CONSULTATIVE GROUP OF EIGHTEEN, 10-12 FEBRUARY 1982

DISCUSSION OF THE MINISTERIAL MEETING

At its meeting of 10-12 February 1982 the Consultative Group of Eighteen discussed the forthcoming Session of the CONTRACTING PARTIES at ministerial level. The secretariat was asked to make available to the Preparatory Committee a record of the discussion, and this is contained in the attached note. It should be emphasized that this is prepared by the secretariat on the basis of its understanding of the main points emerging from the discussion, in order to assist the Preparatory Committee in carrying further its work on the organization and the agenda of the Ministerial Meeting: it is not intended to be an exhaustive account of the Consultative Group of Eighteen's discussion.
1. In introducing the discussion on the Ministerial Meeting, the Chairman recalled that, since the Group’s last meeting, its proposal that the CONTRACTING PARTIES should meet at ministerial level in 1982 had been endorsed by the CONTRACTING PARTIES. The Ministerial Meeting was now a reality and preparations for it had begun both at the national level and in the GATT. In fact, some contracting parties had already made public what their aims for the Ministerial Meeting were. There appeared to be an emerging consensus that the Meeting could be a turning point in world trade relations. Recent trends in trade relations had been dangerously unhealthy; the Meeting might serve to reverse these trends and to reestablish confidence. This could not be achieved by a simple declaration of Ministers; the Meeting must also have a concrete outcome. Among the questions Ministers might address were: in what ways had access to markets become more difficult in recent years? Attention might be directed mainly at the new forms of safeguard actions, such as sectoral arrangements, self-restraint agreements and other even more subtle forms of limiting access to markets. A second main question concerned the way international competition had become more distorted. In this context he referred to the still unresolved problem of subsidized export credits, a problem which did not only concern contracting parties that were granting export credits but also those that were financially unable to do so and were therefore at a competitive disadvantage. This was one of the many issues in which developed and developing countries had a common interest. Other topics were more specifically related to the question of the integration of developing countries in world trade.

2. The Chairman emphasized that in his view the Ministerial Meeting should concentrate on issues that deserve the attention of Ministers. Among these a distinction should be made between urgent issues that require ministerial decision and issues that may be included in the future work-programme of the GATT and on which the Ministers might give some orientations.
3. The Chairman concluded by saying that the Consultative Group was only one of the GATT bodies that was asked to contribute to the preparation of the Ministerial Meeting. The main responsibility was with the Preparatory Committee, which was reporting to the Council. He asked the Chairman of the Preparatory Committee, Ambassador D.S. McPhail, and the Chairman of the Council, Ambassador B.L. Das, whether they wished to comment on the Ministerial Meeting.

4. The Chairman of the Preparatory Committee said that the Preparatory Committee had worked out a tentative schedule for its meetings (cf. PREP.COM/R/2, para.4). According to this schedule it was envisaged to have a first approximation of the final product, i.e. items to be covered and the main problems to be dealt with, by 20 April. By that date the contribution from other GATT bodies was also expected. He expressed concern that, as yet, the consultation process among delegations had not been as extensive as he would have liked. One reason for this was that the Preparatory Committee was a body open to all contracting parties and that, in order to preserve its universal character, it had not established preparatory sub-groups. He expressed the hope that, now that the Committee had organized its work, governments would take over the initiative and push forward the work of the Committee. The Committee had established a catalogue of suggested topics for the Ministerial Meeting. At a future date it should be possible to put forward some ideas about grouping the suggested topics under the headings that could be derived from the CONTRACTING PARTIES' decision on the Ministerial Meeting. His personal expectation was that the Committee would then begin to negotiate by annotating the agenda, and defining more clearly the parameters of the Meeting. The result might be a preliminary version of the Committee's report to the Council, to be ready before the mid-year break, the final version being drafted after that break.

5. Between now and then some understanding would also need to be reached on the organization of the Meeting, in particular in the way Ministers should interact. Here the spectrum of possibilities reached from small groups to a single gathering with set speeches. A decision also needed to be taken on the nature of the report of the Committee to the Council. One could imagine that there would be in the introduction of the report a reaffirmation of the GATT system; thereafter might come the question of protectionism, market access and other issues which together would represent a package suitable for ministerial consideration in November.

