GROUP OF NEGOTIATIONS ON GOODS

Report to the Trade Negotiations Committee meeting at Ministerial level,
Montreal, December 1988

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1. This Report is in three sections:

Section I reports on the work of the Group of Negotiations on Goods since its establishment.

Section II provides an overview of progress in each of the fourteen Negotiating Groups established under Part I of the Punta del Este Declaration. It is based on the reports submitted by Chairpersons of Negotiating Groups summarizing the work done in the Groups since their establishment. These reports are not intended to be comprehensive nor do they reflect the final positions of the participants. They should be read in conjunction with the records of the Negotiating Groups and with the record of the GNG meeting of 16-21 November 1988. The GNG has taken note of this Section and transmits it for information to the Trade Negotiations Committee.

Section III brings forward points for action by the Trade Negotiations Committee, following reports submitted by the Chairpersons of Negotiating Groups and submissions by participants, and after consideration by the GNG. A number of the decisions proposed in this Section will have to be brought into effect through formal GATT procedures. The GNG has agreed to transmit this Section for action by the Trade Negotiations Committee.

2. In order to establish the present report the GNG met on 16-21 November 1988. The record of the discussions at this meeting will appear in MTN.GNG/14.

3. The following communications were submitted to the GNG for transmission to the Trade Negotiations Committee:

(i) Communication from the Chairman of the Sub-Committee on Trade of Least-Developed countries (MTN.GNG/W/15);

(ii) Communication from the Delegation of Jamaica (MTN.GNG/W/16);

(iii) Communication from the Delegation of Indonesia on behalf of the International Textiles and Clothing Bureau (MTN.GNG/W/17);

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(iv) Communication from the Delegations of Cameroon, Côte d'Ivoire, Nigeria, Sri Lanka and Zaire (MTN.GNG/W/18);

(v) Communication from the Delegation of Brazil on behalf of sixteen contracting parties members of the Latin American Economic System (MTN.GNG/W/19);

(vi) Communication from the Delegation of the European Communities (MTN.GNG/W/20).

4. The adoption of the present Report of the GNG has taken place on the basis of the following understandings:

(i) the Chairman of the GNG and the Chairman of the Negotiating Group on Agriculture will ensure that all participants are kept informed of developments in the formation of a consensus in the negotiations on agriculture;

(ii) the text relating to tropical products in Section III of this Report has been agreed subject to acceptance by the participants of the outcome of the negotiations aimed at achieving the results referred to in the first paragraph of that text and the footnote thereto;

(iii) while the GNG is not submitting specific proposals in respect of the points addressed in the statement by the Chairman of the Punta del Este Conference on the adoption of the Ministerial Declaration, it is understood that this statement retains its validity.

5. The Annex to this Report lists the dates agreed by the Negotiating Groups for their first meetings in 1989.

6. The next meeting of the GNG will be held in the week beginning 13 March 1989.

7. A table of contents can be found at the end of this Report.
SECTION I

ACTIVITIES OF THE GROUP OF NEGOTIATIONS ON GOODS

1. The responsibilities of the Group of Negotiations on Goods are laid down in Part I.G of the Punta del Este Declaration. The Group has held eleven meetings since its establishment on 27 October 1986.

2. In discharging its responsibilities, the GNG has, in particular, taken the following steps:

(i) On 28 January 1987 it recommended that the TNC establish a mechanism, as designated by the GNG, for the surveillance of the standstill and rollback commitments in Part I.C of the Ministerial Declaration;

(ii) At the same meeting it agreed and put into effect detailed negotiating plans on each of the subjects for negotiation under Part I;

(iii) The GNG also established on 28 January 1987 the negotiating structure, consisting of fourteen Negotiating Groups to carry out the work envisaged in the negotiating plans. On 12 February 1987 it approved the appointment of Chairpersons of the Negotiating Groups. These appointments were reconfirmed by the GNG on 16 December 1987; it decided to review this decision at its first meeting in 1989.

The GNG has reported regularly to the Trade Negotiations Committee. Its discussions are recorded in the reports of its meetings (MTN.GNG/1-4 and 6-12). The report of the Group's meeting of 16-21 November will be in MTN.GNG/14.
SECTION II
OVERVIEW OF PROGRESS IN THE NEGOTIATIONS UNDER PART I
OF THE PUNTA DEL ESTE DECLARATION

TARIFFS

1. Participants discussed issues relating to:
   - a tariff cutting approach or approaches, including the elimination of tariffs;
   - the elimination or reduction of high tariffs and tariff escalation in appropriate product areas;
   - possible criteria to expand the scope of tariff concessions including the degree of tariff bindings;
   - ways and means for broadening and updating the factual basis for the tariff negotiations;
   - evaluation and interlinkages of tariff negotiations especially with other market access elements such as non-tariff measures and broader aspects of the negotiations.

2. The Group has held a total of ten formal meetings as well as a number of informal consultations and had before it a considerable number of proposals and submissions on modalities for the tariff negotiations, together with some background material prepared by the secretariat. A comprehensive document in the form of a synoptic table containing all proposals and submissions made was also produced by the secretariat.

3. During the initial phase of the negotiations, a widely-held view emerged which called for the adoption of a general harmonization formula, such as the one used in the Tokyo Round, or, as an alternative, the adoption of such a formula supplemented by a request-and-offer procedure in order to achieve deeper than formula cuts. Another view put forward was that after full participation in previous Rounds of negotiation on tariffs, there was little room for certain countries to apply a harmonization formula; instead, the use of a request-and-offer procedure would be more appropriate for these countries. A further view was that a combination of the two approaches might be the most feasible one, i.e. to provide for formula cuts for tariff rates above a certain level and for the request-and-offer procedure for rates below that level. One participant proposed the complete elimination by developed countries of all industrial tariffs (with exception for agricultural, forestry, fishery and mining products); later, this participant supplemented its earlier submission by proposing the elimination of an agreed proportion of developed countries' tariffs on industrial and mining products and the application of a
harmonization formula for the remaining tariffs. Some participants insisted on the need to recognize, through credits, the efforts made by them in terms of degree of bindings and autonomous liberalization measures taken after September 1986, including in the context of trade, finance and monetary linkage. One participant suggested that these credits could include, inter alia, the advanced implementation of liberalization measures and improvements of preferential arrangements - or other trade expansion means - for products of particular interest to less developed contracting parties.

4. Still during the initial phase, several specific proposals relating to special and differential treatment for developing countries were made. One submission proposed the binding at zero level by developed countries of their tariffs on all products, to be applied on a preferential basis only to developing countries for a period of ten years; after that period, the zero bound rates would be applied to all countries. Developing countries would in return consider binding erga omnes their tariffs on a substantial number of products, and reduce them after the end of the ten year period. Another proposal was that developed countries should apply a general harmonization formula, while developing countries should have a choice between a request-and-offer procedure and the application of a linear reduction formula of a certain percentage with a permanent harmonization element. The proposal also stipulated that the principle of relative reciprocity should be applied in the negotiations between developed and developing countries.

5. In 1988, a proposal for a comprehensive tariff negotiating approach was tabled by a group of participants who emphasized that tariff liberalization was a central element of the Round. This submission addressed the major issues facing the Group, i.e. tariff reduction and elimination (through formula approaches with harmonization effects, plus criteria to deal with tariff peaks, tariff escalation and low tariffs), bindings (to increase substantially the level of bindings by all participants including through the binding of all negotiated concessions), coverage (no a priori exclusions, with exceptions to be kept to a minimum), participation (all participants, taking into account individual economic needs of developing country participants), and the question of base rates and base date (m.f.n. bound rates or, where none, normally applicable m.f.n. rates as of September 1986). This proposal received considerable support in the Group and was regarded as a good basis for further discussion. One participant which supported this proposal nevertheless considered that a few of its aspects had to be modified.

6. A further proposal emphasized the need to establish a "macro-target" for the tariff negotiations which would not only help to create a new momentum but would also enable countries to increase their contributions to the negotiations; through this macro-target, a favourable atmosphere would be created for countries to push forward their trade liberalization plans through further tariff reductions and the increase of bindings.
7. Another view, also drawing on this target approach, was that each participant should commit itself to the use of a results approach which would allow participants to employ modalities of their choosing. This proposal also stressed the need for full participation by all countries and the full binding of entire tariff schedules. In general, the results concept received favourable comment by other participants, several of whom noted, however, that the results should be more specific and should include further parameters for the negotiations, and that the proposal needed to take into account the special needs of developing country participants. In recognition of these comments, the drafters of this and the preceding proposal attempted to meld their concepts into a text that might sufficiently meet the needs of the Group.

8. Another proposal also introduced a number of elements for a comprehensive approach, containing inter alia, (a) higher levels of tariff protection facing exports of less developed contracting parties and thus the need for negotiating modalities to correct this; this proposal provides for the secretariat to prepare a note on methodology for such an evaluation; this note would assist the less developed contracting parties to assess the concrete benefits in the on-going negotiations and would be based on the comparison between the levels of protection faced by their exports in the markets of developed contracting parties and the level of protection on exports among developed contracting parties; (b) specific elements in any tariff reduction formula approach to secure reduced levels of tariff protection applied to the exports of less developed contracting parties; (c) inclusion of charges having a protective effect in the base rates; (d) improvements in the rules of origin; (e) the linkage of tariff reductions to the removal of non-tariff measures as well as other trade distorting measures which would impair the benefits from tariff liberalization; (f) overall reduction in tariff levels for exports of less-developed contracting parties to a level less than that applicable to trade among developed contracting parties; and (g) complementary measures to assist less developed contracting parties that lose preferential margins as a result of m.f.n. reductions. Other participants did not comment on this proposal and it is still open for discussion.

9. With regard to the broadening and updating of the factual basis for the negotiations, it was strongly felt in the Group that the supply of adequate tariff and trade data is of great importance for the conduct of the tariff negotiations. While several delegations have shown their readiness to co-operate in this regard, it is imperative that more participants supply the required information.

10. Regarding transparency in tariffs, one delegation proposed the introduction of an automatic information system concerning any changes in tariffs, including unbound tariffs. This proposal received favourable comments from several delegations.
NON-TARIFF MEASURES

11. The negotiating plan of the Negotiating Group on Non-Tariff Measures calls for an examination of the issues to be covered and the establishment of an adequate data base for the negotiations, with the help of proposals by the participants and background papers by the secretariat. In their proposals, participants were to set out the particular problems that they wanted to address and the techniques which they considered should be used to deal with them.

12. Written submissions were made by Australia, the United States, Canada, Brazil and the European Communities.

13. The secretariat's background paper on the "Data base and relevant work undertaken on negotiating techniques" is contained in MTN.GNG/NG2/W/1. Subsequently, it prepared the background papers at the request of the Negotiating Group on preshipment inspection and rules of origin.

14. The Group discussed the issues to be covered. A paper by the secretariat setting out the issues raised and the suggestions put forward in that discussion is contained in MTN.GNG/NG2/W/7/Rev.1.

15. Having examined the different suggestions put forward in relation to the issues, the Group adopted on 25 February 1988 a decision which set out a practical way of moving the negotiations forward in pursuance of the negotiating plan. This decision called on participants to submit, to the extent possible before 30 June 1988, proposals in which they would set out the categories of measures to be taken up in multilateral, formula, and request-and-offer approaches and indicate in each case the objective of the negotiation to be conducted. Participants were also invited to submit proposals relating to the modalities for the conduct of the negotiations.

16. Proposals have been received from the delegations of Japan, the United States, the European Communities, Poland, Australia, New Zealand, Canada and Czechoslovakia. The Negotiating Group also had before it a submission from fifteen participants which contained a number of principles for the negotiations and outlined possible approaches and procedures for their conduct.

17. MTN.GNG/NG2/W/19 contains a paper prepared by the secretariat at the request of the Group to sort measures which have been put forward for bilateral request-and-offer approaches, using the classification of the Inventory of Non-Tariff Measures. It also brings together the proposals made to the Group for measures which should be taken up under each of the negotiating approaches. It will be updated to take into account further submissions to be received from delegations. The following categories of measures or subjects have been proposed for multilateral rule-making approaches: preshipment inspection, rules of origin, import deposit systems, charges for services and other import taxes, signature of existing
codes, customs and consular formalities. The following categories of measures have been proposed for multilateral formula liberalization: licensing, price support, prohibitions, quantitative restrictions, tariff quotas, voluntary restraint arrangements, export subsidies and levies; these categories and other individual measures have also been proposed for request-and-offer approaches.

18. The Negotiating Group has held an initial discussion on principles or guidelines for the negotiations, on ways of assessing their results and on measures proposed for rule-making, formula or bilateral request-and-offer approaches.

19. The Negotiating Group has requested the secretariat to prepare background papers on customs and consular formalities, and on fees, duties and other import charges, similar to the secretariat's earlier notes on preshipment inspection and rules of origin. It has also requested the secretariat to prepare an information document on the Effective Rate of Assistance (ERA) and related methods, drawing as appropriate on GATT sources and on other international organizations, on the understanding that it will not prejudge the applicability of the work in the context of the Group. A communication has been received from Australia on the ERA.
20. The negotiating objective of the Group is as follows: "Negotiations shall aim to achieve the fullest liberalization of trade in natural resource-based products, including in their processed and semi-processed forms. The negotiations shall aim to reduce or eliminate tariff and non-tariff measures, including tariff escalation."

