africa as both a market and supplier. The challenge was to combine growth and the social changes that would make for more equitable distribution of wealth to all citizens. Job creation was an important element in the restructuring process; he wondered how this could be accomplished, given the emphasis on developing capital-intensive industries.

41. As to specific trade policies, he asked when the phase-out of quantitative restrictions, half of which covered agricultural products, would be completed. With respect to tariff protection granted to industry, while the guideline was a level of 30 per cent many industries received higher rates of protection. In determining whether protection would be granted to an industry, he wondered whether the criterion of satisfying 60 per cent of domestic demand was a sufficient parameter or whether the industry also needed to generate a certain level of employment or technological development. Turning to the imposition of other duties, he asked for information concerning the effect of the import surcharge on tariff bindings. Certain specific excise duties were higher on imports than on domestic products; the representative asked why this was the case and whether this situation would be rectified. He also posed certain specific questions on government procurement, including what the actual preferential rates were for local suppliers, to what extent the SABS mark preference was used and how far procurement procedures differed from internationally agreed provisions. While he noted that, in general, product standards followed international norms, he sought further explanation on the statement that allowances were made for geographical, social and financial differences.

42. The representative of Japan noted with pleasure the moves that South Africa had taken towards the establishment of democracy, and the initiatives in the economic sphere including deregulation and access to economic opportunities for all the people of South Africa as reflected in the Normative Economic Model. Turning to trade policy, he welcomed the removal of direct import controls but
expressed concern on five issues. These included the import surcharge, to be discussed in the Balance-
Of-Payments Committee, the General Export Incentive Scheme which clearly contravened GATT rules,
and local content requirements for the motor vehicle industry, which, in his Government’s view, were
inconsistent with both current GATT rules and the draft TRIMs agreement. He referred also to the
Southern African Customs Union, emphasizing that such a regional agreement must remain compatible
with an open multilateral trading system. Finally, he noted the high level and complexity of the tariff
structure and hoped that additional bindings would improve this situation. In conclusion, he hoped
that South Africa could restore political stability through democracy and continue its efforts towards
a more open trade régime.

43. The representative of Switzerland identified various causes of the present economic crisis in
South Africa. In addition to exogenous factors (droughts and a decline in the price of gold), the dual
policy of import substitution and export promotion, as well as the system of apartheid (restrictive
measures to labour mobility), had imposed high structural costs, while international restrictions imposed
on South Africa since 1985 had slowed down the pace of economic development. However, South
Africa was now at a turning point as it became progressively reintegrated into the world trading system.
Trade liberalization and economic restructuring would be a necessary step in order to foster growth
and restore confidence.

44. He remarked that tariffs lacked transparency and were subject to frequent and substantial changes.
Formula duties and surcharges reached prohibitive levels, especially on certain textiles, footwear and
watches. While he welcomed its intention to use the tariff as the only instrument of protection, he
encouraged the South African Government to implement its planned reform, including the reduction
and simplification of customs duties, the phasing out of rebate provisions and the elimination of import
surcharges and excise duties which served a protective function. He believed that a revised tariff offer,
with a greater number of bindings at reasonable levels, would help to restore predictability and stability
to trade relations. Turning to export promotion and subsidies, he noted that the GEIS, introduced in
April 1990 and based on actual export sales, was more efficient than the previous system based on
production and marketing costs. Nevertheless, the system strengthened the negative effect of import
protection and could lead to a situation where inefficient firms survived in spite of poor productivity.
In this respect, he encouraged South Africa to phase out the export incentive system in order to allow
market signals to function and so restructure productive capacity. A prompt and successful conclusion
of the Uruguay Round would provide a framework for sustained growth notwithstanding the need for
further progress in deregulation, privatization and competition. These measures, along with favourable political developments, could increase the flow of foreign investments into South Africa which, given its resources, had considerable economic potential to become an important trading partner.

45. The representative of New Zealand felt that the South African Government had shown both political courage and economic wisdom in embarking upon a difficult programme of transition from an inward-oriented developing economy, with trade policy serving to foster import substitution, to a more liberal market-oriented economic system. While attempting to increase its export orientation, South Africa was faced with serious social and economic problems. He sympathized with the high adjustment costs South Africa had endured in the course of these reforms: negative real per capita GDP growth rates and increasing unemployment were never welcome in any country. However, it seemed South Africa had gone through what appeared to be the worst of the necessary pressures. His Government strongly supported the economic reform process in South Africa, and encouraged the Government to resist calls for a more interventionist economic and trade policy. As an economy which itself had gone through major economic and trade adjustments over the past decade, New Zealand could affirm that the benefits of an open, outward-oriented and competitive trade stance were worth the costs and pain of adjustment.

46. Addressing the steps taken towards deregulation in the farm and food sectors, he noted that price control and supply management had been removed, import licensing and quantitative restrictions had been progressively scaled back and South Africa in its Uruguay Round agriculture offer, had announced its intention to convert such measures to tariffs. While fully supportive of the deregulatory steps taken by South Africa, his Government was concerned that the tariff equivalents proposed were exceedingly high and might create an unnecessary obstacle to free trade. Another area of concern was the continued practice of export subsidization, which had an unfair impact on trade. Like other speakers, he viewed the tariff structure and the review mechanisms underlying it as far from stable or transparent. The use of formula duties and the substantial degree of tariff escalation created disincentives to trade and investment. The import surcharge and tariff rebate schemes were other areas that did not lend themselves to transparency. He welcomed the phasing out of the import surcharge, and a review of the rebate system as well as a more generous offer by South Africa in the Multilateral Trade Negotiations to bind more than one half of its tariff. Thus, while there was room for improvement, considerable progress had been made in just a few years in the face of economic, social and political pressures.
47. The representative of Canada noted the tremendous challenges faced by the South African Government and its partners, given the constraints affecting economic development. Apartheid and import substituting policies had led to a decline in competitiveness of the South African economy. The ending of apartheid and a more open trade régime would assist South Africa in overcoming constraints to its economic growth; growth that, he hoped, would benefit all of its citizens. His Government was encouraged by South Africa’s movement towards the replacement of import controls by tariffs, but the tariff was complex and that lacked stability and transparency. Furthermore, rates changed quite often “in response to requests from sectoral interests”. Such constant changes in the tariff structure created an uncertain business climate for potential traders and investors interested in doing business in South Africa. Increased transparency in the determination of the tariff structure and consistency in its application would go a long way to improve investor confidence. He also urged South Africa to increase the percentage of tariffs that it had offered to bind in the Uruguay Round. While quantitative restrictions had been reduced in many sectors, this had not been the case in agriculture, forestry and fisheries where import licensing remained the main instrument of control, covering three quarters of relevant tariff lines. In some cases, quantitative controls were coupled with high tariff rates. According to the Secretariat report, import controls added 10 per cent to the average nominal rate of protection. Over one quarter of value added in the manufacturing sector was estimated to receive effective protection of over 50 per cent. This would need to be reduced if South African industry was to improve its productivity and become more competitive both in world markets and domestically. The use of formula duties applied in cases of disruptive competition had increased the effective protection rate to high levels. These duties when combined with the import surcharged created almost insurmountable barriers to imports. He encouraged the Government of South Africa to review the need for formula duties and to institute sunset provisions for their application suggesting that those remaining should be notified to the GATT under Article XIX.