6. The Chairman of the Council said that the Consultative Group, from which the idea of a Ministerial Meeting originated, naturally had a keen interest in this matter and could be expected to give broad advice on it. The Ministerial Meeting would be a success, not if the newspapers called it a success, but rather if the Ministers went home with the conviction that they had strengthened the trading environment. The task was now to create an atmosphere which would lead to concrete steps but at the same time to guard against raising unrealistically high expectations. In his capacity as member of the CG.18 he suggested three
criteria that could be used to select the subjects to be taken up by Ministers. The subjects should be (a) within the purview of GATT, (b) of interest to a large number of contracting parties, and (c) of importance for the resolution of the main problems of international trade. In preparing the programme of action for the 1980's, it was highly relevant to consider the GATT work programme agreed in 1979. The adoption of a new programme without the completion of the existing programme would raise questions and doubts. With regard to the items included in the 1979 work programme, Ministers should at least reach agreement on guidelines or an institutional framework ensuring that they were given adequate attention. It was pertinent for the Ministers to declare their faith in the GATT system, and to examine where GATT obligations were not fully fulfilled, why this was so and how the underlying problem could be tackled so as to ensure the fulfillment of the obligations in the future. Another pertinent question was that of how the GATT, both the organization and the Agreement, could be made more relevant and meaningful to a larger section of the world community. The many changes in the trading environment between the 1960's and 1980's would need to be fully taken into account in this regard.

7. The Group then discussed in detail the overall objectives of the Ministerial Meeting, the criteria to be used for selecting agenda items, and the desirability and possible content of a reaffirmation of faith by Ministers in the GATT system. Many remarks were also made on specific agenda items for the Ministerial Meeting. The following paragraphs summarize the main points made in the discussion.

8. As to the overall objective of the Ministerial Meeting, many speakers said that it should above all help expand world trade by facilitating access to markets for all countries and all sectors in the present, difficult economic situation. One member defined this aim more precisely: he wished the Meeting to secure access to markets on equal terms for unsubsidized producers. There was general agreement that the Meeting should also be used to restore confidence in the GATT. One member thought that the Ministers should set trade on a course which would convince governments and the public that the system was moving towards further liberalization and that trade was an aid rather than an obstacle to the self-fulfillment of nations.

9. Another view was that the overall thrust of the meeting should be towards a more effective GATT and greater transparency in trade policies. This should be achieved by ensuring that the same trade rules were applied by all and that more information about national trade regulations was made available to the GATT. One member said that the Meeting should give Ministers a heightened conviction that GATT could serve their purposes by helping them deal with domestic protectionist pressures and with problems of access to foreign markets, thus creating a strengthened commitment to the GATT.

10. One member said that he had found the best definition of the objective of the Ministerial Meeting in the recent speech by Ambassador Brock of the United States in Davos in which he had said the following: "Countries can and should follow different paths of development, and we
celebrate their right to do so. But, because there will be profound differences in how each country manages its economy, we believe it is crucial to structure and strengthen the world trading system anew, and to accommodate those differences in a rational, predictable and equitable fashion".

11. Several members thought that the promotion of the developing countries' trade interest should be among the main objectives of the Ministerial Meeting.

12. A number of speakers expressed the view that one should do everything to prepare a successful and productive meeting but at the same time avoid creating exaggerated expectations. A disappointment could have serious consequences. One member said that the Ministers simply did not have the right to fail. They should now be made aware that the Meeting was not a ministerial conference of a ceremonial character, confined to the delivery of set speeches, but a meeting to negotiate and to open the way towards the resolution of trade problems.

13. Several members agreed that the Ministerial Meeting should deal with matters that fall within the purview of GATT, are of interest to the great majority of the contracting parties, including the developing countries, and are sufficiently important to deserve the attention of Ministers. One member said his government intended to apply the following criteria for determining the priority of a proposed subject matter: the extent to which its inclusion in the agenda of the Ministerial Meeting would contribute to the expansion of trade, enhance the rule of law in international trade, and improve the management of the GATT system.