21. In addition to nine formal sessions between February 1987 and November 1988, the Chairman of the Group also held a number of informal sessions with participants.

22. The Group has had an extensive exchange of views based on submissions and proposals made by participants and in the light of the established objectives of the Uruguay Round, on a wide range of issues and problems related to international trade in natural resource-based products. The exchange of views and the examination of possible approaches for solutions to the problems thus identified are continuing. In this connection a number of delegations reiterated the urgency they attach to seeing visible progress made in ensuring the achievement of the negotiating objective for the Group.

23. The Group has examined whether the negotiating objective of the fullest liberalization of natural resource-based products might best be pursued through generic market access negotiations, or by negotiating approaches and modalities relating specifically to these product-areas. Given the inter-relationship which has emerged in the course of the Group's work between negotiations on natural resource-based products and other areas of negotiations in the Uruguay Round, notably negotiations on tariffs, non-tariff measures, subsidies, agriculture and other related issues, the Group has borne in mind relevant work in other Negotiating Groups.

24. The Group has also focused its attention on problems or issues which, according to certain views, are specific to trade in natural resource-based products. In this context the Group has discussed a number of factors which may have significant effects on trade. An overview of the different measures, or policies, is contained in documents MTN.GNG/NG3/W/8/Rev.1 and MTN.GNG/NG3/W/14.

25. Another point addressed concerns the question of product coverage in the work of the Group. Members of the Group have agreed that the three areas, i.e. fisheries, forestry and non-ferrous metals and minerals and their products, already examined by the Working Party on Natural Resource-Based Products should be covered by the Group's work. In addition to these products some members proposed the inclusion of other natural resource-based products, principally energy and energy-related products. The full list is contained in documents MTN.GNG/NG3/W/8/Rev.1 and MTN.GNG/NG3/7. The secretariat updated existing documentation and has been preparing preliminary data on the additional products without prejudice to any decision on their inclusion in the natural resource-based products negotiations.
TEXTILES AND CLOTHING

26. The negotiating objective of the Negotiating Group on Textiles and Clothing is as follows: negotiations in the area of textiles and clothing shall aim to formulate modalities that would permit the eventual integration of this sector into GATT on the basis of strengthened GATT rules and disciplines, thereby also contributing to the objective of further liberalization of trade.

27. In 1987 the Negotiating Group on Textiles and Clothing focused its attention in the initial phase on the preparatory work required to carry out its mandate. For this purpose the Group received an extensive array of material; the 1984 GATT Study was updated; the report of the Textiles Surveillance Body on the working of the MFA and the submissions of the participants in the Sub-Committee on Adjustment were made available. In addition, developing countries provided material on the evolution of the domestic industries in certain importing countries. In regard to the information available by the end of that year, the Group considered that while a large amount of material had been presented, it would continue to address requirements for additional information.

28. During the initial phase the Group also exchanged views on possible approaches to its work in the future, including the scope of the negotiations in the area of textiles and clothing.

29. In concluding its deliberations at the end of 1987, the Group agreed that in carrying out its work in the subsequent negotiating phase, it should focus its attention on the examination of techniques and modalities for achieving the objectives of the Punta del Este Declaration in the area of textiles and clothing on the basis of proposals to be submitted by participants.

30. From the beginning of its work in 1988, the Group concentrated its attention on the examination of such proposals and on discussion of the related aspects of its mandate.

31. Early in the year, Pakistan submitted a proposal setting out a framework for modalities in four phases to integrate the textiles and clothing sector into the GATT. The first phase envisages removing the criterion of "low prices" for invocation of market disruption, and the elimination of MFA restrictions on non-apparel textile products. In the second phase, restrictions on apparel products would be applied only in accordance with the provisions of Article 3 of the MFA. In the third phase, restrictions on apparel products would be applied only with the approval of the TSB, if existence of actual market disruption were established. Finally, by the end of the fourth phase, restrictions on apparel products should be eliminated.

32. Another proposal to provide a basis for developing modalities for the elimination of the MFA was submitted by the group of developing countries, members of the International Textiles and Clothing Bureau (ITCB). This proposal consists of four elements: the progressive removal of MFA restrictive measures; the elimination of MFA concepts and practices.
incompatible with the General Agreement; the effective application of the
GATT principle of differential and more favourable treatment in terms of
Part IV and the Enabling Clause; and the termination of the MFA and the
bilateral agreements based thereon.

33. A communication was also provided by the European Communities setting
out viewpoints on a number of aspects of the Group's work. The Community
reaffirmed its position that the final objective in this sector was the
application of GATT rules and proposed that a common diagnosis of the
problems in the sector be undertaken. Modalities for the integration of
this sector into GATT should be based on the strengthening of the rules and
disciplines of the General Agreement. Thus, progress in other groups,
particularly in safeguards, was extremely important for giving a positive
impulse to the work in the Group.

34. Canada has recently submitted a communication which lists some options
for achieving the goals set out for the Negotiating Group. These options
centre on two broad types of modalities: (i) those that address the
dismantling of the MFA within a certain timeframe; and (ii) those that
deal with all measures outside the GATT framework, including the MFA. A
list of questions to be addressed in examining modalities was also
provided.

35. A number of delegations have given initial views on these proposals
and also commented on other aspects of the negotiations, including the
negotiating objective of the Group, the scope of the work to be undertaken,
the relationship of the progress achieved in this Group with that in other
groups and the question of timing and transition.

36. The Group's discussions have brought out an important difference of
views regarding the scope of the negotiations. Some have held the view
that the main task of the Group is to concentrate on dealing with the MFA
restrictions; others have been of the view that not only MFA restrictions,
but other types of restrictions affecting trade in textiles and clothing
which were being applied outside the MFA, should also be considered so that
all measures of protection that were inconsistent with the GATT can be
taken up. Yet some others have held the view that in considering the
future régime for textiles and clothing the Group should take into account
the progress in other areas of negotiations in order to ensure an effective
and durable integration of this sector into the GATT. A number of
delегations pointed out that other aspects of trade in textiles and
clothing should be dealt with in their appropriate Negotiating Groups, and
stressed that each Group had its own mandate and no conditionality or
linkage should be established between them.
37. In the course of 1987 the Negotiating Group carried out the initial phase of the negotiating plan on agriculture established by the Group of Negotiations on Goods. This involved identification by participants of the major problems affecting trade in agriculture and their causes, consideration of basic principles to govern world trade in agriculture and the submission and initial examination of proposals by participants aimed at achieving the negotiating objective.

38. Negotiating proposals were tabled in 1987 or subsequently by: the Cairns Group of countries; Canada; the European Community; by Egypt, Jamaica, Mexico, Morocco and Peru as co-sponsors; India; Japan; Korea; the Nordic countries; and the United States.

39. Procedures were established by the Group for the submission of detailed information on measures and policies affecting trade, including full notification of all direct and indirect subsidies and other measures affecting, directly or indirectly, agricultural trade. Notifications have thus far been submitted by twenty participants.

40. Under the subsequent negotiating process, which got under way in February 1988, the negotiating proposals have been further examined as appropriate, with the technical and other elements thereof being elaborated on the basis of more specific proposals and working papers submitted by participants. The principal areas on which the work of the Group has focused include: short-term action; strengthened and more operationally effective GATT rules and disciplines/long-term framework; sanitary and phytosanitary regulations and barriers; aggregate measurement of support including decoupled income support; food security, including basic foodstuffs; non-economic factors; special and differential treatment; and problems of developing countries net importers of foodstuffs.

41. Discussion of special and differential treatment was based on numerous proposals and submissions and reflected widespread recognition that such treatment is an integral element of the negotiating objectives and should lead to concrete results, though differences remain as to the scope, implementation and duration of such treatment. More specific possibilities emerged in discussion of short-term action, where it was suggested that developing countries might be wholly or largely exempted. Furthermore, it was suggested that transitional compensation measures might be appropriate where developing countries faced short-term disadvantages as a result of multilaterally agreed short-term adjustments in developed country policies.

42. In February 1988 the Negotiating Group established a Technical Group in order to facilitate its further work on aggregate measurement of support (AMS) and related matters. Procedures were established for the submission of AMS data and estimates by participants and for the provision of technical assistance on request to countries requiring such assistance. The Technical Group, which has held five meetings, has proceeded on the basis that its discussions are without prejudice to whether, and if so how, an aggregate measurement might be used in the negotiations. Thus far six
participants have submitted AMS data. Technical assistance has been provided to one participant and several requests are in the pipeline. The Technical Group recently considered and reported to the Negotiating Group on the options for the use of an aggregate measurement in connection with possible commitments that might be adopted at the Mid-Term Review.

43. In September 1988 the Negotiating Group established a Working Group on Sanitary and Phytosanitary Regulations and Barriers. The terms of reference of the Working Group as confirmed at the October 1988 meeting of the Negotiating Group are set out in paragraph 3 of MTN/GNG/NG5/10 (see also MTN/GNG/NG5/11, paragraph 3). The Working Group has so far held two meetings. Representatives of the International Office of Epizootics, the International Plant Protection Convention and the Codex Alimentarius have been invited to attend meetings of the Working Group along with the FAO which also attends meetings of the Negotiating Group and the Technical Group on AMS.

44. Finally in this context, a number of supplementary proposals or submissions have been made to the Group regarding the elements of a framework approach for the negotiations. These include a proposal by the Cairns Group of countries and a supplementary submission by Australia; by Egypt, Jamaica, Mexico, Morocco and Peru; and submissions by the European Community, Jamaica, Japan, Nordic countries, Switzerland and the United States.

45. The following is a checklist, drawn up by the Chairman of the Negotiating Group on Agriculture, of issues that will need to be addressed in further consultations before the TNC meeting in Montreal, on the long and short-term elements of a framework approach for the negotiations on agriculture.

A. **Long-Term Elements**

Issues that will need to be addressed in relation to the long-term elements of a framework approach, so as to give greater precision to the agricultural negotiating objectives, include:

1. strengthened and more operationally effective GATT rules and disciplines, including guidelines for reform and modalities for negotiation on:
   - market access barriers
   - export competition
   - internal support

2. special and differential treatment;

3. timing and phasing of negotiations on long-term elements.
B. Short-Term Elements

Issues that will need to be addressed in relation to the short-term elements of a framework include:

1. the terms and conditions of a possible freeze and reduction in agricultural support and protection;

2. whether a freeze and reduction should be expressed in terms of an aggregate measurement of support or in terms of specific policies and measures, with an aggregate measurement of support being used as a monitoring device;

3. consideration of possible negative effects on net food-importing developing countries.

C. Sanitary and Phytosanitary Regulations

Consideration of a statement endorsing harmonization of national regulations as a long-term goal and a work programme embodying the defined objectives.
TROPICAL PRODUCTS

46. The Negotiating Group on Tropical Products agreed that work be carried out on the basis of seven product groups* on the understanding that this would not constitute a definition of tropical products nor an exhaustive listing and that other products might be included as negotiations proceed.

47. During the initial phase background material for negotiations was compiled and examined by participants. In this connection a number of participants felt that the documentation should be broadened in order to cover all significant markets for trade in tropical products. While this was not a precondition for the start of negotiations, it would be an essential element for the effective pursuit of positive results in the negotiating process. Other participants considered that the existing coverage in the documentation was sufficient to give effect to the objectives of the Ministerial Declaration. Several participants agreed to exchange information on trade policy measures in order to achieve greater transparency in the negotiations. The Group also received a number of initial proposals by participants aimed at achieving the agreed objective of the fullest liberalization of trade in tropical products and carried out an initial in-depth examination of these proposals.

48. On the question of techniques and modalities a large number of participants felt that a combination of techniques and modalities would provide the necessary flexibility for the negotiations. Several of these participants believed that in such a combination a formula approach should have the most important rôle. Another view was that a request-and-offer procedure would be the most appropriate for this area of negotiations.

49. On the basis of the work done in the initial phase the Negotiating Group adopted on 29 January 1988 Procedures for Negotiations which provided a plan for work up to the end of 1988 with a view to achieving concrete results before the end of the year and their implementation at the earliest possible date in the light of the provisions of Part I.B(ii) of the Ministerial Declaration. In accordance with these procedures participants submitted indicative lists which further elaborate on general approaches, formulae and measures and/or contain product-/country-specific requests. Two rounds of multilateral consultations covering all seven product groups were held between 30 May-3 June and 27 June-1 July 1988. In the course of

*Tropical beverages; spices, flowers and plaiting products; certain oilseeds, vegetable oils and oilcakes; tobacco, rice and tropical roots; tropical fruits and nuts; natural rubber and tropical wood; jute and hard fibres.
the two rounds of consultations participants reviewed the tariff and non-tariff situation affecting each of the seven product groups and provided indications as to their export interest. They also exchanged views on how different proposals on the table would affect trade in the product areas under examination and on possible approaches to be followed in negotiations in order to achieve the objective of the fullest liberalization of trade in tropical products.

