I. INTRODUCTION

1. In November 1979 the CONTRACTING PARTIES, noting that a number of agreements* on non-tariff measures and on trade in bovine meat and dairy products had been drawn up in the Multilateral Trade Negotiations (MTN), reaffirmed their intention to ensure the unity and consistency of the GATT system and decided to oversee the operation of the system as a whole and to take action as appropriate. They agreed that for this purpose the Councils and Committees established under the MTN agreements would keep the CONTRACTING PARTIES informed on the operation of the agreements through regular reports and that they would, if requested, provide additional reports on any aspect of their work (BISD 26S/201).

2. In their Ministerial Declaration of 1982, the CONTRACTING PARTIES decided to review the operation of the MTN agreements, taking into account reports from the Committees or Councils concerned, with a view to determining what action, if any, was called for in terms of their decision of November 1979 and that this review should focus on the adequacy and effectiveness of these agreements and the obstacles to their acceptance (BISD 29S/18). Following the Ministerial Declaration, the Councils and Committees referred to these issues in their annual reports to the CONTRACTING PARTIES.

*In this paper the term "agreement" covers also "arrangements".
3. The CONTRACTING PARTIES decided at their fortieth session in November 1984 (L/5756):

- to invite the Committees or Councils established under the MTN agreements to examine in special meetings the adequacy and effectiveness of the agreements and the obstacles to their acceptance which contracting parties may have faced, and to give non-signatory contracting parties the opportunity to express their views at these meetings;

- to request the Secretariat to consolidate the observations made and any conclusions reached in the special meetings and furnish a report which would subsequently be examined by a Working Group open to all contracting parties;

- to mandate the Working Group to report to the GATT Council at its meeting of July 1985; and

- to ask the Council to consider the matter, including any further steps that might be taken, having regard to the 1982 Ministerial Declaration.

4. In March, April and May 1985 all of the Committees and Councils established under the MTN agreements held special meetings in accordance with this decision. The records of the discussions and other relevant information can be found in the following documents:

**Status of acceptances of MTN Agreements as of 10 June 1985** L/5808

**Committee on Technical Barriers to Trade**
- Report of the special meeting: TBT/20

**Committee on Government Procurement**
- Minutes of the special meeting: GPR/M/17
- Note by the Secretariat: GPR/W/68

**Committee on Subsidies and Countervailing Measures**
- Minutes of first special meeting: SCM/M/26
- Minutes of second special meeting: SCM/M/28
- Draft procedures concerning commitments under Article 14:5: SCM/W/86/Rev.2

**International Meat Council**
- Report by the Chairman on special meeting: IMC/16
- Note by the Secretariat: IMC/W/44
II. CONSOLIDATION OF THE OBSERVATIONS AND CONCLUSIONS

Committee on Technical Barriers to Trade

5. In the Committee's special meeting on 9 May 1985, the Agreement was considered to have operated adequately and to have met initial expectations. It was recognized that the complexities of the technical matters addressed in the Agreement required a corresponding technical infrastructure and a certain degree of coordination among different entities in each country. There was general appreciation of the problems of infrastructure the developing countries encountered in participating effectively in the work of the Committee.

6. Some non-signatories present at the special meeting stated that they needed to fully understand the technical matters covered by the Agreement and the activities of the Committee before taking a decision on accession. They also said that, to be able to participate in the Committee's activities, to exercise their rights under the Agreement and to carry out the corresponding obligations, they needed to develop an administrative infrastructure comparable to that of other parties. Some delegations stressed that observance of the provisions of the Agreement did not require sophisticated administrative methods and that problems of infrastructure did not constitute an obstacle to acceptance. Such problems could best be handled through technical assistance, as called for under the Agreement.
Committee on Government Procurement

7. The questions of the adequacy and effectiveness of the Agreement and of the obstacles to its accession were first addressed in the 1983 report to the CONTRACTING PARTIES (L/5503).

8. The parties considered that the Agreement had on the whole worked satisfactorily but recognized that the commercial impact of the Agreement would materialize only gradually as the procuring entities became accustomed to the new procedures under the Agreement and the supplying industries familiar with the new opportunities created by the Agreement.