48. He noted that both the private sector and the government were aware that the GEIS contravened GATT rules and urged the Government of South Africa to disband the scheme on a faster time schedule than presently planned. To support the liberalization of the South African trade régime, his Government encouraged the Government of South Africa to accede to Codes on Government Procurement, Subsidies and Countervailing Duties and Anti-Dumping Measures. Canada looked forward to the gradual normalization of its economic relations with South Africa once Canadian economic sanctions had been lifted.
The representative of the European Communities said that the Secretariat, faced with the difficult task of analysing a highly complex set of economic and trade policy measures, against an even more complex political background, had produced an exemplary work of clarification. The report by the South African Government also deserved congratulations for contributing to a substantial degree of openness and transparency in the debate. He had taken good note of its frank exposure of some negative features of past policies and practices, such as the objective of "import-replacement", the high level of protection and of export subsidies and the relative lack of competitiveness of the manufacturing sector. He appreciated the self-criticism implied by such openness.

However, the reports, especially that of the Secretariat, in an effort to provide an objective description of South Africa's trade policy, tended to minimize the fundamental contradiction between the principles underlying the multilateral trade system, and the pursuit of import substitution policies by the South African Government at a time when sanctions were being lifted. Not only were many of the resulting trade practices in violation of the letter of the General Agreement, the very thrust of overall trade policy was incompatible with the spirit of the GATT.

He was aware of the political predicament that South Africa faced and conscious of the seriousness of its economic situation, particularly its unemployment rate of 40 per cent. Enormous challenges faced its present and future governments, particularly to improve the education and training system. It was difficult to be competitive if 60 per cent of the working population was considered functionally illiterate, as noted in the South African paper. Yet, South Africa should be in no doubt that, to restore trade and investment links, it needed to send a clear confidence-building message to the business community. It should therefore begin dealing with the negative features that put South Africa's trade policy at odds with the GATT system, and with the legitimate expectations of its trading partners. While some progress had been achieved recently, for instance, since 1990 with the removal of import controls for a certain number of items, much still needed to be done.

In spite of arguments by the South African Government for proceeding cautiously, a much quicker move towards conformity with GATT rules would assist the transformation process. He expressed great concern regarding the risk of an overly cautious approach and lengthy delays in implementing essential reforms. In conclusion, he asked what the specific plans were to simplify and stabilize the tariff, eliminate formula duties and import surcharges, and the discriminatory VAT on gold coins.
53. The representative of Hong Kong welcomed the extensive changes in South Africa’s trade policies, in particular the significant reduction in direct import controls. However, import surcharges and licensing controls were still imposed on a number of products; for example, in the clothing sector, where the import surcharge on clothing was as high as 15.3 per cent and, at the same time, nearly 60 per cent of tariff lines in clothing were subject to import licensing. He urged the South African authorities to review this sectoral protection to its industries, in the interest of creating a more open trading environment. The second area of concern was government procurement. South Africa had been an observer to the GATT Agreement on Government Procurement since 1984, but judging from the information contained in the review reports, the existing procurement policies of South Africa were far from satisfactory. For instance, government tenders were normally invited only from firms based in South Africa. There was an estimated 30-40 per cent margin in favour of locally produced goods through local content preferences, regional preferences, standardization preferences, and other ad hoc preferences. The State Tender Board was not obliged to give reasons for acceptance or rejection of tenders. He urged South Africa to take positive steps to liberalize its public procurement market and to adopt more open, transparent non-discriminatory procurement procedures. He appreciated the special circumstances peculiar to the economy of South Africa and the importance of promoting its export trade. However, he was concerned about the use of export subsidies: the tax-free payment under the General Export Incentive Scheme, linked to export value and local content; the exemption from import surcharges on capital goods if 15 per cent or above of the production was exported; and subsidies related to export performance. He urged the South African Government to conduct a comprehensive review of its existing subsidy schemes to ensure conformity with GATT rules. South Africa’s bilateral trade with Hong Kong was still relatively small but, given a more conducive trading environment, there was scope for further expansion. Increased transparency, together with a reduced reliance on sectoral protection and the phasing out of import surcharges and import licensing controls, would promote a more reliable trading environment for South Africa and its trading partners.