50. In the course of the discussions the need to ensure a fair degree of multilateral burden-sharing and a satisfactory level of reciprocity in negotiations was emphasized by several participants. In this connection it was also underlined that the achievement of the objective of the "fullest liberalization" of trade in tropical products required a truly multilateral process of negotiations including, inter alia, contributions by developing countries according to their economic capacities. A large number of participants reaffirmed the provisions of the Ministerial Declaration concerning special and differential treatment and recalled that developing countries were not expected to make contributions in negotiations inconsistent with their individual development, financial and trade needs. Moreover, negotiations in this area should aim to provide additional benefits to developing countries given the importance of tropical products for their trade as recognized in the Punta del Este Ministerial Declaration. They also recalled the historical acceptance in past GATT rounds of the central rôle of trade liberalization efforts in favour of developing countries in this area. Several of these representatives stated that possible contributions by developing countries would be in accordance with Part IV of the General Agreement and the Enabling Clause. Such contributions would have to be made in the light of global results in the Uruguay Round and could not be assessed on a sectoral basis. It was also stressed that negotiations in this area should take full account of autonomous trade liberalization measures undertaken by a number of developing countries.

51. The Negotiating Group reviewed the results of multilateral consultations at the end of each round of consultations. In the light of these consultations and on the basis of the Procedures for Negotiations the Group adopted on 1 July 1988 the Arrangements for the Further Conduct of Negotiations with a view to achieving concrete results by the end of the year and their implementation at the earliest possible date in accordance with Part I.B(ii) of the Ministerial Declaration.

52. In accordance with the Arrangements adopted on 1 July a number of participants submitted initial offers. Several other participants which had already submitted offers and proposals further elaborated on them. Participants then engaged in intensive consultations and negotiations. The results of these consultations and negotiations were assessed by the Negotiating Group.
53. The Negotiating Group is required to review GATT Articles, provisions and disciplines as requested by contracting parties and, as appropriate, to undertake negotiations. While the Group is not undertaking a comprehensive review of the General Agreement, twelve Articles of GATT and the Protocol of Provisional Application have to date been raised for review; on all of these the Group has received and considered submissions from participants explaining why they consider that these provisions should be the subject of negotiations, together with background papers by the secretariat.

54. The main issues raised in relation to these provisions are briefly described below. It should be clearly understood that on many of these issues a wide range of different views has been expressed, and the Group recognizes the need for further examination of these matters as the negotiating process evolves. The views expressed by participants are fully set out, and the issues themselves are described in detail, in the records of the Group's meetings.

Article II:1(b): It has been proposed that, in order to ensure transparency and stability as to the true level of total charges on imports, all future bindings within the terms of Article II:1(b) should be expressed in the Schedules of Concessions of contracting parties in a single rate comprising not only the ordinary customs duty, as at present, but also all other duties or charges imposed on importation. For existing bindings, if a single rate were not practicable, "other duties and charges" should be separately recorded. The legal and technical implications of this proposal are being further studied.

Articles XII, XIV, XV and XVIII: Issues were raised by some participants regarding the continuing relevance of these Articles in the light of changes in the international economic environment, regarding the effectiveness of the disciplines the Articles prescribe and of the procedures through which they are implemented and regarding the relationship between issues dealt with in the GATT and those dealt with in the international monetary system. The question has been raised whether developments in the international monetary system have made it unnecessary for developed countries to apply trade restrictions for balance-of-payments purposes, and therefore to have recourse to Article XII. While the continuing need for Article XVIII:B has been recognized, it has been suggested that it has led in practice to long-term and open-ended dependence on import restrictions by many countries and to blurring of the distinction between measures taken for balance-of-payments reasons and measures justifiable under Article XVIII:C. It was further stated that the present practices and procedures for consultations under Article XVIII:B had not always facilitated the formation of a clear view on the justification for balance-of-payments measures. It has been pointed out by some other participants that Article XVIII:B embodies the recognition of the structural and persistent nature of the balance-of-payments problems of developing countries; recent changes in the world economy have only exacerbated these problems and, in their view, developing countries
continue to need flexibility in the use of trade policy measures. It has also been suggested that the balance-of-payments problems of countries consulting with the Committee on Balance-of-Payments Restrictions under Article XVIII:B have been aggravated by protectionism in their export markets, and that the Committee should pay greater attention to this aspect of its work. The regular surveillance of trade policies of countries invoking the balance-of-payments provisions has been contrasted with the absence of comprehensive surveillance of the trade policies of other contracting parties.

Article XVII: It has been suggested that the obligations of contracting parties in relation to state trading enterprises maintained or created by them should be clarified through more precise definition of the enterprises and the activities regulated by Article XVII, and of the obligations it entails. It has also been suggested that weaknesses in the operation of the Article stem less from the provisions themselves than from inadequate compliance with its requirements, notably the notification requirement, and from the absence of follow-up of notifications; though in this connection also it has been said that lack of clear definitions makes notification difficult. The relationship between Article XVII and other GATT Articles, in particular Articles III, X, XI and XVI, has also been raised.

Article XXI: It has been suggested that the degree of discretion afforded to contracting parties in taking action which would otherwise be contrary to GATT in order to protect their essential security interests needs to be clarified. The preservation of the rights under Article XXIII:2 of other contracting parties whose GATT rights may be nullified or impaired by such action, and the possibility of compensation for developing and smaller countries in such cases have also been raised, as has the relationship between GATT and the United Nations in matters of national security.

Article XXIV: It has been suggested that the Group should consider the effects of the proliferation of preferential regional agreements under Article XXIV, whether notified or not, on the operation of the most-favoured-nation concept, on the expansion of trade and on the trade interests of countries not participating in such agreements. The effectiveness of the examination in GATT of agreements has also been questioned; the proposal has been made that future agreements should come into force only with the approval of the CONTRACTING PARTIES and that, together with existing Article XXIV agreements, they should be subject to more effective surveillance. It has also been proposed that a standard period should be established for the duration of interim agreements. A number of the Article's provisions have been said to need clarification and agreed interpretation, to obviate divergences of view as to the conformity of notified agreements with Article XXIV. The relationships between Article XXIV and Articles XIX and XXVIII have also been discussed. It has also been proposed that the Group should clarify the obligations of federal states under Article XXIV:12 to ensure observance of GATT provisions by regional and local governments and authorities.
Article XXV:5: In relation to the granting and surveillance of waivers from GATT obligations by the CONTRACTING PARTIES it has been suggested that modalities and economic criteria should be established in order to avoid the perpetuation or creation of indefinite exemptions from GATT obligations. It was proposed that all future waivers should be subject to a fixed time-limit. The possibility that existing waivers without time-limits should be subject to periodic approval was also raised.

Article XXVI:5(c): It has been proposed that this provision should be revised or expanded to clarify and increase the transparency of the GATT obligations of countries succeeding to contracting party status under the terms of Article XXVI:5(c), particularly in relation to the establishment of tariff schedules. It has been pointed out that a long period may elapse between a country's acquisition of full autonomy in the conduct of its external economic relations and its succession to GATT membership (during which the GATT is applied de facto). However, the GATT rights and obligations of such a country on attaining the status of a contracting party are those which applied on the date of the acquisition of full autonomy, and this has been said to create legal uncertainty and unrealistic formal obligations.

Article XXVIII: It has been suggested that the criteria for the attribution of negotiating rights under Article XXVIII should be amended so as to permit a wider distribution of negotiating rights among contracting parties and to remedy a perceived erosion of existing rights. A number of proposals have been made as to ways in which this might be done, notably on the basis of the importance to supplying countries of the trade in question. It has however also been suggested that distribution of negotiating rights should continue to reflect the extent of tariff negotiations and bindings undertaken by contracting parties. An alternative proposal envisages the acquisition of negotiating rights in future not on the basis of trade shares, as at present, but through a negotiated exchange of reciprocal rights. Questions have been raised regarding the application of Article XXVIII to new products, and regarding compensation and retaliation for tariff increases and changes in tariff rate quotas. The effect on the security of tariff bindings of regular invocation of the right to renegotiate tariff schedules under Article XXVIII:5, has also been raised, as has the need to ensure that Article XXVIII remains operationally practicable.

Article XXXV: It has been suggested that this Article might be revised or expanded to permit contracting parties to enter into tariff negotiations with a country negotiating its accession to GATT, without impairing the right of either party to invoke Article XXXV, and thus decline to apply the General Agreement to the other, if it is not satisfied with the results of the negotiations.

Protocol of Provisional Application: The question has been raised whether it is still justifiable for contracting parties, or countries acceding to the GATT, to maintain legislation inconsistent with Part II of the GATT on the basis of the "grandfather clause" of the Protocol of Provisional Application or of Accession Protocols. The Negotiating Group is carrying out an enquiry to identify all legislation and measures, inconsistent with Part II of the GATT, which are maintained by contracting parties on this basis.
55. The Punta del Este Declaration states that the aim of the negotiations in this area is "to improve, clarify or expand, as appropriate, agreements and arrangements negotiated in the Tokyo Round of Multilateral Negotiations."

56. Of the nine Agreements and Arrangements which were negotiated in the Tokyo Round the following six Agreements have been the subject of work in this Negotiating Group:

(i) Agreement on Implementation of Article VI (usually known as the "Anti-Dumping Code");
(ii) Agreement on Implementation of Article VII; (usually known as the "Customs Valuation Code");
(iii) Agreement on Interpretation and Application of Articles VI, XVI and XXIII, (usually known as the "Subsidies and Countervailing Measures Code");
(iv) Agreement on Government Procurement;
(v) Agreement on Technical Barriers to Trade; (usually known as the "Standards Code");
(vi) Agreement on Import Licensing Procedures.

57. In the five meetings which took place in 1987, the Group considered suggestions by participants indicating issues that they wished to raise with respect to these individual Agreements. Upon examination of the suggestions the Group recognized the need for flexibility in identifying additional issues for negotiation. Four meetings in 1988 have enabled it to carry on detailed examination of further proposals so as to further clarify and concretize the issues raised. It has been assisted in this work by factual background documentation prepared by the secretariat, including a document containing a Checklist of Issues for Negotiations (MTN.GNG/NG8/W/26/Rev.1). As a result, some specific texts have been tabled taking into account points made in the discussions. Revised and additional texts are expected to be submitted early next year. This should facilitate the negotiating process both in terms of substance and in terms of techniques and modalities.

58. As issues raised with respect to the six MTN Agreements mentioned deal with widely divergent and, in a technical sense, unrelated issues, it might be neither desirable nor appropriate to summarize them. Broadly speaking in relation to two Agreements, i.e. those dealing with Government Procurement and Subsidies and Countervailing Measures, the issues raised in the Group relate mainly to implementation of existing provisions and problems encountered by some non-signatories, including developing countries, in acceding to them. Concerning the Agreement on Subsidies and Countervailing Measures, it should be noted, however, that much more elaborate proposals are being discussed in the Negotiating Group on Subsidies and Countervailing Measures. As to the Agreement on Customs
Valuation, clarifications have been sought on existing provisions to take
care of particular problems in some developing countries and thereby
facilitate wider membership. In the case of the other three Agreements -
dealing with Technical Barriers to Trade, Import Licensing Procedures and
Anti-Dumping - the main thrust of the proposals reflects experience during
their implementation and operation and calls for (i) strengthened
disciplines; (ii) improvements on questions such as transparency; and - as
the case might be - (iii) clarification of concepts, definitions and
principles; and (iv) expansion of scope and coverage.

59. The Group generally welcomes the technical support which some
Agreement Committees have provided to the work of the Negotiating Group
through managing and interpreting the Agreements and through examining
highly technical issues raised in many of the proposals. Continued support
of this nature could make positive contributions to negotiations in the
Negotiating Group.
SAFEGUARDS

60. The negotiating plan of the Negotiating Group on Safeguards first calls for an examination of the issues in the area of safeguards with the assistance of papers by participants setting out their specific suggestions for achieving the negotiating objective laid down in the Punta del Este Declaration and of papers by the secretariat.

61. The secretariat has prepared background papers on the following subjects: Work already undertaken in the GATT on Safeguards; Inventory of Article XIX actions and other measures which appear to serve the same purpose; "Grey-area" measures; and Drafting history of Article XIX and its place in GATT.

62. Proposals have been submitted by Brazil, jointly by Australia, Hong Kong, Republic of Korea, New Zealand and Singapore, by Egypt, Switzerland, Japan, India, the Nordic countries, Mexico and Yugoslavia. A number of delegations have circulated discussion papers on specific issues and some have circulated texts of their statements made in the Group. These included two communications by the United States, a statement by China, a statement by Argentina and a communication by India.

63. The Group has had a discussion ranging over the issues in this area and how they should be tackled. It has examined each of the proposals and papers submitted by delegations (as and when these have been presented). At its meeting in October 1987, it agreed that it would also address in turn each of the specific elements enumerated in the Ministerial Declaration and additional elements identified in the Group as set out in MTN.GNG/NG9/2. These are: transparency; notification and consultation; injury or threat thereof; nature of the measure; temporary nature of safeguard actions; degressivity and structural adjustment; compensation and retaliation; product coverage and geographic coverage; "grey-area" measures; multilateral surveillance and dispute settlement; special and differential treatment for developing countries; legal framework. The Negotiating Group has now conducted an in-depth examination of each of these elements which has considerably helped in the clarification of specific problems and positions and has contributed to a better understanding of the whole issue. The main points made in this examination have been reflected in the secretariat notes on the meetings of the Group. A paper by the secretariat setting out the main proposals before the Group as well as the main points made in the Group, has been circulated in MTN.GNG/NG9/W/21. Although discussions on some elements have reached an advanced stage, the Group has not attempted to draw any final conclusion from these discussions as it is apparent that, because of the interrelationships between them, substantive agreement cannot be reached on individual elements in isolation.
64. The Indian delegation was of the view that "this report should reflect appropriately the strong views expressed in the Group in favour of:

(i) establishing non-discrimination and temporariness as the key principles which should govern a future comprehensive understanding on safeguards; and

(ii) declaring grey-area measures with selective application as measures proscribed by GATT". Furthermore, the Indian delegation proposed a text on these issues for inclusion in the second part of the Chairman’s report to the GNG. Several delegations supported the Indian proposal. Many others, including some which explicitly supported the substance of the Indian proposal, objected to it for the reasons given in the last sentence of paragraph 63 and also for other reasons, such as the fact that the examination of the issues dealt with in the Indian proposal had not yet been completed. As there was no agreement on the Indian proposal, it features between square brackets in the pertinent part of Section III of this report.