9. Observers from developing countries have identified two obstacles to accession. First, the lack of sufficient flexibility by the parties in accepting entity offers of developing countries. It was suggested that the parties, in responding to entity offers of developing countries wishing to accede, should pay greater attention to the development, financial and trade needs of these countries as stipulated in Article III:3, first sentence, of the Agreement.

10. The second obstacle was the difficulty non-parties had in assessing the trade advantages they could derive from acceptance. To reduce these difficulties the Committee decided in June 1984 to make statistical information available in documents series accessible to observers and to conduct statistical reviews in Committee meetings open to observers.

11. At its special meeting held on 2 May 1985 the Committee recalled these observations and conclusions.

Committee on Subsidies and Countervailing Duties

12. In its 1983 report to the CONTRACTING PARTIES (L/5496 and Add.1), the Committee had noted that, in general, the provisions in Part I of the Agreement had contributed to greater transparency regarding the imposition of countervailing duties. The regular reviews of countervailing duty actions had afforded signatories the opportunity to examine whether these actions were taken in accordance with the Agreement. The examination of national legislations had ensured greater transparency and surveillance of the implementation of the Agreement by signatories. Although some fundamental issues remained to be resolved, some progress had been made towards the objective of reducing the scope for unilateral interpretations. As for the Agreement's provisions in Part II, the Committee had felt that there was greater transparency and compliance with the obligations concerning the notifications of subsidies. The Committee had further recognized that in the operation of the Agreement some fundamental issues had emerged, bearing upon the interpretation and application of important
provisions of the Agreement and had noted that divergent perceptions existed in the Committee in this regard. Because of these difficulties the Committee had not yet made recommendations to parties concerned with a view to resolving disputes brought before it. The Committee had therefore recognized an urgent need to examine these issues with a view to arriving at a uniform interpretation and effective application of the provisions in question, in order to achieve fully the objectives of the Agreement.

13. In the second special meeting of the Committee held on 26 April 1985, many delegations stated that the assessment of the functioning of the Agreement as reported in 1983 remained valid and that, while recognizing that certain fundamental issues relating to the interpretation and application of the Agreement had not yet been resolved, they felt that greater transparency and disciplines had been achieved in many areas covered by the Agreement. However, concern was expressed by one signatory that there was still no common understanding among signatories on certain key provisions in the Agreement. Another signatory said that the Agreement, contrary to the original intentions, was increasingly becoming an instrument of protectionism. One observer in the Committee felt that the Agreement constituted one of the major failures of the Tokyo Round. It had led to a growing imposition of countervailing duties against his country's exports and the non-application of the injury test in one particular market. Through the Agreement, attempts had been made to impose exacting commitments on developing countries. Another observer stated that the Agreement could not be said to be adequate nor effective when unilateral interpretations permitted the extraction of commitments from acceding developing countries.

14. In the two special meetings held on 19 March and 26 April 1985, the Committee had a detailed exchange of views on the practice of one signatory to invoke the non-application clause (Article 19:9 of the Agreement) vis-à-vis developing countries which, upon accession to the Agreement, are not prepared to make a commitment under Article 14:5 to reduce or eliminate existing export subsidies. The Committee also examined in detail a proposal of a procedural nature made by the Chairman (SCM/W/86/Rev.2), the objective of which was to overcome the difficulties for developing countries to accede to the Agreement, as mentioned above. In his summation of the meetings, the Chairman noted that many signatories had expressed support for the proposed procedures; he also noted the strong support for the proposal from observers interested in joining the Agreement and their request that the Committee accept it. The Chairman noted on the other hand that some developing country signatories had expressed grave concerns as, in their view, the proposal did not adequately meet the perceived difficulties and would create further problems. The Chairman undertook to hold further consultations with a view to finding an acceptable solution.
In the Council's special meeting held on 15 May 1985, some participants, while stressing that the Arrangement and its objectives remained worthy of the strongest support, expressed the view that several of the objectives of the Arrangement had not yet been met, such as the dismantling of obstacles and restrictions, the promotion of expansion, liberalization and stability of international trade in meat and livestock, improved international cooperation with a view to greater rationalization and more efficient distribution of resources in the meat and livestock sector, and additional benefits for developing countries. These participants were of the opinion that the lack of result of the working party set up by the International Meat Council to examine the problem of a serious imbalance or threat thereof in the international bovine meat market provided evidence of a deficiency in the way the Arrangement was working. They believed that, although it was inevitable that differences of opinion existed among participants, a full and constructive analysis of the issues had been prevented by some participants. This called into question the extent to which any real progress could be made in solving problems in the world bovine meat market when issues could be addressed and solved only on the basis of consensus.