54. The representative of the United States agreed that South Africa could achieve its growth targets only by becoming internationally competitive through open trade and investment policies. South Africa, as a founding member of the GATT, had never been viewed as a developing country and had itself taken pride in its capabilities as a world-class trader. Today, South Africa ranked among the top 30 trading nations of the world. In addition, South Africa was often described as a "predominantly manufacturing economy" and the data showed that it had become increasingly so since it had first joined the GATT. His Government was thus not disposed to recognize South Africa as a developing country.
in this forum. South Africa’s stated commitment to a programme of trade liberalization and GATT-consistent practices was encouraging. The intention to reduce or eliminate quantitative import restrictions and replace them with a tariff-based system was welcome. There were nevertheless disturbing signs that South Africa was still pursuing policies indicative of increasing protectionism rather than greater trade liberalization. While some tariffs had been reduced, others had actually risen, impeding the flow of trade. Such actions could only undermine the goal of achieving competitive, export-oriented production, and would reduce South Africa’s attractiveness to investors. Import surcharges were applied on a discriminatory basis and compromised South Africa’s tariff bindings, thus creating a significant trade barrier. South Africa should also bring its anti-dumping and countervailing duty laws into compliance with the GATT; parts of the present anti-dumping law appeared not to afford exporters adequate due process. Although South Africa had agreed to cease to grant subsidies under Article XVI(4), the General Export Incentive Scheme (GEIS) and the export marking assistance schemes (EMA) might well conflict with this obligation. South Africa’s unfair trade laws included provisions for the imposition of "safeguard duties" in cases of disruptive competition. These did not appear to envisage consultations with other interested contracting parties and, as such, would be inconsistent with Article XIX. He also encouraged members of the Southern African Customs Union to comply with normal GATT procedures for notification and review of this arrangement under Article XXIV.

55. Addressing more specific issues, he expressed concern about South Africa’s investment performance requirements and their restrictive effects on licensing agreements and royalty payments and urged South Africa to state its plans to eliminate these limitations, which discouraged investors. He was pleased that South Africa intended to join the Uruguay Round TRIPs agreement. Like previous speakers, he noted the restrictive effects of import licensing in agricultural and sought assurance that import permits would be abolished and tariffs set to allow imports to compete.

56. The representative of the Republic of Korea agreed that South Africa’s trade policy was at a turning point. Past policies designed to maintain self-sufficiency and the rigidities in resource allocation created by apartheid had been replaced by liberalization policies such as deregulation and privatization. The lifting of sanctions by its trading partners, including Korea, had encouraged South Africa to pursue greater outward-orientation. He welcomed the removal of direct import controls and commended the abolition of price control for a wide range of goods, the removal of restrictions on the establishment of black-owned business and the phasing-out of certain local preferences in government procurement. Like preceding speakers, he noted that the tariff structure was complicated, the level of bindings relatively
low, and that tariffs might be changed easily. Tariff peaks occurred in such sectors as motor vehicles, yar ns, clothing and footwear and the fairly substantial degree of tariff escalation was increased by the import surcharge. He hoped that South Africa would soon begin to lower these tariffs. South Africa was one of the original signatories to the GATT and had participated in all rounds of multilateral trade negotiations. Completion of the Uruguay Round could not help but consolidate the progress made by South Africa.

57. The representative of Mexico hoped that the restructuring programme recently announced would rebalance the disequilibria in the economy generated by past import substitution policies, including a capital-intensive industrial structure and a high rate of unemployment. He expressed concern about the lack of transparency and the high level of protection evident in South African trade policy. Further liberalization was necessary, specifically of import controls, through accession to the Codes of Government Procurement, Anti-Dumping and Subsidies and expansion of tariff bindings under a revised Uruguay Round offer.

58. The representative of Finland, speaking on behalf of Finland, Iceland and Norway, commended South Africa’s commitment to the objectives of the GATT. He noted that South Africa had participated in all rounds of multilateral trade negotiations during a period when it was otherwise excluded from international cooperation due to its apartheid policy. The long overdue democratization of South Africa was now in process. Political reform required a solid economic basis; international trade was of importance in this regard. The conduct of foreign trade was essential to the wellbeing of the people of South Africa. He hoped the change to a more outward-oriented policy would be carried through; the enormous needs of the disadvantaged majority could be met only by policies to promote substantial economic growth by encouraging greater competitiveness and efficiency. The move from import controls to tariff protection was welcome; import licensing should be phased out as a priority. A much higher degree of tariff bindings would contribute to predictability, an objective that would also be furthered by avoiding ad hoc sectoral protection through rebates or adjustments. He wished to emphasize the potentially important rôle the new South Africa could have in the regional context of southern Africa as a whole. Interdependence within the region provided a basis for mutually advantageous arrangements, ranging from joint ventures to free trade and economic integration. He hoped that the problems that the Government of South Africa reportedly experienced with the Southern African Customs Union would lead to further cooperation, rather than its dissolution. He welcomed the proposals presented
in the Normative Economic Model, including the tariffication of remaining quantitative import restrictions and the standardization and stabilization of ad valorem duties.

59. The representative of Hungary welcomed the review of South Africa's trade policies at this time of transition. Traditional policies had aimed at import substitution; massive export subsidies went hand-in-hand with a low degree of competition domestically and a high degree of government intervention. The South African economy still enjoyed a high level of external protection, with a complex tariff system and low tariff bindings. Furthermore, tariffs could easily be modified thus reducing stability and predictability. Formula duties added to a high level of protection and the lack of transparency. His Government looked forward to a progressive dismantling of these measures. Removal of licensing restrictions had not really occurred in agriculture although he viewed the intentions of removing quantitative restrictions with optimism. The use of export subsidies encouraged the continuation of unviable industries, but he noted with approval that the South African Government recognized the inconsistency of the GEIS with GATT rules and planned to phase out these export subsidies. He expressed some concern regarding other trade measures, such as local content requirements, excise taxes and administrative controls applied in agriculture through single channel marketing boards; the latter not only determined the level of imports and exports but imposed production costs and minimum sales prices. The removal of international sanctions should encourage the South African authorities to reform their trade policies. Participation in the Uruguay Round would provide further impetus for trade liberalization, which, together with macroeconomic stability and social development, could bring about lasting economic growth.

60. The representative of the Czech Republic welcomed the process of political and economic changes started in 1990 and referred to the new bilateral agreement between South Africa and the former Czechoslovakia. His Government anticipated improved access to the South African market through further elimination of non-tariff barriers, a more transparent tariff structure and a trade régime in full conformity with GATT articles and principles.