65. In the discussions, delegations have stressed the overriding importance of a comprehensive agreement on safeguards for the functioning of the GATT system as a whole. There is a wide measure of agreement that a solution on safeguards is vital to progress in the Multilateral Trade Negotiations and to the success of the entire Uruguay Round.

66. The second indent of the negotiating plan makes it clear that the purpose of the examination of proposals in the Group is the drawing up of a draft text of a comprehensive agreement as a basis for negotiation. At its meeting held on 26-28 September 1988, the Negotiating Group authorized its Chairman, with the assistance of the secretariat and in consultation with delegations, to draw up elements for inclusion in such a draft text, without prejudice to the right of participants to put forward their own texts and proposals. At its meeting held on 14 November 1988, the Group decided to pursue work on a draft text of a comprehensive agreement detailing the elements as expeditiously as possible. In this regard, participants were urged to put forward proposals, if any, urgently, preferably before the meeting of the Group in March 1989. It also decided to begin negotiations on the basis of the Chairman’s text by June 1989.
SUBSIDIES AND COUNTERVAILING MEASURES

67. The Ministerial Declaration provides that the negotiating objective of this Group is to improve GATT disciplines relating to all subsidies and countervailing measures that affect international trade.

68. During the initial phase (January-December 1987), the Group discussed, in accordance with the negotiating plan, proposals by participants on issues to be taken up in the negotiations. The Group also received extensive background documentation from the secretariat. In particular, the secretariat established a comprehensive list of issues which participants had proposed for negotiations (MTN.GNG/NG10/W/10/Rev.1).

69. The issues proposed for negotiations have been grouped, in the secretariat's lists, under the following headings:

(i) definitions and concepts relating to subsidies and countervailing measures;

(ii) disciplines on subsidies (export subsidies, other subsidies, serious prejudice, import substitution, third country market displacement);

(iii) notifications and surveillance;

(iv) determination of the existence of material injury;

(v) initiation and conduct of countervailing duty investigations;

(vi) imposition and duration of countervailing measures;

(vii) developing countries;

(viii) dispute settlement.

70. In 1988, the Group entered into the subsequent phase of the negotiating process and has held five formal meetings, some of which were preceded or followed by informal meetings. The Group began its work in this phase with a general discussion, focusing in particular on fundamental objectives and concepts of Articles VI and XVI of the General Agreement as well as the relationship between these two Articles. Subsequently, the Group discussed proposals relating to a common negotiating basis.

71. The negotiating plan for this phase provides for the development of a common negotiating basis. It has been generally recognized that, at this stage, an agreed negotiating basis should not be too specific. It
should rather be in the nature of a framework for further negotiations and allow sufficient flexibility. This framework should be broad enough to ensure full coverage of issues proposed so far but should at the same time provide a sound basis for constructing comprehensive solutions to existing problems. There is agreement in the Group that this framework should be based on the following premises:

(a) it should provide for improving GATT disciplines relating to all subsidies and countervailing measures that affect international trade;

(b) it should ensure balanced progress in elaborating these disciplines;

(c) it should ensure effective enforcement of rights and obligations under Articles VI and XVI and should provide increased clarity and predictability as to the exercise of these rights and obligations.

Starting from these premises and on the basis of proposals made in this connection, the framework contained in Section III of this report has been developed.
TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS, INCLUDING TRADE IN COUNTERFEIT GOODS

72. The Group has addressed the issues mentioned in its negotiating objective as described below. A fuller reflection of the work undertaken in the Group is contained in the records of its meetings.

73. In regard to the trade-related aspects of intellectual property rights (IPRs) in general, the discussion has centred on three questions. The first is the nature of distortions or impediments to international trade arising in connection with IPRs. Among the practices mentioned by different participants as giving rise to such problems are the following: (i) discrimination and inadequacies in the enforcement of IPRs, at the border and within countries; (ii) inadequacies, excesses and discrimination in the availability and scope of IPRs; (iii) governmental regulations on the licensing of IPRs; (iv) the abusive use of IPRs by their owners; and (v) inadequate multilateral mechanisms, and excessive national mechanisms, for the settlement of disputes between countries on IPRs. There remain differing views about whether some of these practices do give rise to trade problems and, if so, their extent and seriousness.

74. Secondly, the Group has made progress in clarifying the relevant GATT provisions, as required by its negotiating objective, although it has not yet achieved a common perception in all respects. It is accepted that most of the relevant GATT provisions relate to ensuring that actions to protect intellectual property rights are not employed as unwarranted restrictions on trade or means of discrimination between contracting parties; the General Agreement does not contain specific obligations to enforce IPRs or to accord any particular level of protection to intellectual property. Some participants have suggested that this indicates a need for new rules and disciplines to deal with the trade problems arising in connection with IPRs; others have maintained that the work of the Group should be focused on those trade problems already specifically recognized in the General Agreement.

75. Thirdly, the Group has considered a range of suggestions, written and oral, from participants advocating different approaches to achieving the negotiating objective, including four proposals outlining in some detail the specific results that their proponents are seeking. These proposals, although differing in important respects, are each intended to provide a means of resolving the broad range of trade problems that their proponents see as arising from inadequacies or excesses in enforcement mechanisms, in substantive standards for the protection of IPRs and in provisions for the settlement of disputes between governments. In addition to the clarification of the scope and content of the commitments proposed, the Group's discussions of the suggestions have focused on their appropriateness in the light of the Group's negotiating objective, for example whether the suggestions could really be expected to reduce
impediments and distortions of international trade. Some other participants have proposed for examination impediments or distortions to international trade resulting from the abusive use of IPRs and from monopoly situations created by excessive protection of IPRs. Other issues that have been proposed for examination include the use or threat of use of national trade policy measures in disputes with other countries over IPRs, the need for the results to provide benefits to all participants, the application and possible adaptation of certain basic GATT principles, and transitional arrangements and technical cooperation in favour of developing countries. The point has also been made that national laws and regulations in the field of intellectual property reflect national political, social and economic objectives and the need to protect the public interest.

76. In regard to trade in counterfeit goods, the Group is pursuing work with a view to developing a "multilateral framework of principles, rules and disciplines", although there are differing views as to whether this should be treated separately or form part of a broader approach to the trade-related aspects of intellectual property rights. This work has taken place on the basis of previous work in GATT and of suggestions by participants, including a proposal that all participating countries should sign the Madrid Agreement on the Repression of False or Deceptive Indications of Source on Goods. It has taken into account the draft agreement tabled in 1982 by certain delegations and the work underway in WIPO and the Customs Co-operation Council on this matter. Discussion has centred on coverage, on the means of enforcement and on safeguards against obstacles to legitimate trade. It is a widely held view that commitments should be sought which, while being sufficiently precise to ensure that action against trade in counterfeit goods is effective and does not cause obstacles to legitimate trade, are also sufficiently flexible to allow for different legal and administrative systems and traditions.

77. It is agreed that the relationship between these negotiations and the activities of other international organizations is of importance for the work of the Group, and the Group is discussing this matter in the light of the requirement that the negotiations should be without prejudice to complementary initiatives that may be taken in WIPO and elsewhere. Representatives of the CCC, UNCTAD and WIPO have attended meetings of the Group, have provided technical support at the Group's request and have kept it informed of those of their activities which have relevance to its work. Unesco has also provided written information. WIPO has provided, in response to requests from the Group, detailed information on international and national laws and practices regarding the protection of intellectual property rights. The Group is most grateful for the valuable co-operation and contribution of these international organizations.
TRADE-RELATED INVESTMENT MEASURES

78. The negotiating objective on Trade-Related Investment Measures (TRIMs) requires the Group, "following an examination of the operation of GATT Articles related to the trade restrictive and distorting effects of investment measures", to "elaborate, as appropriate, further provisions that may be necessary to avoid such adverse effects on trade". Progress has been made towards a better appreciation of how the negotiating objective might be effectively understood and pursued, even if consensus has yet to be reached on whether further provisions may be necessary or not to avoid the adverse trade effects of investment measures.

79. Some participants have cited a number of specific government-mandated investment measures which, in their view, can give rise to trade restrictive and distorting effects that should be subject to discipline under the GATT. It has been acknowledged by some other participants that investment measures can have adverse trade effects. However, views differ in the Group over which trade effects of investment measures constitute a proper subject for negotiations in GATT. One view has been that the Group should adopt general criteria for differentiating among the trade effects of investment measures. This, it has been suggested, would make the negotiations more manageable in scope. In this regard, some participants have proposed that the negotiations should focus initially on direct and significant trade restrictive and distorting effects of investment measures which should, in their view, also be directly related to the operation of GATT Articles. Some other participants have proposed that the negotiations should deal only with such direct and significant trade restricting and distorting effects, and some of these participants also consider that these trade effects should be directly related to the operation of GATT Articles to warrant consideration. Some other participants have proposed that the negotiations should focus on the effects of measures which are directed at the exports and imports of a company with the immediate objective of influencing its trade patterns. Another view is that the Group should not overlook any adverse trade effects of investment measures or treat some as having a higher priority than others, particularly since the perception of effects can differ from one contracting party to another.

80. Some participants have noted that government-mandated investment measures can be applied to foreign or domestic investors and that often this occurs through unpublicised, case-by-case negotiation between investors and host governments. They can be applied in combinations of two or more measures, as well as in combination with traditional trade restrictions, and this can magnify their effects. Some participants have therefore identified as important the issues of transparency and of trade effects arising from the discriminatory way in which investment measures can be applied. Some participants have proposed that local government measures should be included in the scope of the negotiations.
81. Some participants have expressed the view that investment measures and practices of foreign investors and economic operators can have direct and significant trade restrictive and distorting effects that should be examined and addressed as part of the work of the Group. In their view, investment measures mandated by governments are essentially a response to such measures and practices. Some other participants have expressed the view that these measures and practices of private enterprises are not TRIMs but rather restrictive business practices and thus are not covered by the Group's mandate since no consensus was reached at Punta del Este to negotiate on restrictive business practices within the Uruguay Round.

82. As for the trade effects of investment measures, one participant provided the Group with information and data which demonstrate, in its view, the adverse trade effects of investment measures. Some participants have taken the view that it should be sufficient to show that adverse trade effects can arise in principle in order to establish a case for applying GATT disciplines, as is the case for trade measures. Some other participants have taken the view that such a generalized approach is not an adequate foundation on which to build the case for applying GATT disciplines to the adverse trade effects of investment measures, and they have proposed that instead work should proceed through a case-by-case approach to the trade effects of individual measures.

83. The differences of view over which trade effects of investment measures are the proper subject for consideration have been reflected in the discussions on which GATT Articles may have a bearing on the exercise. The Group has carried out an initial examination of some Articles that have been cited as being related to the trade restrictive and distorting effects of investment measures, taking account of previous GATT experience in this area.

84. In the view of some participants, the Group is required to focus on the trade restrictive and distorting effects of investment measures and not the measures themselves, and due consideration should be given to the broader purposes and effects of the measures in view of the overall objectives of the Uruguay Round. Some other participants have expressed the view that the Group is not restricted in the remedies that it might consider for the adverse trade effects of investment measures and that it may be necessary to formulate disciplines on the measures themselves in order to avoid such effects.

85. A written submission was made by one participant on the development dimension of investment measures and the relevance of Article XVIII and Part IV of the General Agreement to the negotiations on TRIMs and the relation of these negotiations to the overall objective of the Uruguay Round to bring about expansion of trade for the benefit of developing countries. The views contained in this submission were supported by a number of other participants. In the view of some participants, some trade-related investment measures are taken by developing countries in order to ensure that investors conform to the socio-economic priorities of these countries and contribute to their technological and economic development. The development aspects of investment measures have also been discussed by some other participants.
86. Some participants have been of the view that provisions relating to developing countries should only be examined once understandings have been reached on which disciplines should apply to the adverse trade effects of investment measures. Other participants disagree with this sequential treatment and they have proposed that the operation of these provisions in relation to the perceived adverse trade effects of investment measures should be discussed in parallel with the Group's examination of other Articles.
87. The Group has received twenty-five formal written proposals submitted on behalf of thirty-eight participants. The Group also received additional oral proposals as reflected in the notes on the meetings, as well as additional informal written proposals. At the request of the Group, the secretariat prepared a background note on the GATT dispute settlement system, summaries and comparative analyses of proposals for negotiations, a note on concept, forms and effects of arbitration, notes on differential and more favourable treatment of developing countries in the GATT dispute settlement system, a note on multi-complainants procedures and interventions by third parties in GATT dispute settlement proceedings, as well as comparisons of existing texts and proposals for improvements to the GATT dispute settlement system. At the request of the Group, the secretariat also prepared a number of "non-papers", including two "check-lists of main issues for discussion" circulated to all participants on 18 April and 5 July 1988, respectively.