Some other participants did not share the negative views of the arrangement expressed above. They considered that, although several of the objectives had not yet been reached, the overall balance of the work undertaken in the Council and in the Meat Market Analysis Group had been positive. As concerns the lack of results in the Working Party, reference was made to the report of the International Meat Council's meetings held in February and March 1985 (IMC/15). One participant said, the lack of result stemmed from a fundamental difference of views in regard to the willingness to examine all elements that could have an influence on the current situation. Furthermore, since a common view on the appraisal of the situation could not be found, it was difficult to find solutions. This participant considered that decision-making by consensus best served the aims of the Arrangement.

Participants agreed that there did not seem to be any particular obstacles inherent in the Arrangement or its functioning to keep interested countries from signing it. One participant suggested that it might nevertheless be useful to intensify informal consultations with, in particular, non-signatory developing countries, in order to encourage membership. Only one observer was present during the discussion.

At the Council's special meeting held on 15 May 1985, the opinion was expressed that, while the Arrangement had worked fairly
well until 1984, it had not been adequate to deal with the difficult market situation for dairy products which had occurred in that year and which had persisted since. That situation was characterized by distorted markets, the presence of large surplus stocks (notably of butter), stagnant consumption, the persistence of protectionist policies and the application of export assistance by some exporters. In particular, a sale of butter by one participant towards the end of 1984, inconsistently with the provisions of Article 3 of the Protocol Regarding Milk Fat, had caused great concern. The adoption of a resolution in November 1984 (DPC/20) had the effect of suspending partially the price provision for milk fat and provided the opportunity for participants to take action to safeguard their position. No substantial progress had been made towards a greater liberalization of world trade in dairy products. - (On 31 May 1985, the resolution of November 1984 was rescinded with effect as of 5 June 1985 and decisions were adopted on the adjustment of certain minimum prices and on cooperation in cases where a participant might be facing difficulties with the observance of the price provisions, notably with regard to milk fat (L/5817)).

19. In spite of some shortcomings, the Arrangement was nevertheless considered to be a positive instrument. It had brought together, strengthened and extended the product coverage of previous dairy products arrangements and it had improved cooperation in the field of dairy trade by providing a specialized forum for discussions, consultations and exchange of information.

20. It was suggested that renewed efforts might be made to bring more countries into the Arrangement. It might notably be appropriate to reconsider requests for reservations which potential participants may have made in the past, but which had not been acceptable to all participants. It was also mentioned that it might be useful to examine the motives for the recent withdrawal of two participants from the Arrangement.

Committee on Customs Valuation

21. In its 1983 report to the CONTRACTING PARTIES (L/5491), the Committee stated that the experience with implementation of the Agreement had been very positive. All parties recognized that the new valuation system had resulted in a uniform, fair and greatly simplified system for the valuation of imported products. A significant benefit of the new valuation system, to both customs authorities and traders, had been greater certainty in determining the customs value of imported products and thus the amount of duties payable. The new valuation system had saved time and money, and had improved the efficiency of the preparation and processing of customs entries.
22. In its 1984 report to the CONTRACTING PARTIES (L/5729), the Committee concluded that the experience of parties applying the Agreement had led to general satisfaction on their part with its implementation and operation so far. One indication of this was that no substantial difficulties had been encountered so far by parties in applying the Agreement and that no use had yet been made of the consultation and dispute settlement provisions of the Agreement. The Agreement had facilitated international trade and had proved to be practicable and reasonably uncomplicated. The Agreement had in general been welcomed by both customs authorities and traders, as increasing the predictability of valuation determinations (and thus of duty payable) and, for the most part, the speed and efficiency of the processing of customs entries. In its special meeting on 21 May 1985 the Committee agreed that these assessments of the adequacy and effectiveness of the Agreement were still valid.

23. In an informal meeting of observers and parties held on 16 April 1985 observers mentioned the following factors influencing their decision on accession:

- The need to take the decision collectively or in a co-ordinated fashion in the framework of a regional grouping.