61. The representative of Australia sympathized with some of the exogenous factors explaining South Africa's disappointing economic performance over the past decade, such as intermittent droughts and a downward trend in the price of certain metals. Australia welcomed the way that South Africa, despite internal difficulties, was moving away from import substitution. He requested information from the South African delegation on the deadlines or timeframes envisaged for ending various measures.
In this context, he noted that 2,000 tariff lines were still subject to import controls and he asked for an indication of the timeframe over which such import controls would be phased out. Given the introduction, in 1992, of new anti-dumping and countervailing legislation, he wondered when South Africa would be able to eliminate 'formula duties' and accede to the Anti-Dumping Code. He could identify with South Africa's frustration regarding distortions caused by assistance granted by other countries to agriculture. With respect to South Africa's own export subsidies, his delegation had submitted a number of written questions on the General Export Incentives Scheme. In addition, he expressed interest in South Africa's views on joining the Subsidies Code and asked whether the South African Government had a policy on buying products subsidized by other countries, especially certain members of the OECD.

62. The representative of Poland questioned the rationale behind the use of export subsidies, given their inconsistency with GATT principles. Noting the progressive reduction in the import surcharge in recent years, he asked the South African delegation if it could assess the effects of the surcharge on South Africa’s trade balance.
VI. RESPONSES BY THE REPRESENTATIVE OF SOUTH AFRICA AND FURTHER COMMENTS

(i) Economic and political background

63. The representative of South Africa said that the Normative Economic Model (NEM) envisaged a process of structural adjustment in the market economy and a reconstruction of its socio-economic framework, to ensure the equitable access of all South Africans to all opportunities in the economy. The transformation was expected to achieve growing income per capita, benefitting all South Africans. The market economy was expected to become more efficient in production, and more equitable in distribution. This economic activity was envisaged to take place in an environment of macro-economic stability. At present, South Africa and its people faced four fairly distinct realities:

   (i) immediate economic revival constrained by functional imbalances; a substantial revival of domestic investment could produce serious balance of payments problems and might also be crowded out by fiscal policy;

   (ii) in the medium term, if these imbalances were removed, export-led economic growth would be constrained by certain domestic market inefficiencies;

   (iii) in the longer run, economic growth could falter because of remaining defects in the socio-economic system;

   (iv) growing international economic complexities called for energetic responses from private entrepreneurs and vigilance from policymakers.

64. He said that deficiencies in education and training were on the agenda for urgent discussion at the National Economic Forum (NEF) and elsewhere. Education and training were fundamental in achieving international competitiveness. At present, relatively high aggregate expenditure in this area contrasted sharply with the poor performance of education according to acceptable criteria. Improvement of the serious unemployment problem was a major objective of structural adjustment. In the short term, the NEF was looking at job creation programmes with a view to advising the Government.
65. The single most important constraint in investment was the uncertainty inherent in the process of political transition. However, matters like the fluidity, complexity and lack of transparency of the tariff were not favourable to foreign investment. He was confident that the political and economic changes under way would remove these discouragements. South Africa was struggling through a process of essential, but painful, political transition, and simultaneously an equally essential, painful transition in economic policy, including trade policy. These changes were taking place against a background of some violence, inevitable uncertainty, a lack of crucial economic growth and a high level of unemployment. This must inevitably affect the rate of trade policy reform, even though there should be clear evidence of direction and of reasonable progress. South Africa’s trading partners should acknowledge the important implications of transition in South Africa by reasonable tolerance with the process of trade policy reform.

66. The discussants commented that South Africa must not remain in transition indefinitely but fulfil its intentions, particularly with respect to subsidies, keeping in mind the provisions of the GATT. The representative of South Africa responded that the Government was not the sole actor in the transition process; policies were under active debate in the National Economic Forum. The economy was too fragile for an immediate reduction in export assistance but the Government was determined to submit a revised tariff offer shortly.

(ii) Import measures

67. The representative of South Africa said that South Africa intended to rationalize its tariff comprehensively as a high priority, aiming at simplification, transparency, greater uniformity in tariff levels, a more stable tariff not subject to frequent change, and easier and more effective administration. Formula duties were to be phased out. The speed of this process would, to some extent, be governed by progress in developing an effective anti-dumping and countervailing mechanism, progress in restructuring industries to make them less sensitive to low-priced imports, and the success of efforts to increase the competitiveness of domestic industries. South Africa intended to reduce its tariff rates in the spirit of the Uruguay Round’s objective of trade liberalization. Such tariff reduction was also considered necessary to reduce the anti-export bias and to enhance the international competitiveness of domestic industries. In view of the political and economic transitional process in South Africa and the present recession, the tariff reduction process would have to be gradual. He had, however, taken
note of several speakers urging South Africa not to be too cautious in the liberalization process. Tariff simplification also implied increases in certain tariff lines to attain greater uniformity.

68. Since South Africa’s provisional offer, to bind about 55 per cent of industrial tariff lines, was made in 1990, a review of South Africa’s trade and industrial policy found that the offer would not provide an adequate base for rationalizing the present tariff structure. The authorities were also coming to the conclusion that the binding of a large part of the tariff would aid the tariff reform process. South Africa, therefore, intended to substitute a revised offer that would extend the binding schedule and reduce average base rates. This would be submitted as soon as possible after consultation with interested parties and discussion in the NEF.

69. Excise duties did not discriminate between domestic and imported products. Two cases identified in specific questions, where the excise duties were currently marginally lower than the relevant customs duties, were not in accord with the general policy and would be reviewed.

70. Good progress had been made with phasing out quantitative restrictions. Approximately 60 per cent of agricultural tariff lines were still subject to import licensing. Tariffication of these measures was continuing. Quantitative restrictions on the remaining 962 industrial tariff lines (about 9 per cent of such lines) should, to a large extent, be phased out within the next year. Restrictions, however, would remain in respect of secondhand goods and items subject to social, health and cultural considerations. In the case of a very few items, commitments had been made to investors; these undertakings would be honoured.

71. National standards applied or set by the South African Bureau of Standards (SABS) were based on ISO/IEC standards where appropriate. Equivalence in specific cases was determined by the SABS on application. The SABS could extend its approval for the use of the SABS certification mark to manufacturers outside the borders of the Republic of South Africa. All enquiries in regard to this matter should be addressed to the SABS Standards Information Centre, Private Bag X191, Pretoria.

72. The import surcharge had been introduced as a temporary measure in order to safeguard the balance of payments, not as a protective measure of industry nor to replace or supplement the customs tariff. South Africa had agreed to consult in the relevant GATT forum on this measure in the near
future. The Minister of Finance had indicated that the surcharge would be withdrawn as soon as circumstances permit.