88. The very large number of proposals, submissions and secretariat notes have enabled the Group, in the course of its deliberations, to hold extensive discussions on the existing GATT dispute settlement procedures and practices and the proposals for improvement thereto.

89. The course of the discussions which have taken place in the Negotiating Group has indicated that some issues are not yet ripe for the formulation of recommendations and that further work is required to attain overall agreement in this context.

90. As a result of the work carried out, and in spite of the fact that certain issues still require further consideration in the future work of the Group, a consensus has developed to the effect that improvements in the field of dispute settlement in GATT are both desirable and attainable. The Negotiating Group is in a position to make a comprehensive proposal for consideration and approval by Ministers at the TNC meeting at Montreal, and for trial application as of January 1989 until the close of the Uruguay Round. The text of this proposal is reproduced in Section III of this report. It will be noted that, notwithstanding the progress achieved, the continuing divergences of views on some of the complex issues discussed have given rise to a number of brackets in the text indicating areas where agreement had still not been reached at the time of submission of this report. It should be observed in this respect that the proposal made by this Group consists of texts for approval by the CONTRACTING PARTIES and for trial application as from January 1989 until the close of the Uruguay Round.

91. The Group agreed that the trial application of the proposed improvements to the GATT dispute settlement rules and procedures would assist contracting parties in their ongoing efforts to improve and strengthen the GATT dispute settlement process. The Group further agreed to keep the trial application of these improvements under review during the remainder of the Uruguay Round and to take this experience into account in the consideration of their adoption at the end of the Round.
FUNCTIONING OF THE GATT SYSTEM

92. In the Negotiating Group’s work on its negotiating objectives, a number of participants have indicated the importance for the Group, in following its mandate, to pay due attention to the overall objectives of the negotiations on trade in goods, in particular Part I, Section A(ii), (iii) and (iv) of the Ministerial Declaration.

93. The negotiating plan to be followed by the Group, set out in MTN.GNG/5, envisaged an initial phase of a first examination of issues and a subsequent negotiating process involving the establishment of common working texts on which to base any understandings and arrangements which are to be negotiated: it was also specified that in this stage, final texts would be agreed upon as appropriate, containing understandings or specifying arrangements relating to the Group’s negotiating objectives. The work carried out by the Group on the three aspects of its objectives is as follows:

(i) To enhance the surveillance in the GATT to enable regular monitoring of trade policies and practices of contracting parties and their impact on the functioning of the multilateral trading system

94. Under this heading, the Negotiating Group has considered the establishment of a trade policy review mechanism through which the objectives of "enhanced surveillance in the GATT" and "regular monitoring of trade policies and practices of contracting parties and their impact on the functioning of the multilateral trading system" may be achieved. The discussion of this subject has covered the overall objectives of a trade policy review mechanism, its relationship to GATT obligations, the country and policy coverage of the review process, the frequency with which individual contracting parties should be reviewed, the reporting and documentation requirements envisaged (including the respective rôles of the country under review and the secretariat), the relationship of the procedures for enhanced surveillance to the functions of the existing special meetings of the Council to review developments in the trading system, the appropriate body and procedures for reviews and the publication of documents related to the review process. The Group has been working on an agreed format for country reports, the present text of which is annexed to this report.

95. The Group has also examined, under this heading, the question of the rationalization of notifications to GATT, including the creation of a central repository or listing of notifications. It is recognized that notification is important to transparency.
(ii) To improve the overall effectiveness and decision-making of the GATT as an institution, including, inter alia, through involvement of Ministers

96. The Negotiating Group has focused principally on greater Ministerial involvement in the work of GATT as an essential element in improving the effectiveness and decision-making of the GATT, by providing political guidance and initiative, reinforcing the commitment of governments to the GATT system, and giving greater prominence and credibility to GATT in the domestic political arena. However, it has also been stressed that, given the contractual nature of the General Agreement, Ministerial participation should, by its character, essentially reinforce the joint decision-making functions of the CONTRACTING PARTIES. In this context, regular Ministerial-level sessions of the CONTRACTING PARTIES, taking place not less frequently than every two years, would make a major contribution to the objectives noted above.

97. Consideration has also been given to the question of the establishment of a small Ministerial group. Such a group would, in the view of those proposing it, be consultative in nature, and not decision-making; the operation of any such group would not in any way affect the rights and obligations of any contracting party; the composition of any such group, which would be determined by the CONTRACTING PARTIES, would be balanced to ensure participation of all sizes and interests of contracting parties and to ensure that no contracting party would be permanently excluded; and adequate provisions would be made to ensure that all contracting parties would be fully informed of the work of the group. However, concerns have been expressed by other participants regarding the restricted nature of such a group and its proposed functions, which may in their view adversely affect the current character of the GATT. Strong views, both for and against, were expressed concerning the appropriateness and desirability of establishing such a group and it was not possible to arrive at a consensus on this question at this stage.

98. Under negotiating objective (ii), the Negotiating Group has also discussed the practice of consensus in conducting GATT business, and the rôles of the Director-General and secretariat, but has not reached any conclusions on these questions.

(iii) To increase the contribution of the GATT to achieving greater coherence in global economic policy-making through strengthening its relationship with other international organizations responsible for monetary and fiscal matters

99. The Negotiating Group has had a useful discussion of the interrelationships between trade, monetary, financial and development policies and of the importance of an improved trading environment, providing, inter alia, for the ability of indebted countries to meet their financial obligations. It has been recognized that trade policies and other policies bearing on adjustment interact closely with financial,
monetary and exchange rate policies at national and international levels; that Governments have a responsibility to ensure both that financial, monetary or exchange rate policies do not frustrate trade liberalization and that protectionist measures do not impede the effective functioning of macro-economic or financial policies; and that the linkages among trade, financial and monetary policies are particularly relevant in the case of developing countries.

100. In the light of these perceptions, proposals submitted by participants so far within this negotiating objective cover three areas: cooperation directly related to trade policies, cooperation related to monetary, financial and other economic policies, and inter-institutional arrangements (at both policy-making and secretariat levels) for cooperation. Specific proposals in the first of these areas include "credit" in GATT for trade policy measures taken by developing countries unilaterally or under IMF/World Bank programmes (a variant proposal would also give such credit to measures similarly taken by other countries) and the recognition in turn by the IMF and World Bank of bound commitments in GATT as contributions to trade policy reform programmes. Among proposals in the second area are the inclusion in IMF and IBRD loan arrangements of "contingency clauses" covering the emergence of unfavourable external circumstances which might hamper their fulfilment and the encouragement of greater macro-economic coherence among major industrialized countries. In respect of the third area, proposals include the creation of a combined Ministerial framework under which joint meetings of trade and finance Ministers could take place, the establishment of arrangements for attendance by each institution at relevant meetings of the others, the holding of joint consultations among the relevant institutions before country missions or trade policy reviews, regular consultations among the institutions on the effects of exchange rate instability on trade, the further strengthening of inter-secretariat cooperation including a joint senior management group on trade and finance, and the establishment of a GATT liaison office in Washington. It has been suggested that all these proposals will require further examination in order to show whether they offer appropriate or feasible means of achieving the third of the Group's negotiating objectives.

101. There is a widespread perception in the Group that establishment of effective arrangements for surveillance and Ministerial involvement in GATT will assist in the achievement of the third negotiating objective.

102. There is broad support for a specific proposal, advanced as a means of assisting the Negotiating Group in its deliberations, by which the Director-General of GATT would be invited to consult with the Managing Director of the IMF, the President of the World Bank, and heads of other relevant institutions (among which have been mentioned UNCTAD and the regional development banks) on the issues covered by item (iii) of the Group's mandate, and to make a report.

103. It is evident that many of the questions raised are of such importance and breadth that further discussion will be required in the Negotiating Group.
104. Certain texts for Ministerial consideration were discussed intensively in the Group. At the tenth meeting of the Group, participants agreed that the Chairman should forward texts for Ministerial consideration, with brackets indicating points on which agreed language has not yet been found. At the end of the tenth meeting, one participant submitted an alternative preamble for these texts. This was subsequently circulated as a working document of the Group.

ANNEX

OUTLINE FORMAT FOR COUNTRY REPORTS

[The following agreed outline format for country reports shall allow the prompt implementation of the Trade Policy Review Mechanism on a provisional basis. It should help contracting parties to provide the country reports for the first reviews under the newly established mechanism. The outline format for country reports shall be reviewed, and modified as appropriate, in the light of the experience gained from the operation of these arrangements.

The format outlined is based on the need to provide, for each country, a minimal level of detail which is both meaningful and readily achievable, and which makes use of information provided under present notification obligations.

It is recognized that it may be burdensome for least-developed countries to adhere fully to the following outline format. A simplified reporting format for reviews of trade policies and practices of the least-developed contracting parties should therefore be considered.

A. **Trade Policy Structure and Objectives**

This section should aim to provide a general picture of the current structure and objectives of trade policy, including:

- Objectives of trade policies in relation to overall national economic policy;

- General description of system for control of imports and exports and for import and export promotion. This should include a description of the use and the rationale for the main trade policy instruments;

- Sectoral features of trade policy instruments in force. Where particular sectoral trade policies have evolved, an explanation should be provided of their economic goals and significance. The date of introduction of non-tariff measures applying to imports or exports in these sectors should be noted, as well as any changes in tariffs and other charges;
- Domestic laws and regulations providing basis for application of trade measures;

- Existing and new bilateral, regional or preferential trading agreements, their scope, duration and expected effects;

- Relevant domestic policies and practices impacting on trade;

- Programmes in existence or about to be introduced for trade liberalization overall or in any sectors;

- Summary description of responsibilities and institutional functioning of any regulatory bodies concerned in the administration of trade policies, including any bodies or domestic surveillance mechanisms which assess the economic effects of trade measures or of industry requests for government assistance; state trading institutions, monopolies for imports and exports, restrictive business practices including internal distribution systems;

- Full statistical information on trade flows by product and region/country, and on the use of specific trade policy instruments (tariffs, quotas, anti-dumping actions, etc.).

B. Major external factors affecting trade policies

This section might include, inter alia, the following elements:

- Terms of trade and commodity price developments since the last review;

- Recent developments in imports and exports;

- Overall balance-of-payments situation, reserves and debt position, exchange rate and interest rate developments, etc., and underlying reasons;

- Problems of market access facing exports; barriers introduced by trading partners in the period since the last review, including VERs and OMAs.

C. Other information relevant to the objectives of the Trade Policy Review Mechanism

- Other economic policies having an effect on trade.]
SECTION III

POINTS FOR ACTION BY THE TRADE NEGOTIATIONS COMMITTEE

TARIFFS

1. Ministers agree that substantive negotiations will begin no later than 1 July 1989, and that tariff and trade data will be exchanged accordingly. They instruct their representatives to establish detailed procedures [and modalities] necessary for the negotiations.

2. Reiterating the importance of reducing and eliminating tariffs and expanding the scope of tariff concessions as agreed in the Punta del Este Declaration and subject to the understanding that the participation of developing countries in the tariff negotiations would be in accordance with the general principles governing the negotiations, including Part I.B, paragraphs (iv)-(vii) of the Declaration, Ministers agree on the following:

(a) a substantial reduction or, as appropriate, elimination of tariffs by all participants [with a view to achieving lower and more uniform rates],

including the reduction or elimination of high tariffs, tariff peaks, tariff escalation and low tariffs, [with a final result of an overall reduction in average tariff levels of at least x per cent],

including the reduction of high tariffs and the reduction or elimination of tariff disparities and tariff escalation,

(b) a [very] substantial increase in the totality of tariffs in scope of bindings, including bindings at ceiling levels

so as to provide greater security and predictability in international trade,

(c) the need for an approach to be elaborated to give credit for bindings;

it is also recognized that participants will receive appropriate recognition for liberalization measures adopted since 1 June 1986,

an approach should be elaborated to recognize as a contribution and to give credit for autonomous liberalization measures adopted by less developed contracting parties,

* e.g. [at least 40 per cent] or [by an amount at least comparable to that achieved in [previous negotiations] [the Tokyo Round viz. one-third].]
(d) the phasing of tariff reductions over appropriate periods to be negotiated.

3. Individual participants attach importance to assessing progress made in achieving real improvements in conditions of market access.

4. Participants have agreed that in the negotiation of tariff concessions, current nomenclatures should be employed and that the base rates for the negotiations will be the bound m.f.n. rates and, for unbound rates, the normally applicable rates in September 1986.
1. Ministers recognize that the reduction or elimination of non-tariff measures by all participants is a central element of a successful outcome of the Uruguay Round. Recognizing the importance of achieving substantially improved market access, Ministers agree that, in order to ensure effective trade liberalization, results from negotiations on non-tariff measures should be substantial.

