PROCEDURAL STEPS ASSOCIATED WITH THE HARMONIZED SYSTEM ARTICLE XXVIII NEGOTIATIONS

Paper submitted by the United States

1. Four general steps are usually associated with the Article XXVIII negotiations relating to the introduction of the Harmonized System. These are:

   a) Submission of the necessary documentation;
   b) Preparation of claims of interest/requests;
   c) Substantive negotiations; and
   d) Legal procedures to put into place the results of the negotiations.

This paper refers only to item b.

2. Preparations of claims of interest (within 90 days of the issuance of documentation) generally are based on a mechanical application of GATT procedures for determining supplier status, i.e., principal suppliers, substantial suppliers, and holders of INRs. The next step is the preparation of requests which follows from an assessment of the offer and could be expected to focus on problem items on which negotiations will be necessary.

3. Given the unique technical nature of the HS negotiations, a mechanical preparation of claims of interest could in certain instances result in very lengthy and detailed discussions, particularly if very small or even theoretical items were included. This in turn could give rise to delays and unnecessary debate.

4. There has been an implicit assumption on the part of a number of participants that the focus of the negotiations should be on matters of actual interest which would be identified by individual parties in their request lists.

5. To expedite the negotiations, parties could make a blanket statement of claims of interest indicating that they reserve their rights for the duration of the negotiations to revert to items on which they have GATT rights. It would not be necessary to make a listing of detailed claims of interest. Legal rights would be protected on these items through the blanket statement which would provide the necessary safeguards provided normally by a detailed listing. Parties could then proceed directly to make their requests where they have GATT rights and where they deem such requests necessary, preferably within the 90-day period provided for the preparation of claims of interest. This process would be facilitated if countries provide comprehensive documentation, including information on bilateral balances.

6. While parties would, if necessary, be able to revert to individual items on which they have rights but on which requests were not made initially, once the negotiations are concluded this would also mean that the negotiations are concluded vis-a-vis those items a party chose not to pursue, just as would be the case if a detailed claim had been prepared.