73. South Africa had, up to now, been countering unfair trade practices, such as dumping and subsidized exports, mainly by means of formula duties. These duties were to be phased out. However effective action against dumping and subsidized exports was essential in view of the intended trade liberalization. In its absence, industry in South Africa would resist trade liberalization. The new anti-dumping and countervailing legislation introduced in 1992 was a first step in this process, by creating a legal framework for anti-dumping action. The procedures and principles applied by the Board on Tariffs and Trade - essentially in line with those applied by leading countries - were contained in a Guide available to all interested parties. Preparations were also being made for publishing the principles and procedures in regulations in terms of the Board on Tariffs and Trade Act; this would ensure transparency and statutory status. South Africa had no intention of using anti-dumping and countervailing action as protective measures, but only as defensive measures against these unfair trade practices.

74. The Government had not taken a final decision on accession to the Subsidies and Anti-Dumping Codes; South Africa's accession to the Final Act of the Uruguay Round would automatically result in accession. "National interest" was defined in the Guide.¹

75. The alleged discriminatory application of VAT on gold coins was currently being investigated. Disruptive competition was defined in the Board of Tariffs and Trade Act and provision made in the Customs and Excise Act for safeguard duties against such competition. These provisions were intended to create a statutory basis for temporary safeguard action as provided for in Article XIX of the GATT.

¹In order to determine national interest the Board on Tariffs and Trade takes into consideration, among other things, the following -
(a) the benefits of competition to the local industry, as measured against the seriousness of the potential material injury to the industry;
(b) the effect that material injury to the industry will have on its supplying and consuming industries;
(c) the effect that any action may have on the growth and development of any other industry;
(d) the ability of the industry to adjust to changing circumstances and the resulting time-span over which additional protection will have to be provided;
(e) the extent to which consumers benefit from the low import prices and the extent to which these benefits are passed on;
(f) the influence on employment and job opportunities; and
(e) the influence on the balance of payments.
South Africa did not intend to use safeguards in violation of the GATT agreement. A guide would give clear rules regarding the conditions, principles and procedures to be applied.

76. The first discussant wondered if the rapid elimination of the import surcharge might not be difficult in light of the fiscal situation. With respect to the phasing out of formula duties, legislation applicable to unfair trade practices already coexisted with those kinds of duties to discourage external supply. The second discussant also welcomed the phasing out of formula duties but urged that the authorities not implement rates designed to counter unfair trade practices without full examination under a legitimate anti-dumping or countervailing duty process; he encouraged South Africa to ensure that its anti-dumping and countervailing legislation conform to GATT principles. He expressed the hope that South Africa’s revised tariff offer would be comparable to many developing countries who were binding tariffs across the board. In some cases, excise duties acted to increase the level of effective protection. In respect of licensing for agricultural products, he asked whether marketing boards would continue to play a rôle in the import licensing procedure. On safeguards, he wondered whether the term "disruptive competition" implied that South Africa was using a lower threshold for the determination of injury than the norms provided for in Article XIX.

77. The representative of the European Communities noted a number of positive prospective changes. He asked the South African delegation to comment on his view that the new anti-dumping legislation was less in line with GATT principles than the previous one as it gave a great deal of discretion regarding "reasonable costs" in production, thus creating uncertainty for traders.

78. The representative of New Zealand sought further clarification on the comment that tariff rates would have to be increased on a minor part of the tariff in order to achieve uniformity. They presented a danger to the process of liberalization. New Zealand had also gone through a process of harmonization without increasing tariffs.

79. The representative of the United States also hoped that simplification of the tariff would not increase tariffs. He wondered whether it would be feasible for the South African Government to submit a revised tariff offer in the Uruguay Round in time, given the process of consultation in the National Economic Forum.
80. In response, the representative of South Africa stated that the information on plans for the surcharge would be made available for the balance-of-payments consultations. Formula duties would be converted to ad valorem duties and phased down. Excise duties were fiscal measures with no protective effect. With respect to agriculture and the rôle of licensing and marketing boards, deregulation, a freer market approach and tariffication reduced the statutory controls exercised by marketing boards. Major changes were occurring in the meat, banana, dairy, eggs and wool sectors. With respect to anti-dumping, the system of formula duties had previously been applied rather than the earlier legal provisions. The tariff averaging process would result in some increases mostly on duty-free tariff lines. The National Economic Forum would have to discuss the revised tariff offer; South Africa was firmly committed to meeting the Uruguay Round deadline.

81. The second discussant returned to the protective level of formula duties and hoped that the criteria for determining such duties would not be used in the safeguards area. On agriculture, he asked whether tariffication would lead to protection equivalent to current levels or to de facto liberalization; secondly, whether marketing boards would continue to set prices or otherwise limit market access.

82. The delegation of South Africa stated that in certain cases formula duties would be scrapped. In other cases, they were being phased out by not increasing the reference price. In still others, tariffication might result in fairly high rates initially; however, all cases were being treated individually. Import licences in agriculture were linked to specific qualities; tariffication replaced the level of protection currently provided by the non-tariff barrier, i.e. the tariff equivalent was set as the difference between the world and domestic price. Scaling down of tariffs would be pursued as a result of the Uruguay Round and the guidelines set forth in the Final Act. At present, enabling legislation for statutory marketing would not be removed, but the intention was to reduce the effects on the economy. The dairy surplus removal scheme had been abolished; many control boards' functions had been considerably reduced.