2. Subject to the understanding that the participation of developing countries in the negotiations on non-tariff measures would be in accordance with the general principles governing the negotiations, including Part I.B, paragraphs (iv) - (vii) of the Declaration, Ministers agree to the following guidelines for the conduct of negotiations on non-tariff measures:

(a) various negotiating approaches can be applied to these negotiations, including multilateral, formula and request-offer approaches. However, approaches which ensure the widest participation and broadest possible liberalization are to be preferred;

(b) these negotiations shall be without prejudice to any action to be taken in fulfilment of the rollback commitments contained in Part I.C of the Ministerial Declaration, which state, inter alia, that there shall be no GATT concessions requested for the elimination of GATT-inconsistent measures;

(c) transparency will be ensured in the negotiations whose results are to be applied in accordance with the basic principles of the General Agreement;

(d) to ensure that concessions to reduce or eliminate non-tariff measures are not subsequently nullified or impaired, participants agree to explore the most appropriate measures to achieve this objective;

(e) there should be provisions for immediate or staged implementation of results over agreed time-frames;

(f) individual participants will attach importance to assessing progress made in achieving real improvements in conditions of market access;

(g) if elimination of a non-tariff measure is not possible, consideration may be given to transforming it into a tariff;

(h) participants will receive appropriate recognition for the liberalization measures which they have adopted.
3. Recognizing the importance of receiving proposals from both developed and developing countries, Ministers agree that the Negotiating Group will:

(a) with regard to the categories of measures for which multilateral rule-making approaches are proposed, examine relevant provisions in the General Agreement and in other agreements and will consider how to deal with the problems raised;

(b) examine proposals made for multilateral formula approaches with a view to reaching an understanding on the applicability and, if appropriate, scope and procedures for such negotiations;

(c) review the secretariat's sorting of indicative lists of non-tariff measures for which request-and-offer approaches are proposed with a view to reaching an understanding on the scope and procedures for such negotiations;

(d) the Negotiating Group will, by June 1989, aim to establish a framework for future negotiations, including procedures, taking into account the above principles and guidelines, so as to initiate detailed negotiations.
NATURAL RESOURCE-BASED PRODUCTS

1. Ministers agree that:

(a) participants will continue to pursue the objective of fullest liberalization of trade in natural resource-based products, including in their processed and semi-processed forms, as agreed in the negotiating objective and consistent with the overall objectives embodied in the Ministerial Declaration;

(b) participants will continue to pursue and give effect to the negotiating plan for natural resource-based products;

(c) participants will continue their examination of issues brought forward to date (MTN.GNG/NG3/W/14), without prejudice to additional products and issues participants may yet propose;

(d) techniques will be developed to deal with specific issues and problems encompassed by the agreed negotiating objective taking into account negotiating approaches developed in other Groups to determine to what extent particular measures will be needed to ensure achievement of this negotiating objective;

(e) given the interrelationship of issues raised in natural resource-based products and other areas of negotiations in the Uruguay Round, it is necessary to ensure that the progress in negotiations on natural resource-based products is consistent with progress in other related areas.

2. The secretariat will continue to provide essential factual data on all relevant issues.

3. Ministers agree that effective negotiations should begin as soon as possible, it being recognized that the work on the three product areas already studied i.e. fisheries, forestry and non-ferrous metals and minerals is already well advanced.

4. In order to make this practicable, it has been agreed that participants would provide as much relevant trade and barrier data as possible by 31 March 1989.
Proposed recommendations by the Chairman of the Negotiating Group on Textiles and Clothing for consideration and/or decision by Ministers.

1. Affirmation of the political will to effectively implement the Punta del Este declaration on textiles and clothing by commencing substantive negotiations early in 1989 on "modalities that would permit the eventual integration of this sector into GATT, on the basis of strengthened GATT rules and disciplines, thereby also contributing to the objective of further liberalization of trade".

2. Recognition that negotiations in the area of textiles and clothing is one of the key elements in the Uruguay Round in view of the great importance of this sector for the economies of many countries and its particular importance for the economic and social development of many developing countries and for the expansion of their export earnings.

3. In accordance with Part I.B(vii) of the Punta del Este Declaration, special treatment should be accorded to the least-developed countries.

Subsequently, the following recommendations have also emerged for consideration and/or decision by Ministers.

[(i) recognition of the [crucial] importance of achieving results in negotiations;]

(ii) commitment by the participants to [engage in] substantive negotiations early in 1989;

[(iii) agreement being reached within the Uruguay Round on the modalities for the integration of the textile sector into GATT, in line with the Punta del Este Declaration [on textiles and clothing negotiations];]

[(iv) agreement that the phase out of MFA restrictions will begin upon the expiry of the present MFA protocol;]

[(v) agreement that the process of integration will be gradual and progressive;]

[(vi) agreement that the process of integration will be completed within a specified time-frame to be agreed upon during the Uruguay Round;]

[(vii) freeze on further restrictions under the MFA.]

[(viii) Recognition of the need to take full account of progress in other negotiating groups.]

[(ix) Commitment by all participants to contribute towards liberalization of textiles and clothing trade.]]
AGRICULTURE

A checklist, drawn up by the Chairman of the Negotiating Group on Agriculture, of issues that will need to be addressed in further consultations before the TNC meeting in Montreal, on the long and short-term elements of a framework approach for the negotiations on agriculture, appears in Section II above, pages 13 and 14.*

* See also paragraph 4(i) on page 2.
TROPICAL PRODUCTS

[1. Ministers take note of the results obtained thus far in negotiations and note that these will be implemented by January 1989 except as otherwise indicated*. These results will form an integral part of the overall achievement of the Uruguay Round.

2. In pursuance of their commitment to the objective of achieving the fullest liberalization of trade in tropical products, including in their processed and semi-processed forms as contained in the Declaration of Punta del Este, Ministers agree to pursue negotiations on the seven product groups as identified in Section II, paragraph 46 of this report** with due regard, inter alia, to the following elements:

   (a) elimination of duties on unprocessed products;

   (b) elimination or substantial reduction of duties on semi-processed and processed products. These actions would include the objective of eliminating or reducing tariff escalation;

   (c) elimination or reduction of all non-tariff measures affecting trade in these products.

3. All participants agree to engage in such negotiations and make appropriate contributions towards achieving the above objective in accordance with the relevant provisions of the Punta del Este Ministerial Declaration including those contained in its Part I.B.

4. The Negotiating Group on Tropical Products at its next meeting is invited to make appropriate arrangements for continuation of negotiations on the basis of the above understandings.

5. The Negotiating Group shall, before the formal completion of negotiations, conduct an evaluation of the results attained therein in terms of the objectives of the negotiations.]

*[Reference to be made to the document containing specific results].

**Tropical beverages; spices, flowers and plaiting products; certain oilseeds, vegetable oils and oilcakes; tobacco, rice and tropical roots; tropical fruits and nuts; natural rubber and tropical wood; jute and hard fibres. It was understood that this would not constitute a definition of tropical products nor an exhaustive listing and that other products might be included as negotiations proceed.
1. Ministers recognize the importance for the GATT system of reaching common views on the large number of issues under consideration in the Negotiating Group on GATT Articles, whose work should be directed towards clarifying the Articles, provisions and disciplines of the General Agreement and improving them as appropriate. This work should also take into account the close relationships between particular issues under discussion in the Group and between these and a number of subjects under negotiation in other Groups.

2. Ministers direct that the work of the Negotiating Group be vigorously pursued. To this end, they urge the Group to define the issues for negotiation with precision and clarity. Any specific proposals should be brought forward as soon as possible, and preferably not later than 31 December 1989.
1. Ministers note that the Group has largely completed the initial phase of clarifying issues and substantive negotiations are beginning to take place, since some of the proposals already tabled are being analysed and reviewed and specific texts have been, or will be tabled. The work of this Group is important in that:

(a) the MTN Agreements which in some cases clarify and elaborate provisions of the General Agreement deal with very important issues in international trading relations;

(b) the effective implementation of these Agreements, as well as further improvements, where appropriate, could by strengthening the GATT system have considerable bearing on the stability and predictability of trading conditions;

(c) widened membership of the Agreements by more countries could contribute to improving further the unity and consistency of the GATT system; in this connection, the appropriate and effective use of provisions for special and differential treatment, inter alia, could facilitate membership of developing countries.

2. In the light of the above and the progress made so far in the negotiations, Ministers urge the Group to pursue negotiations in this area vigorously, in accordance with the mandate of the Group and the negotiating plan. Early submission of specific texts from participants is encouraged, to expedite the process of negotiation.
SAFEGUARDS

1. Ministers, stressing the importance of concluding a comprehensive agreement on safeguards, which is vital to the strengthening of the GATT system and to progress in the Multilateral Trade Negotiations:

(a) take note of the in-depth examination of the specific elements which has contributed to a better understanding of the whole issue;

(b) recognize that, because of the interrelationships between the elements, substantive agreement cannot be reached on individual elements in isolation;

(c) confirm the decision of the Negotiating Group to authorize its Chairman, with the assistance of the secretariat and in consultation with delegations, to draw up elements for inclusion in a draft text of a comprehensive agreement as a basis for negotiation, without prejudice to the right of participants to put forward their own texts and proposals;

(d) confirm the decision of the Negotiating Group to pursue work on a draft text of a comprehensive agreement detailing the elements as expeditiously as possible. In this regard, participants should put forward proposals, if any, urgently, preferably before the meeting of the Negotiating Group in March 1989; and

(e) also confirm the decision of the Negotiating Group to begin negotiations on the basis of the Chairman's text by June 1989 at the latest.

[2. Ministers, taking note of the report of the Chairman of the Negotiating Group on Safeguards, agree that the following key principles should govern the comprehensive safeguards understanding:

(a) safeguard measures should be of limited duration;

(b) they should be non-discriminatory; and

(c) grey-area measures which result in selective application should be proscribed.]

*This recommendation was not approved for reasons set out at the end of paragraph 64 of Section II above.
Ministers note that the framework outlined below has been developed from the discussions in the Group. It is intended to guide in a balanced way the conduct of negotiations in the Group with the objective of improving GATT disciplines relating to all subsidies and countervailing measures that affect international trade. The framework does not anticipate or prejudge any specific outcome of the negotiations and cannot prejudice the detailed negotiating positions of any participant on any issue. It is flexible and further issues may be added to it in the course of the negotiations. Further progress in the negotiations will depend on the submission of specific drafting proposals, as provided for in the negotiating plan.

Framework for Negotiations

1. Prohibited subsidies
   1.1 Identification
   1.1.1 Normative criteria (e.g. export subsidies - illustrative list)
   1.1.2 Other criteria (e.g. quantitative)
   1.2 Remedies (countermeasures, compensation, conditions of application, multilateral surveillance)

2. Non-prohibited but countervailable or otherwise actionable subsidies
   2.1 Conditions for countervailability or actionability
   2.1.1 Definition (examples of issues to be considered: charge on the public account, preferentiality, specificity, so-called new practices) and calculation of the amount of a subsidy
   2.1.2 Trade effects
   2.1.2.1 In the market of the importing country (examples of issues to be considered: determination of injury including the question of cumulation and of minimum market share, causal link, definition of industry)
   2.1.2.2 In the market of the subsidizing country (examples of issues to be considered: nullification or impairment, other aspects of import substitution)
   2.1.2.3 In the third country market (examples of issues to be considered: displacement, serious prejudice)
2.2 Remedies

2.2.1 Countervailing duties (examples of issues to be considered: standing of petitioners, initiation and conduct of investigation, imposition and duration of countervailing measures, undertakings, sunset clause, amount of duty, circumvention)

2.2.2 Countermeasures and/or compensation (nature, conditions of application, multilateral mechanism)

3. Non-countervailable, non-actionable subsidies

3.1 Conditions for non-countervailability, non-actionability

3.1.1 Definition (examples of issues to be considered: general availability, non-preferentiality, no trade effects)

3.1.2 Other conditions (e.g. specific purpose, strict time-limits)

3.2 "Special safeguard" procedures

4. Special and differential treatment for developing countries

5. Notifications and surveillance

6. Dispute settlement
TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS, INCLUDING TRADE IN COUNTERFEIT GOODS

The following elements put forward by the Chairman of the Negotiating Group are considered by a number of participants as a basis for further negotiation and are transmitted for consideration and/or decision by Ministers.

1. In order to help resolve problems deriving from the trade-related aspects of intellectual property rights, appropriate and effective multilateral rules and disciplines should be sought, pursuant to the Negotiating Objective agreed at Punta del Este, on the content and limits of international rights and obligations regarding the trade aspects of the protection and enforcement of intellectual property rights.

2. Such rules and disciplines shall have as their objective the reduction of distortions and impediments to international trade. Their elaboration, which will take into account the need to promote effective and adequate protection of intellectual property rights and will be guided by the clarification of GATT provisions and the need to ensure that measures and procedures to protect and enforce intellectual property rights do not themselves become barriers to legitimate trade, requires detailed work on:

(a) the application of basic GATT principles, such as national treatment, non-discrimination and transparency;

(b) commitments to provide effective and appropriate means for the enforcement of intellectual property rights;

(c) the specification of reference points regarding the availability, scope and use of intellectual property rights, in the light of the need to reduce trade problems arising from excessive, discriminatory or inadequate protection of intellectual property;

(d) effective multilateral procedures for the settlement of disputes between participants, including commitments to bring the use of national trade policy instruments in this connection under multilateral discipline.

3. The negotiations shall also comprise the development of a multilateral framework of principles, rules and disciplines dealing with international trade in counterfeit goods, taking into account work already undertaken in the GATT.

4. The negotiations shall aim at mutual advantage and increased benefits to all participants and should facilitate the flow of technology.

5. Transitional arrangements and technical co-operation in favour of developing countries shall be examined.

6. The negotiations shall be without prejudice to other complementary initiatives that may be taken in the World Intellectual Property Organization and elsewhere to deal with these matters.]
Subsequently, the following have been put forward by some participants also as a basis for further negotiation and are transmitted for consideration and/or decision by Ministers.