14. Several members made suggestions on a possible categorization of agenda items for the Ministerial Meeting. One speaker said that the agenda items could be categorized in accordance with the type of decision Ministers could take on them. There was first the category of items that were ready for a final decision by Ministers. It was conceivable and highly desirable that the problem of safeguards would be put into this category. The integration of the developing countries in the world trading system, in particular an agreement on improved negotiating rules better adapted to their possibilities and situation might also be included in this category. A second category might consist of those issue areas for which discussions were so far advanced that the Ministers could give a starting signal for negotiations. Agriculture might fall into this category, also the Harmonized System and other areas of general concern. A third category would consist of subject-matters on which no concrete decisions could be taken because further studies were needed. Here Ministers might be asked to give some orientations. Questions relating to services, investments, structural adjustment and the regime for trade in textiles after the end of the recent prolongation of the MFA might be included in this category.
15. Another member suggested that there should be four categories of agenda items. The first would relate to the implementation of the results of the Tokyo Round, in particular through the full and global acceptance of the codes and other legal instruments agreed during the Tokyo Round. The shortcomings in each of the codes as well as their effects on trade flows should also be analyzed and discussed by Ministers under this heading. The second category would consist of matters pending from the Tokyo Round. In this category fell safeguards and also agriculture, which was an area where universally accepted and interpreted standards, with any exceptions clearly defined and agreed in advance, were required. The third category would deal with specific difficulties in the trade of developing countries. Ministers should speak out on the concrete trade advantages for the developing countries arising directly out of the Tokyo Round results and on the need to grant preferential treatment to each developing country in accordance with its situation. The role of the Committee on Trade and Development and its importance for the least-developed countries should be stressed by Ministers. A fourth category would be other matters which would help make trade more dynamic. Under this category might fall some of the new subject areas of concern to some developed countries.

16. The Group discussed at some length the desirability and possible content of a reaffirmation of the GATT principle by Ministers. One speaker said that the final document of the Ministerial Session should begin with a profession of faith in the GATT system. As ten years had passed since the last ministerial meeting in GATT, it seemed appropriate that the Ministers reaffirm the importance of the liberalization of trade and underline the role of world trade as a motor of growth. It would be also quite normal if they were to underline the contractual character of GATT and of the instruments negotiated under its auspices as well as GATT's role as a permanent negotiating body open to all trading nations and for all trade policy issues, be they related to imports or to exports.

17. Other members added that a reaffirmation by Ministers of their faith in GATT would help to dispel uncertainty about future trade policies and to improve the investment climate. It would also help governments to resist the present formidable protectionist pressures. One member warned that trade pledges had lost their credibility and that they could therefore no longer be the sole objective of a ministerial meeting; to be effective they had to be accompanied by concrete steps confirming the intentions declared.

18. One member said that the final document of the Ministerial Meeting should contain a set of basic principles on future GATT activities and on the GATT action programme for the 1980's. With regard to the principles at least three points should be included: (a) An unequivocal commitment to the GATT principles and system based on the recognition of the achievements of the GATT in the field of trade expansion, (b) a strengthening of the rule of law in international trade, that is of the integrity of the GATT system as a legal framework governing trade, and (c) the management of the trade system for the benefit of all countries, including the developing countries.
19. One member said that the proposal that Ministers reaffirm their faith in GATT principles raised the question of which GATT was meant: the General Agreement itself or also the instruments that had evolved under the umbrella of GATT? The MFA, though negotiated in GATT, was an exception to GATT. To this exception a further exception had been introduced in the form of the "reasonable departures" clause. The proposal also raised the question of which principles were meant. Some GATT principles had been eroded through trade practices and understandings that had evolved at the fringes of GATT. Other basic GATT concepts appeared to have changed their meaning. Thus, reciprocity, which used to have a clear meaning, was now often used to describe retaliation. After a critical review of trade practices and understandings that had evolved around GATT, he concluded that, if one were to reaffirm GATT principles, it was essential to define precisely what one meant by GATT and GATT principles.

20. Another member, speaking in a similar vein, said that violations of GATT had become so frequent that it was now difficult to identify what in fact the GATT trading system was. The Ministerial Meeting, in his view, might be an occasion to find out whether the contracting parties still wish to abide by the GATT rules or whether they wish to introduce changes.

21. Many proposals were made on specific subject matters to be taken up by Ministers. The most frequently mentioned topic was safeguards. One suggestion was that the secretariat might set out a catalogue of various types of actions taken in this field. This might facilitate the restarting of discussions, which would, if viewed as part of a general move towards more transparency, be of some value. Another speaker said, while such a catalogue might be useful, it was important to move towards an improved framework for safeguard action under appropriate disciplines. In the view of one member the resolution of the safeguards issue was the key to re-establishing the integrity of the GATT system.