(iii) Export measures

83. The representative of South Africa admitted that the General Export Incentive Scheme (GEIS) was not consistent with the General Agreement on Tariffs and Trade. GEIS replaced certain other schemes that had been withdrawn, as a step towards the consolidation and eventual elimination of export subsidies not consistent with the General Agreement.
84. South Africa's future economic development and industrial growth would have to become much more export-orientated. GEIS served as an essential instrument in overcoming the anti-export bias, especially on fully manufactured products. Exporters were likely to remain dependent on export assistance as long as the protective system constrained their competitiveness. Thus it was not possible to provide an exact date for the termination of GEIS. However, progress with import liberalization, including an improved system of duty rebates and drawbacks for exporters, would enable downward adjustment of the level of assistance under the scheme. No time schedule for such action had been fixed. The GEIS was implemented to promote the export of South African products containing added value: this term, however, was neither defined nor calculated in terms of the GEIS formula, but in general terms referred to the degree of processing of export products, on the basis of which products were classified in categories. Claimants under the GEIS must submit documentary proof of export in order to receive assistance. A number of primary agricultural products did not qualify for assistance under the GEIS; others qualified for varying levels of assistance. It was not possible to quantify the effect of export subsidies on the export performance of South African agricultural and processed food products; however, these products also suffered from an anti-export bias and would therefore be dependent on export assistance for as long as that bias prevailed. The Export Marketing Assistance Scheme (EMA) was believed to be consistent with the General Agreement and there was no intention to abolish the scheme. In this connection reduced airfreight rates were erroneously listed as an incentive under EMA in the Secretariat report; this export incentive had been terminated in 1990-91. No final decision with regard to the establishment of export processing zones (EPZ) in South Africa had been taken. A discussion document had recently been issued and the matter also appeared on the agenda of the National Economic Forum. The possibility of creating EPZ's was one option in considering how to eliminate the anti-export bias in materials procurement by exporters.

(iv) Domestic policies

85. South Africa's accession to the Agreement on Government Procurement was currently under review. The preference for products manufactured in regional growth points was to be abolished on 30 June 1993. Consideration was also being given to extending a 2.5 per cent preference to imported products that complied with the SABS mark and had been certified by an accredited institution similar to the SABS. Furthermore, the maximum preference of 35 per cent for electronics was being phased down in two stages; by 1 April 1994 the preference would be reduced to 10 per cent.
86. The fact that the GATT had, for many years, made exceptions for agriculture and was only now fully addressing the sector, was evidence of the sensitivity of agriculture internationally. Subsidies that affect the international price of agricultural products had a debilitating effect on South African agriculture's ability to compete and thereby had a very direct negative impact on the economy. The considerable fluctuations in agricultural production, particularly of staple food crops, was one of the reasons for the existence of the Marketing Act. This Act provided for a wide range of powers, with particular provisions accommodated in subordinate binding legislation called schemes, administered by marketing boards. A scheme might include the following powers: the fixing of producer- and selling prices; prohibition of the sale of the product except through a board; surplus removal at a floor price; and the imposition of statutory levies. Currently, 20 marketing schemes were in operation. The overall intensity of the regulatory effects of these schemes was difficult to quantify; wide fluctuations in production of certain products such as maize, had such an overwhelming effect on the calculation of the Aggregate Measure of Support (AMS) that the usefulness of the AMS in measuring changes in the level of intervention was seriously reduced.

87. He enumerated four types of schemes, in diminishing order of market impact:

(a) Single Channel Fixed Price Schemes, under which boards fixed the producer and selling price for a particular season. Producers were legally obliged to market their products through the board;

(b) Single Channel Pool Schemes, under which producers were obliged to market their products through the particular board, receiving a fixed advance payment upon delivery and a final payment at the end of the season, after the deduction of marketing expenses;

(c) Surplus Removal Schemes, which had little impact on the markets; and

(d) Supervisory Schemes, which covered approximately 1 per cent of agricultural production and had an insignificant effect on prices.

88. The statutory controls exercised by a number of boards were being reviewed. Controlled areas under the meat scheme were abolished in January 1993; the banana scheme was abolished in
March 1993; surplus removal under the dairy scheme was abolished in April 1993; and surplus removal under the egg scheme and the single channel marketing of wool were being investigated.

89. South Africa had implemented a few programmes containing local content requirements. Phase VI of the Local Content Programme for the Motor Vehicle Industry was the most important. A task group had been appointed to undertake a fundamental review of Phase VI; it had made substantial progress and its report should be submitted to Government in December 1993.

90. The strengthening of anti-trust legislation and enforcement was considered necessary to counter the high level of concentration. Six large conglomerates accounted for about 80 per cent of the market capitalization on the Johannesburg Stock Exchange; disinvestment had increased economic power concentration in South Africa. In deciding whether an exemption from one or more of the restrictive trade practices prohibitions set out in Government Notice 801 of 2 May 1986 was warranted, the two principal issues that could justify the exemption as being "in the public interest" were whether the behaviour would in fact enhance competition and whether it could be shown that the exemption would result in lower prices or other quantifiable benefits for the consumer over a reasonable period. Retail franchising and softwood marketing had not been exempted; newspapers and magazines were exempted from the prohibition on resale price maintenance, but not from the other prohibitions (price fixing, marketing sharing and collusive tendering). No exemption was granted to the South Africa sugar industry; its power to collude on prices was derived from a separate Act, which eliminated Competition Board involvement in the matter. Lastly the exemption granted to cement manufacturers (but not to wholesalers and retailers) was intended to keep the price of the product down through an integrated transport system. This exemption was currently under review.

91. Through acceptance of the Final Act of the Uruguay Round, South Africa would accede to those Codes that have been renegotiated in the Uruguay Round. South Africa, as a relatively small trading nation, had a vital interest in the successful conclusion of the Uruguay Round and the strengthening of the multilateral trading system.

92. The second discussant welcomed the review of government procurement practices and encouraged the South African Government to join the GATT Code. He also thanked the representative for the exposé of competition policy.
93. South Africa had informed the member countries of the Southern African Customs Union (SACU) in 1991 that it was studying alternative structures for economic co-operation in Southern Africa, to replace the current agreement. The formula for the distribution of customs and excise revenue was unaffordable for South Africa in view of its own development needs. Differing perceptions on appropriate policy, particularly in relation to tariff levels, between South Africa and Botswana, Lesotho, Namibia and Swaziland (the BLNS countries) on the other, could no longer be accommodated in the current agreement. South Africa was moving towards an open, competitive economy while the BLNS countries, at an earlier stage of development, favoured tariff protection. Discussions with the customs union partners were continuing. South Africa could not unilaterally decide on the composition or the membership of a new arrangement that might replace the SACUA.