[A.1 Participants recognize that international organizations, such as WIPO, Unesco and UNCTAD, deal with the substantive matters relating to intellectual property rights. The negotiations in the TRIPs Group shall not affect in any way the competence of these organizations for establishing standards and norms in their respective spheres.

A.2 The Group should, according to its mandate, continue its work on trade-related aspects of intellectual property rights as distinct from all substantive issues related to IPR protection including establishment of norms and standards.

A.3 In order to ensure that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade, the work of the Group on clarification of GATT provisions should be carried forward so as to determine the nature and contents of any rules and disciplines which may be elaborated as appropriate.

A.4 The negotiations to develop a multilateral framework of principles, rules and disciplines dealing with international trade in counterfeit goods should be concluded expeditiously.]

[B.1 Ministers recognize the importance of the successful conclusion of negotiations on trade-related aspects of intellectual property in the Uruguay Round, and have agreed to complete an agreement that includes obligations to adopt and implement:

(a) adequate substantive standards for protection of intellectual property, drawing such standards from international conventions where adequate, and from national laws where the provisions of such conventions are inadequate or do not exist;

(b) effective border and internal enforcement measures;

(c) a dispute settlement mechanism, taking into account existing GATT procedures and negotiations and adapting them to intellectual property; and

(d) provisions drawn from other GATT principles, such as national treatment and transparency, and adapted to intellectual property.

B.2 These obligations should be undertaken with a view to protecting the free flow of legitimate trade.

B.3 Ministers agree that the remainder of the negotiations will be used to put the details into that agreement.
B.4 Ministers also agree that participants should first agree on the substance, and then decide on the form of the agreement.

[C.1 Problems deriving from the trade-related aspects of intellectual property rights are a threat to the multilateral trading system. To help resolve these problems, appropriate and effective multilateral rules and disciplines should be sought within GATT.

C.2 Such GATT rules and disciplines shall have as their objective the reduction of distortions and impediments to international trade. Their elaboration, which will take into account the need to promote effective and adequate protection of intellectual property rights and will ensure that measures and procedures to protect and enforce intellectual property rights do not themselves become barriers to legitimate trade, requires negotiations on:

(a) the application of basic GATT principles and mechanisms: national treatment, non-discrimination, transparency and MFN;

(b) GATT commitments to provide effective and appropriate means for the protection and enforcement, internally and at the border, of intellectual property rights;

(c) the normative specification of these commitments in the form of references to existing or new norms and standards and of the elaboration within GATT of norms and standards, principles and indicative lists. This normative specification would cover availability, scope and use of intellectual property rights;

(d) effective multilateral procedures for the settlement of disputes between participants, including commitments to bring the use of national trade policy instruments in this connection under multilateral discipline.

C.3 Transitional arrangements for the implementation and the compliance of national legislations with the result of the negotiations.

C.4 The negotiations shall be without prejudice to other complementary initiatives that may be taken in the World Intellectual Property Organization and elsewhere to deal with these matters.]
TRADE-RELATED INVESTMENT MEASURES

1. Ministers agree that, drawing on the work of the Group so far, and on the basis of existing and future submissions and proposals by participants, further work of the Negotiating Group shall, with the view of fulfilling the Punta del Este mandate, integrate the following elements into the negotiating process, not necessarily in the order given:

- further identification of the trade restrictive and distorting effects of investment measures that are or may be covered by existing GATT Articles, specifying those Articles;

- identification of other trade restrictive and distorting effects of investment measures that may not be covered adequately by existing GATT Articles but are relevant to the mandate of the Group given by the Punta del Este Ministerial Declaration;

- development aspects that would require consideration;

- means of avoiding the identified adverse trade effects of trade-related investment measures including, as appropriate, new provisions to be elaborated where existing GATT Articles may not cover them adequately;

- other relevant issues, such as the modalities of implementation.

2. In order to facilitate the negotiating process, participants are encouraged to make detailed written submissions, as early as possible in 1989, which provide, inter alia, a description of the trade restrictive and distorting effects of investment measures and of the operation and coverage of related GATT Articles.
DISPUTE SETTLEMENT

1. As a result of the deliberations in the Negotiating Group on Dispute Settlement and further consideration by the GNG, a number of proposals for improvements to the GATT dispute settlement rules and procedures have emerged. These proposals are set out below and consist of sections on which consensus has been reached in the GNG and of sections on which special consideration by the Ministers is required. Naturally, many linkages exist between these two categories of texts. Positions to be taken in respect of the texts appearing in Column 2 will no doubt influence those taken in respect of some of the texts appearing in Column 1. Once Ministers have taken position on the texts, they are invited to recommend approval and appropriate action by the GATT CONTRACTING PARTIES with regard to the agreed improvements of the GATT dispute settlement rules and procedures and their application on a trial basis from 1 January 1989 to the end of the Uruguay Round.

2. Ministers are also invited to decide that the Negotiating Group on Dispute Settlement shall continue its work for the full achievement of the negotiating objective, taking into account proposals which have been presented and without prejudice to positions taken by participants. Such work would include, inter alia, further examination of improved and strengthened procedures concerning the implementation of recommendations or rulings of the CONTRACTING PARTIES, as well as of the definition, determination and modalities of compensation, and any other issues which the Ministers consider necessary as a result of their deliberations.

Improvements to the GATT Dispute Settlement Rules and Procedures

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<tr>
<th>Consensus texts</th>
<th>Texts on which special consideration by Ministers is required</th>
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<tr>
<td>A. General Provisions</td>
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<td>1. The CONTRACTING PARTIES recognize that the dispute settlement system of GATT serves to preserve the rights and obligations of contracting parties under the General Agreement and to clarify the [operation of the] existing provisions of the General Agreement. [It does not, however, replace the negotiating process.] It is a central element in providing security and predictability to the multilateral trading system.</td>
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2. The CONTRACTING PARTIES agree to strengthen their [political] commitment to abide by the dispute settlement rules and procedures in GATT. They shall abide by the recommendations, rulings and decisions of the CONTRACTING PARTIES and shall refrain from unilateral measures inconsistent with these GATT rules and procedures. [Contracting parties undertake to [adjust/administer] their domestic trade legislation and enforcement procedures in a manner ensuring the conformity of all measures with GATT dispute settlement procedures.]

3. [The CONTRACTING PARTIES agree that all solutions to matters formally raised under the GATT dispute settlement system under Articles XXII, XXIII and arbitration awards shall be consistent with the General Agreement and shall not nullify or impair benefits accruing to any contracting party under the General Agreement.]

4. The CONTRACTING PARTIES agree that the existing rules and procedures of the GATT in the field of dispute settlement shall continue. It is further agreed that the improvements set out below, which aim to ensure prompt and effective resolution of disputes to the benefit of all contracting parties, shall be applied on a trial basis from 1 January 1989 to the end of the Uruguay Round in respect of complaints brought during that period under Article XXII or XXIII; it is also agreed to keep the application of these improvements under review during the remainder of the Round and to decide on their adoption before the end of the Round; to continue negotiations with the aim of further improving and strengthening the GATT dispute settlement system taking into account the experience gained in the application of these improvements.
(4.) [Reaffirming that contracting parties have every right to invoke GATT Articles XXII and XXIII, the CONTRACTING PARTIES agree that the trial application of these improvements should not be used in such a manner as to improve the negotiating positions of participants in the Uruguay Round or unduly prejudice the efforts made in Uruguay Round negotiating groups towards establishing strengthened and more operationally effective GATT rules and disciplines.]

5. All the points set out in this document shall be applied without prejudice to any provision on special and differential treatment for developing contracting parties in the existing instruments on dispute settlement including the CONTRACTING PARTIES' Decision of 5 April 1966.

B. Notification

Mutually agreed solutions to matters formally raised under GATT Articles XXII and XXIII, as well as arbitration awards within GATT, must be notified to the Council where any contracting party may raise any point relating thereto.

C. Consultations

1. If a request is made under Article XXII:1 or XXIII:1, the contracting party to which the request is made shall, unless otherwise mutually agreed, reply to the request within ten days after its receipt and shall enter into consultations in good faith within a period of no more than thirty days from the date of the request, with a view to reaching a mutually satisfactory solution. If the contracting party does not respond
within ten days, or does not enter into consultations within a period of no more than thirty days, or a period otherwise mutually agreed, from the date of the request, then the contracting party that requested the holding of consultations may proceed directly to request the establishment of a panel or a working party.

2. If the consultations under Article XXII:1 or XXIII:1 fail to settle a dispute within sixty days after the request for consultations, the complaining party may request the establishment of a panel or a working party under Article XXIII:2. The complaining party may request a panel or a working party during the sixty day period if the parties jointly consider that consultations have failed to settle the dispute.

3. Requests for consultations under Article XXII:1 or XXIII:1 shall be notified to the GATT Council by the party which requests consultations. Any request for consultations shall be submitted in writing and shall give the reasons for the request.

4. In cases of urgency, including those which concern perishable goods en route, parties shall enter into consultations within a period of no more than ten days from the date of the request. If the consultations have failed to settle the dispute within a period of thirty days after the request, the complaining party may request the establishment of a panel or a working party.

D. Good Offices, Conciliation, Mediation

1. Good offices, conciliation and mediation are procedures that are undertaken voluntarily if the parties to the dispute so agree. They may be requested at any time by
any party to a dispute. They may begin at any time and be terminated at any time. Once terminated, the complaining party can then proceed with a request for the establishment of a panel or a working party under Article XXIII:2. When good offices, conciliation or mediation are entered into within sixty days of a request for consultations, the complaining party must allow a period of sixty days from the date of the request for consultations before requesting the establishment of a panel or working party. The complaining party may request a panel or a working party during the sixty days if the parties to the dispute jointly consider that the good offices, conciliation or mediation process has failed to settle the dispute.

2. If the parties to a dispute agree, procedures for good offices, conciliation or mediation may continue while the panel or working party process proceeds.

3. The Director-General may, acting in an ex officio capacity, offer his good offices, conciliation or mediation with the view to assisting contracting parties to settle a dispute.

E. Arbitration

1. Expeditious arbitration within GATT as an alternative means of dispute settlement can facilitate the solution of certain disputes that concern issues that are clearly defined by both parties.

2. Resort to arbitration shall be subject to mutual agreement of the parties which shall agree on the procedures to be followed. Agreements to resort to arbitration
shall be notified to all GATT contracting parties sufficiently in advance of the actual commencement of the arbitration process.

3. Other contracting parties may become party to an arbitration proceeding upon the agreement of the parties which have agreed to have recourse to arbitration. The parties to the proceeding shall agree to abide by the arbitration award.

F. Panel Procedures

(a) Establishment of a panel or a working party

1. The request for a panel or a working party shall be made in writing. It shall indicate whether consultations were held, and provide a brief summary of the factual and legal basis of the complaint sufficient to present the problem clearly. In case the applicant requests the establishment of a panel or a working party with other than standard terms of reference, the written request shall include the proposed text of special terms of reference.

(1) [If the complaining party so requests, the panel or working party shall be established at the latest at the Council meeting following that at which the request first appeared as an item on the Council's regular agenda, unless at that meeting the Council decides otherwise.]*

*References to the Council, made in this paragraph as well as in the following paragraphs, are without prejudice to the competence of the CONTRACTING PARTIES, for which the Council is empowered to act in accordance with normal GATT practice (BISD 26S/215).
In cases where the Council cannot agree on whether a matter falls within the scope of GATT Article XXIII, [and whether the trial application of the improvements contained in this decision is affecting the negotiating positions of participants in the Uruguay Round or the efforts made in the Uruguay Round negotiating groups,] the Council shall establish the panel or the working party which shall then make a recommendation on the jurisdictional issue [and the effect upon the Uruguay Round negotiations] as a preliminary matter, [including the question of whether the matter is appropriate for resolution through the panel process.]

2. [In cases where a complaint is brought against a developing contracting party, the Council may decide that said contracting party may have recourse to a working party.]

(b) Standard Terms of Reference

1. Panels shall have the following terms of reference unless the parties to the dispute agree otherwise within twenty days from the establishment of the panel:

"To examine, in the light of the relevant GATT provisions, the matter referred to the CONTRACTING PARTIES by (name of contracting party) in document L/... and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided for in Article XXIII:2".

2. In establishing a panel, the Council may authorize its Chairman to draw up the terms of reference of the panel in consultation with the parties subject to the provisions of the preceding paragraph. The terms
of reference thus drawn up shall be circulated to all contracting parties. If other than standard terms of reference are agreed upon, any contracting party may raise any point relating thereto in the Council.

(c) Composition of Panels

1. Contracting parties shall undertake, as a general rule, to permit their representatives to serve as panel members.

2. Panels shall be composed of well-qualified governmental and/or non-governmental individuals.

3. The roster of non-governmental panelists shall be expanded and improved. To this end, contracting parties may nominate individuals to serve on panels and shall provide relevant information on their nominee’s knowledge of international trade and of the GATT.

4. Panels shall be composed of three members unless the parties to the dispute agree, within ten days from the establishment of the panel, to a panel composed of five members.

5. If there is no agreement on the members within twenty days from the establishment of a panel, at the request of either party, the Director-General, in consultation with the Chairman of the Council, shall form the panel by appointing the panelists whom he considers most appropriate, after consulting both parties. The Director-General shall inform the contracting parties of the composition of the panel thus formed no later than ten days from the date he receives such a request.
(d) Procedures for Multiple Complainants

1. Where more than one contracting party requests the establishment of a panel related to the same matter, a single panel may be established to examine these complaints taking into account the rights of all parties concerned. A single panel should be established to examine such complaints whenever feasible.