22. Another topic on which detailed comments were made was trade in services. One member said that the contracting parties should commit themselves to talk seriously about trade in services, which was a critical element in future economic growth. Another speaker cautioned that, great as the interest in negotiations on services was in certain quarters, it had to be realized that one needed a thorough and accurate study of what was involved in this complex area. He had no objections if it were proposed that Ministers commissioned such a study but it would no doubt take some time before a negotiation in this area could be considered. One member, agreeing, said that one should initially study the role of the GATT in this area. Overly far-reaching objectives should be avoided and one should attempt to identify sectors in which rules similar to those governing trade could be applied.
23. One member said that if the developed countries continued to discuss services only in the OECD, the developing countries, which did not dispose of an OECD-type forum to coordinate their views, were at a disadvantage. He urged the developed countries to take their commitment to the multilateral trading system seriously and to agree that the matter become the subject of careful and complete study in GATT.

24. The role of the developing countries in the trading system was also referred to by many speakers. Several members said that their authorities would be willing to examine favourably the tariff position on items of export interest to developing countries. One speaker pointed out that much had already been done in this field, in particular through the GSP and the tariff reductions on tropical products. This was reflected in the high import penetration of low-cost countries, in particular in the area of textiles. What was done for developing countries should concentrate on the poorest among them. The more advanced developing countries should open their markets to manufactures, commensurate to their economic strength.

25. One member said that the concept of graduation was a destabilizing and uncooperative idea. Another described it as "impossible, useless and unfair". One member replied that the concept was a reflection of reality. Its application was necessary to ensure that the system was perceived to be fair by all, and it was on this perception of fairness that the support for the system depended.

26. Another speaker said he had no difficulty with the concept of graduation as such. What gave him concern however was that it had been used unilaterally and in a manner that was both arbitrary and unfair. The responsibilities of major trading nations categorized as developing countries in the GATT system should be clearly defined. If they were competitive in a certain sector, the normal tariff negotiating rules should be applied to them; but they should not be asked to make unilateral tariff concessions outside trade negotiations merely because they had become more competitive. He urged that efforts be made at the Ministerial Meeting to give greater precision to the concept of graduation.

27. The question of agriculture was not discussed at length under this agenda item since the Consultative Group had already held a full discussion of the place of agriculture in the GATT under the previous agenda item. It was however agreed by all members, in both discussions, that agricultural questions must figure on the ministerial agenda. Among points put forward by members as being suitable for consideration by Ministers were: import restrictions and export subsidies; the acceptance and respect by all contracting parties of generally applied and rigorously interpreted rules in the agricultural sector; institutional arrangements in the GATT to deal with agriculture; reasons for the differential treatment of agriculture in the drafting and in the application of the General Agreement; the pursuit of greater equality, transparency and efficiency by the full application of existing rules and codes, by the reduction of high duties and by improving the level of
bindings; examination of points not hitherto covered, or inadequately covered, by GATT or the codes, such as long term contracts, agricultural credits, mixed sales and price transparency; the outcome and effective implementation of actions taken under Articles XXII or XXIII:2; the usefulness of international commodity agreements and the situation of agricultural exports of developing countries.

28. Several other specific topics were also referred to in the Group's discussion, however without detailed elaboration. Among them were:
   - Tropical products
   - Structural adjustment
   - Non-ferrous metals
   - Fisheries
   - Textiles
   - Restrictive business practices, in particular of multinational enterprises
   - Subsidies, including export subsidies
   - Dispute settlement procedures
   - Harmonized System
   - Review of the MTN codes
   - Counterfeiting
   - Problems relating to the implementation of the MTN codes
   - Problems of investment and the attendant problems of liberalizing the movement of capital
   - Trade in high technology
   - Improved rules and methods to deal with non-market economies
   - Non-tariff barriers and quantitative restrictions.

29. One member said that it was important to clear up existing problems before entering into new fields. Another member urged that every effort be made in the forthcoming weeks and months to reach a consensus on the various specific proposals made.

30. The Chairman concluded the meeting by saying that the discussion had shown that the members wished the Ministerial Meeting to restore confidence in the open and fair trading system as an essential element in the process of economic recovery and development, and that this could be achieved through a more effective implementation of the GATT, a better understanding of the interpretation of the commitments under GATT, and an improvement of the GATT in some respects. He expressed the hope that the discussion would serve as an input into the important work which the Preparatory Committee was carrying out under the Chairmanship of Ambassador McPhail.