94. Bilateral agreements concluded between South Africa and certain countries during 1990 and 1991 reflected early consequences of the political transformation process. South Africa’s isolation was ending and it was determined to be re-integrated into the world economy. The agreements represented the ending of punitive trade measures against South African exports by those countries, and the revocation by South Africa of protective measures it was obliged to introduce in order to safeguard its essential national interest. In addition, the agreements were aimed at closer economic co-operation between South Africa and the countries concerned. The import surcharge was a temporary measure. Hence the benefit of surcharge-free imports would disappear with the termination of the system.

95. The representative of the United States again asked whether South Africa intended to notify the Southern African Customs Union under Article XXIV. The South African representative replied that the Union predated the GATT and no changes had occurred since the entry into force of the General Agreement, thus not requiring notification.

96. The representative of Canada asked that more details be provided on the bilateral agreements between South Africa and Hungary, Romania, Poland and Czechoslovakia. The South African delegate stated that, in general, these were cooperation agreements that did not apply to specific products.
97. The representative of New Zealand suggested that South Africa might wish to join the Standards Code, noting that with liberalization countries tended to revert to technical barriers to trade.

(vi) Other matters

98. The South African representative, referring to other questions raised, stated that with a few exceptions, detailed trade data by country and by commodity was being published since 1 January 1992. The position would be reviewed when all trade sanctions were terminated.

99. He noted that Section 53 of the Forestry Act of 1984 provided for the establishment of the Forestry Industrial Fund. Money accrued to this fund under Section 55 of the Act, which provided for the imposition of levies in respect of any timber or timber derivatives. Under this Section, imported timber and timber derivatives are subject to a levy of 33.55 cents per cubic metre; while locally produced timber was subject to the following régime:

Timber growers paid a minimum levy of 41.8 cents per cubic metre, and local timber processing industries paid levies according to the nature of the sector. Thus:

- Sawmills were liable for a levy of 15 cents per cubic metre and 0.75 per cent of the next invoice value of processed products;
- Pulp and paper manufacturers were liable for a levy of 8 cents per cubic metre; and
- Mining timber manufacturers were liable for a levy of 32 cents per cubic metre. Levies on locally produced and processed timber were thus in excess of the levy on imported timber, conforming with South Africa's obligations under Article VIII.

100. The Board on Tariffs and Trade was currently reviewing interim relief measures on imports of poultry, considering comments and objections from all interested parties. The review would be finalized within the next few months. If the final duty imposed was lower than the interim duty, the balance would be refunded to importers.

101. For agricultural exports, the requirements of the importing country concerning origin marking applied. The principle of identifying the origin of goods was internationally accepted and added information for the benefit of the consumer.
102. The criteria applied by the Board on Tariff and Trade for granting tariff protection were listed in paragraph 76 of the Secretariat report. Export potential should be added to the list. Job creation potential and the development of technology were included in the criteria. The Board would not normally grant protection to industries that supply less than 60 per cent of the domestic market, as that would create an unjustified cost burden on domestic consumers.

103. He noted that apparent discrepancies existed between the calculated effective rate of protection for agriculture and the PSE’s quoted in the Secretariat report. The Secretariat had indicated that this is partially due to the different years covered by the data. The South African Department of Agriculture had found that fluctuations in the production of certain major commodities (such as maize: 1990/91, 7.9 million tons vs 3.1 million tons in 1991/92) were so great that the usefulness of the Aggregate Measure of Support was seriously reduced. The PSE figures calculated by the USDA for selected commodities and included in the Secretariat report (C/RM/S/37B Table V.3)) supported this evaluation. While the total PSE figures were 11.6 and -12.1 per cent for 1988 and 1989 respectively, the figure was 32.9 per cent in 1987.

104. South Africa did not apply different rules to domestic and foreign investors, except by allowing foreign investors to use the financial rand as an investment vehicle and imposing a limitation on domestic borrowing by foreign investors. Licensing agreements were encouraged and royalty payments were permitted. South Africa discouraged export-restricting clauses in licensing agreements, as such clauses placed a restriction on international trade and South Africa’s access to foreign markets.
VII. CONCLUDING REMARKS OF THE CHAIRMAN OF THE COUNCIL

105. In concluding this first Trade Policy Review of South Africa, I should like to highlight, on my own responsibility, the salient features that have emerged from the discussion. As usual, these remarks are not intended to substitute for the Council's collective appreciation of South Africa's trade policies and practices. The full discussion, including the introduction and replies given by the representative of South Africa, will be reflected in the minutes of the meeting.

106. I should like to thank the South African delegation for the written answers provided during the meeting. It is understood that further written answers to questions posed by Council members will be supplied by South Africa in due course.

107. The Council identified five major themes for discussion:

(i) Economic and political background

108. Participants recognized that fundamental political, social and economic changes were currently taking place in South Africa. The task of transformation was complicated by the current deep recession. The domestic economy was characterized by high inflation, unemployment of around 40 per cent, a large fiscal deficit and low reserves; investor and consumer confidence was low. Members ascribed the present difficulties in part to South Africa's long-standing import replacement policy, which had necessitated protection for domestic producers and considerable government support, and the factor rigidities induced by apartheid. During the 1980s, the situation had been exacerbated by exogenous factors such as recurrent droughts and declining world prices for minerals. The urgent need to foster growth made greater competitiveness a priority; trade, internal liberalization and improvements in education and training would play crucial roles in the process.

109. Participants welcomed the recent changes in South Africa's trade policy, which aimed to restructure the productive capacity of the economy. The Normative Economic Model, introduced as a discussion paper for the National Economic Forum, highlighted international trade as key to economic prosperity. The aim was to further open the market, using the tariff as the basic trade policy instrument. However, participants emphasized the risks inherent in the cautious approach adopted by the authorities.
and urged that reform be more rapid; they noted that eliminating barriers to trade and competition would stimulate growth, promote competitiveness, lower fiscal pressures and increase investor confidence.

110. In reply, the representative of South Africa said that his authorities envisaged that the process of structural adjustment would lead to equitable access for all South African citizens to opportunities in the economy. Growing per capita income was essential to the process; to this end, it was necessary to overcome functional imbalances and domestic market inefficiencies. Improved education and training were fundamental to achieving international competitiveness, and deficiencies were being addressed; job creation programmes were also being examined. A major element in the present investment climate was the uncertainty inherent in political transition. He recognized that the instability, complexity and lack of transparency in trade policies were not favourable to foreign investment.