- The concern that the Agreement might not give customs adequate possibilities to deal with false invoicing and to maintain government revenue.

- The legal and administrative requirements to be fulfilled by signatories, for example the need to adapt national legislation and procedures and to train staff.

24. Representatives of parties and the Chairman informed the observers present at the informal meeting of the very positive experience with the Agreement so far and of the various activities under the Agreement, in GATT, in the Customs Cooperation Council (CCC) and at the national level. They recalled the provisions on special and differential treatment in the Agreement and the Protocol thereto, the CCC comparative study on the GATT Agreement and the Brussels definition of value, and the CCC work on the economic implications of joining the Agreement and on customs enforcement techniques to counteract false invoicing. As to this latter question, it was stated that Article 17 of the Agreement and paragraph 7 of the Protocol to the Agreement reaffirmed the rights of customs administrations. It was also pointed out that all valuation systems were faced with problems of fraud and that it was possible to establish procedures to deal with such problems under the Agreement. As regards implications for revenue, it was recognized that the taxable base may be subject to some reduction
compared to some other systems because of the exclusion of certain uplifts, but it was pointed out that some parties had endeavoured to quantify this and had found that the shrinkage was very small. Moreover, a value had to be put on the simplicity and the savings of administrative expenses that had resulted from the application of the Agreement and also on cooperation with other countries. As to the administrative difficulties to which acceptance of the Agreement might give rise, it was pointed out in the Committee's special meeting that technical assistance was readily available from many sources.

Committee on Import Licensing

25. The Committee had stated in its 1983 report to the CONTRACTING PARTIES (L/5553) that the Agreement was adequate to ensure the discipline necessary to prevent trade distortions arising from licensing procedures and that its effectiveness depended on continuing efforts by all parties to maintain and increase transparency and to ensure a fair and equitable application and administration of the licensing procedures. At the special meeting on 17 April 1985, the view was expressed that, though these conclusions remained basically valid, continuing efforts should be made in this direction, inter alia, by completing the work programme recently adopted by the Committee.

26. As regards obstacles to accession, the Committee reached, inter alia, the following conclusions at its special meeting:

- Membership needed to be extended: however, the right formula for attracting new members had to be found. Some felt this could be accomplished by increasing the flexibility of some specific provisions of the Agreement itself and/or the way in which it was implemented. Others warned that too much flexibility might undermine the minimum standard of discipline embodied in the Code. They felt that increased transparency of the Agreement's provisions and implementation was a preferable path and that the Committee's current work programme was a step in that direction.

- There was a need for more information from and discussion with interested non-signatories concerning specific problems they have with particular provisions of the Agreement. An appropriate means of accomplishing this was to provide more general information to prospective signatories concerning the Agreement and to grant better directed, more specific technical assistance.

Committee on Trade in Civil Aircraft

27. At the special meeting on 18 April 1985 the members of the Committee agreed that the Agreement was adequate and effective.
28. Several members of the Committee expressed regret that no non-signatory had come to the Committee's special meeting. Several signatories said that they were in favour of increasing participation in the Agreement. They were prepared to examine any specific problems encountered by any non-signatories, but to do so they needed to know what these problems were. If there were obstacles, solutions should be sought on an ad hoc basis rather than generally, as it was important not to detract from the primary objectives of the Agreement. In the absence of non-signatories, it was not possible to comment any further.

Committee on Anti-Dumping Practices

29. In its contribution to the 1982 Ministerial Meeting (ADP/12), the Committee had considered that, in general, the Agreement was balanced between rights and obligations and provided a satisfactory framework for the implementation of Article VI of the General Agreement. The Committee had further noted that some specific problems had arisen in relation to the application of the Agreement and agreed that these problems should continue to be discussed in the Committee with a view to resolving them in accordance with the letter and spirit of the Agreement. The Committee had reaffirmed the need for continuing efforts to ensure that the practices of all parties in the anti-dumping field were in conformity with the provisions of the Agreement and had reiterated the principles underlying the Agreement. At its special meeting on 22 April 1985 the Committee reaffirmed these views.

30. At its special meeting the Committee invited observers who had faced obstacles to the acceptance of the Agreement to explain these to the Committee. No observer responded to this invitation.