(ii) Measures affecting imports

111. Council members stressed that South Africa's tariff structure was complex and far from transparent, with few bindings and frequent rate changes. Formula duties added to the complexity and exacerbated an already escalatory structure. Participants recognized the Government's intention to phase out formula duties, with the introduction of anti-dumping legislation, and sought information on the timing of this process. The import surcharge violated tariff bindings and was applied on a discriminatory basis; members sought information on a time-frame for its removal. Members also urged South Africa to improve its Uruguay Round tariff offer.

112. Members commended the significantly reduced incidence of import licensing on industrial goods. Nevertheless, widespread barriers still remained in certain sectors, particularly agriculture. Members sought clarification on a time frame for the complete removal of these barriers and expressed concern that tariffication not result in an obstacle to freer trade.

113. Some participants noted that certain excise duties were higher on imported than on domestic products and asked how this would be rectified. One member drew attention to the discriminatory application of VAT on gold coins.

114. The various measures to restrict imports resulted in high levels of effective protection. The system of rebates increased tariff escalation, and made effective protection levels even higher.
Participants welcomed the planned replacement of formula duties by new anti-dumping procedures, but the absence of published regulations reduced transparency. The "public interest" clause could serve to curb abuse of the statute, although one member suggested that the legislation did not offer exporters adequate means of defence. Members questioned the consistency of South Africa's safeguard legislation with Article XIX, particularly in relation to provisions governing "disruptive competition".

In response, the South African representative said that a thorough review of trade policy was being undertaken. The Government was committed to a more open, transparent trading system. He recognized that the tariff was complex and fluid, created uncertainty and lacked transparency. Tariff reduction and rationalization was a high priority, but the aim of uniformity might lead to increases in some rates. Formula duties would be phased out; but the speed of the process would depend on progress in developing an effective anti-dumping and countervailing mechanism and in making industries more competitive.

Tariff and other reforms were under discussion in the National Economic Forum; hence, a precise answer on timing could not be provided now. The weakness of the economy implied that the reform process would have to be gradual.

South Africa intended to submit a revised tariff offer, in the framework of the Uruguay Round, which would improve the level of bindings and reduce the average rate. The revised offer would be submitted on schedule, after discussion in the National Economic Forum.

Excise duties were fiscal measures which did not discriminate between domestic and imported products. The two cases mentioned were not in accord with general policy and would be reviewed. The matter of VAT on gold coins was being investigated.

The import surcharge had been introduced as a temporary measure in order to safeguard the balance of payments. South Africa would soon consult in the relevant GATT forum. The Minister of Finance had already indicated that the surcharge would be withdrawn as soon as circumstances permit.

Progress had been made in phasing out quantitative restrictions; those on remaining industrial tariff lines should be phased out within the next year, remaining only for secondhand goods and items
subject to social, health and cultural considerations. Commitments made to investors in a very few cases would, however, be honoured. In agriculture, the process of tariffication was continuing.

122. "Disruptive competition" was defined in the Board of Tariffs and Trade Act; provision had been made in the Customs and Excise Act for action against such competition in the form of safeguard duties and procedural guidelines were being developed. These provisions were intended to create a statutory basis for safeguard action as provided for in Article XIX of the GATT.

(iii) Measures affecting exports

123. The General Export Incentive Scheme (GEIS) was recognized as inconsistent with the GATT; although it aimed to compensate for the anti-export bias of import protection, it represented a significant drain on public coffers. Clarification on its review and phase-out was sought.

124. The South African representative said that GEIS had replaced tax concessions with direct subsidies, as a step towards eventual elimination of export subsidies inconsistent with the GATT. Progress in trade liberalization would allow for lower levels of export assistance; the phasing out of GEIS would be part of the overall package.

(iv) Domestic policies

125. Members noted that industrial goods were protected by preferences for local content in government procurement. Local content incentive schemes also applied to the motor vehicles and other sectors.

126. Despite some liberalization, import controls remained extensive in agriculture and control boards exercised marketing powers, *inter alia*, restricting competition in the food sector. One participant requested South Africa to provide an assessment of the regulatory effects of this system.

127. Council members, noting the high level of concentration in the South African economy, saw a need for further deregulation and broader scope for competition policies. Some questioned the exemption of key sectors from restrictive practices provisions on the basis of public interest.
128. In response, the South African representative stated that regional preferences in government procurement would be eliminated by the end of June 1993. Preferences for electronics were also being phased down. The local content scheme for motor vehicles was being reviewed and might be replaced.

129. The restrictive effects of regulation in agriculture were difficult to quantify, particularly as output was subject to considerable fluctuations. Tariffication of quantitative restrictions was generally based on the difference between world and local prices. Rates would be scaled down in line with Uruguay Round commitments.

130. Economic concentration had increased during the period of sanctions. A process of "unbundling" had now begun and competition law would be strengthened, particularly with regard to acquisitions.

(v) Trade agreements

131. Participants noted that South Africa, though an original signatory to the General Agreement, was not fully integrated into the GATT system. Information was sought on its willingness to accede to remaining Tokyo Round Agreements, particularly those on government procurement, technical barriers, anti-dumping, and subsidies and countervailing measures. One member felt that South Africa should notify the Southern African Customs Union under Article XXIV and another requested information on the bilateral agreements concluded with certain central and eastern European countries.

132. In response, the South African representative stated that no decision had been taken with regard to accession to further Codes. South Africa would accept the obligations of the Codes by acceptance of the Uruguay Round Final Act. South Africa expected to take a more active participation in the multilateral trading system in future. It was also studying alternatives to regional cooperation under the Southern African Customs Union. Notification of the Customs Union under Article XXIV was not required since the agreement pre-dated South Africa's accession to the GATT. Information on other bilateral agreements would be supplied in writing.

133. In conclusion, the Council recognized that the South African economy was subject to many constraints. With sanctions largely dismantled, South Africa, as a country undergoing significant transformation, should make every effort to align its economy fully with the multilateral trading system. The Council stressed the benefits to be obtained from a resolute pursuit of trade liberalization. It also
emphasized that a successful outcome of the Uruguay Round would provide external discipline for the liberalization process, assisting South Africa in its reintegration into the world economy.