2. The single panel will organize its examination and present its findings to the Council so that the rights which the parties to the dispute would have enjoyed had separate panels examined the complaints are in no way impaired. If one of the parties to the dispute so requests, the panel will submit separate reports on the dispute concerned. The written submissions by each of the complainants will be made available to the other complainants, and each complainant will have the right to be present when one of the other complainants presents its view to the panel.

3. If more than one panel is established to examine the complaints related to the same matter, to the greatest extent possible the same persons shall serve as panelists on each of the separate panels and the timetable for the panel process in such disputes shall be harmonized.

(e) Third Contracting Parties

1. The interests of the parties to a dispute and those of other contracting parties shall be fully taken into account during the panel process.

2. Any third contracting party having a substantial interest in a matter before a panel, and having
notified this to the Council, shall have an opportunity to be heard by the panel and to make written submissions to the panel. These submissions shall also be given to the parties to the dispute and shall be reflected in the panel report.

3. At the request of the third contracting party, the panel may grant the third contracting party access to the written submissions to the panel by those parties to the dispute which have agreed to the disclosure of their respective submission to the third contracting party.

(f) Time Devoted to Various Phases of a Panel

1. Panel procedures should provide sufficient flexibility so as to ensure high-quality panel reports, while not unduly delaying the panel process.

2. Panels shall follow the Suggested Working Procedures found in the July 1985 note of the Office of Legal Affairs unless the members of the panel agree otherwise after consulting the parties to the dispute. After consulting the parties, the panel members shall, as soon as practicable and whenever possible within one week after the composition and terms of reference of the panel have been agreed upon, fix the timetable for the panel process at least until its first substantive meeting.

3. In determining the timetable for the panel process, the panel shall provide sufficient time for the parties to the dispute to prepare their submissions.

The period from the request under Article XXII:1 or Article XXIII:1 until the adoption of the panel report [is not expected to] [shall, unless agreed to by the parties, not] exceed fifteen months.
4. Each party to the dispute shall deposit its written submissions with the secretariat for immediate transmission to the panel and to the other party or parties to the dispute. The complaining party shall submit its first submission in advance of the responding party's first submission unless the panel decides, in fixing the timetable referred to in the second paragraph of this section and after consultations with the parties to the dispute, that the parties should submit their first submissions simultaneously. When there are sequential arrangements for the deposit of first submissions, the panel shall establish a firm time period for receipt of the responding party's submission. Any subsequent written submissions shall be submitted simultaneously.

5. In order to make the procedures more efficient, the period in which the panel shall conduct its examination, from the time the composition and terms of reference of the panel have been agreed upon to the time when the final report is provided to the parties to the dispute, shall, as a general rule, not exceed six months. In cases of urgency, including those relating to perishable goods, the panel shall aim to provide its report to the parties within three months.

6. When the panel considers that it cannot provide its report within six months, or within three months in cases of urgency, it shall inform the Council in writing of the reasons for the delay together with an estimate of the period within which it will submit its report. In no case should the period from the establishment of the panel to the submission of the report to the contracting parties exceed nine months.
7. In the context of consultations involving a measure taken by a developing contracting party, the parties may agree to extend the periods established in paragraphs 2 and 4 of the section on consultations. If, after the relevant period has elapsed, the parties cannot agree that the consultations have concluded, the Chairman of the Council shall decide, after consultation with the parties, whether to extend the relevant period and, if so, for how long. In addition, in examining a complaint against a developing contracting party, the panel shall accord sufficient time for the developing contracting party to prepare and present its argumentation. The provisions of paragraph 1 above are not affected by any action pursuant to this paragraph.

G. Adoption of Panel Reports

1. In order to provide sufficient time for the members of the Council to consider panel reports, the reports shall not be considered for adoption by the Council until thirty days after they have been issued to the contracting parties.

2. Contracting parties having objections to panel reports shall give written reasons to explain their objections for circulation at least ten days prior to the Council meeting at which the panel report will be considered.

3. [The parties to a dispute shall have the right to participate fully in the consideration of the panel report by the Council, and their views shall be fully recorded. The practice of adopting panel reports by consensus shall be continued, without prejudice to the GATT provisions on decision-making which remain]
applicable. However, the delaying of the process of dispute settlement shall be avoided [and, to this end, the parties to a dispute shall not impede a consensus to adopt a panel report, but may either join in or abstain from the consensus.]

4. [The Council shall decide on the adoption of a panel report no later than at the Council meeting following the meeting at which the Council first considered the report.]

H. Technical Assistance

1. While the secretariat assists contracting parties in respect of dispute settlement at their request, there may also be a need to provide additional legal advice and assistance in respect of dispute settlement to developing contracting parties. To this end, the secretariat shall make available a qualified legal expert within the Technical Co-operation Division to any developing contracting party which so requests. This expert shall assist the developing contracting party in a manner ensuring the continued impartiality of the secretariat.

2. The secretariat shall conduct special training courses for interested contracting parties concerning GATT dispute settlement procedures and practices so as to enable contracting parties' experts to be better informed in this regard.

I. Surveillance of Implementation of Recommendations and Rulings

1. Prompt compliance with recommendations or rulings of the CONTRACTING PARTIES under Article XXIII is essential in order to ensure effective resolution of disputes to the benefit of all contracting parties.
2. The contracting parties concerned shall inform the Council of its intentions in respect of implementation of the recommendations or rulings. If it is impracticable to comply immediately with the recommendations or rulings, the contracting party concerned shall have a reasonable period of time in which to do so.

3. The Council shall monitor the implementation of recommendations or rulings adopted under Article XXIII:2. The issue of implementation of the recommendations or rulings may be raised at the Council by any contracting party at any time following their adoption. Unless the Council decides otherwise, the issue of implementation of the recommendations or rulings shall be on the agenda of the Council meeting after six months following their adoption and shall remain on the Council's agenda until the issue is resolved. At least ten days prior to each such Council meeting, the contracting party concerned shall provide the Council with a status report in writing of its progress in the implementation of the panel recommendations or rulings.

4. In cases brought by developing contracting parties, the Council shall consider what further action it might take which would be appropriate to the circumstances, in conformity with paragraphs 21 and 23 of the 1979 Understanding on Dispute Settlement.
Ministers agree that:

1. [The decision to launch the Uruguay Round of Trade Negotiations was taken against a background of large external imbalances in major industrial economies, instability in the international monetary system, and acute debt servicing difficulties in a number of countries, particularly developing countries: elements which threatened the stability of the multilateral trading system, notably by encouraging protectionist pressures. In the process of adjustment to these imbalances, trade policy has a vital rôle to play in promoting conditions of growth and development. The significance of trade policy-making in this context needs greater political and institutional recognition.]

2. [At the same time, a solution to imbalances affecting the functioning of the trading system will require continuing and concerted efforts to improve the stability of the international economic environment and the flow of resources to developing countries. Efforts to improve other elements of coherence in global economic policy-making will naturally complement the effective implementation of the improved GATT rules and disciplines to be achieved in the Uruguay Round.]

3. [In this context, the Decisions which follow represent first steps in all the three closely linked areas identified by Ministers as the particular responsibility of the Negotiating Group on Functioning of the GATT System. They are guided by three general orientations:

(a) First, the key contribution GATT and the Uruguay Round can make to achieving greater coherence in global economic policy-making will be to ensure a further expansion and liberalization of trade...]

FUNCTIONING OF THE GATT SYSTEM
as well as a strengthened multilateral trading system which are of vital importance to all contracting parties and which are essential for the promotion of growth and for the development of developing countries.

(b) Second, institutional relationships between the GATT, the IMF and the IBRD can be developed to assist each institution, acting within its own sphere of competence, to facilitate policies and actions which enhance the complementarities that exist between them.

(c) Third, the GATT can improve the coherence of its own institutional operations and enhance the rôle of GATT in trade policy decisions, nationally and internationally.

The following represent first steps in the three closely linked areas that constitute the particular responsibility of the Negotiating Group on Functioning of the GATT System. They are guided by three general orientations:

(a) First, the key contribution that GATT can make, through the Uruguay Round, towards greater coherence in global economic policy making will be to ensure a further expansion and liberalization of trade as well as a strengthened multilateral trading system which are of vital importance to all contracting parties and which are essential for the promotion of growth and development;

(b) Second, institutional relationships between the GATT and other international institutions responsible for monetary and financial matters can be developed so as to promote a dialogue which better ensures that policy elements, within the sphere of competence of each institution, do not result in contradictions detrimental to greater coherence in global economic policy making;

(c) Third, the institutional reinforcement of the GATT would help it to improve its rôle in contributing towards greater coherence in global economic policy making.

4. [The package of decisions set out below covering surveillance of trade policies of contracting parties, greater involvement of Ministers in GATT affairs, and cooperation with the international financial institutions will help to maintain a central rôle for the GATT in global economic policy-making, and provide a basis for further work by the Negotiating Group in the second half of the Uruguay Round.]
[The package of decisions set out below covering surveillance of trade policies of contracting parties, greater involvement of Ministers in GATT affairs, and co-operation with the international monetary and financial institutions will help to maintain the rôle of GATT in global economic policy making, and provide a basis for further work by the Negotiating Group in the second half of the Uruguay Round.]

Trade Policy Review Mechanism

5. The CONTRACTING PARTIES should establish a trade policy review mechanism, as follows:

A. Objectives

(i) The purpose of the mechanism is to contribute to improved adherence by all contracting parties to GATT rules, disciplines and commitments, and hence to the smoother functioning of the multilateral trading system, by achieving greater transparency in, and understanding of, the trade policies and practices of contracting parties. Accordingly, the review mechanism will enable the regular collective appreciation and evaluation by the CONTRACTING PARTIES of the full range of individual contracting parties' trade policies and practices and their impact on the functioning of the multilateral trading system. It is not, however, intended to serve as a basis for the enforcement of specific GATT obligations or for dispute settlement procedures, or to impose new policy commitments on contracting parties.

(ii) The assessment to be carried out under the review mechanism will, to the extent relevant, [take place against the background of] [take into account] the wider economic and developmental needs, policies and objectives of the contracting party concerned, but it will not evaluate these wider policies. It will also take account of the external trading environment facing the contracting party concerned as well as the impact of international financial and monetary developments on its trade policy.

B. Reporting

(i) In order to achieve the fullest possible degree of transparency, each contracting party shall report regularly to the CONTRACTING PARTIES. Initial full reports shall be submitted in the year when the contracting party is first subject to review; however, in no case shall the initial report be submitted later than four years after the introduction of the mechanism. Subsequently, full reports shall be provided in years when the contracting party is due for review. Full reports will describe the trade policies and practices pursued by the contracting party or parties concerned, based on an agreed format to be decided upon by the Council. This format may be revised by the Council in the light of experience. Between reviews, contracting parties will provide brief reports when there are any significant changes in their trade policies; an annual update of statistical information will be provided according to the agreed format.
Particular account will be taken of difficulties presented to least-developed contracting parties in compiling their reports. The secretariat shall make available technical assistance on request to less-developed contracting parties, and in particular to the least-developed contracting parties. Information contained in country reports should to the greatest extent possible be coordinated with notifications made under GATT provisions.

C. Frequency of review

(i) The trade policies and practices of all contracting parties will be subject to periodic review. Their impact on the functioning of the multilateral trading system, defined in terms of share of world trade in a recent representative period, will be the determining factor in deciding on the frequency of reviews. The first four trading entities so identified (counting the European Communities as one) will be subject to review every two years. The next sixteen will be reviewed every four years. Other contracting parties will be reviewed every six years, except that a longer period may be fixed for least-developed countries. It is understood that the review of entities having a common external policy covering more than one contracting party shall cover all components of policy affecting trade including relevant policies and practices of the individual contracting parties. Exceptionally, in the event of changes in a contracting party's trade policies or practices which may have a significant impact on its trading partners, the contracting party concerned may be requested by the Council after consultation to bring forward its next review.

(ii) Contracting parties recognize the need to minimize the burden for governments also subject to full consultations under the GATT balance-of-payments provisions. To this end, the Chairman of the Council shall, in consultation with the contracting party or parties concerned, and with the Chairman of the Committee on Balance-of-Payments Restrictions, devise administrative arrangements which would harmonize the normal rhythm of the trade policy reviews with the timetable for balance-of-payments consultations but would not postpone the trade policy review by more than 12 months.

D. Review Body

(i) Trade policy reviews will be carried out by the GATT Council at periodic special meetings.

(ii) In the light of the objectives set out in A above, discussions in the meetings of the Council will cover all aspects of trade policies and practices, taking into account, to the extent relevant, the wider economic and developmental needs, policies and objectives of the contracting party concerned. Moreover, the discussion will take into account the external trading environment facing the contracting party concerned as well as the impact of international financial and monetary developments on its trade policy.]
(iii) The Council will establish a basic plan for the conduct of the reviews. It may also discuss and take note of update reports from contracting parties. The Council will establish a programme of reviews for each year in consultation with the contracting parties directly concerned. [In consultation with the contracting party or parties under review, the Chairman will choose discussants who, in their personal capacity, will introduce the discussions in the review body.]

(iv) The Council will base its work on the following documentation:

(a) the full report, referred to in paragraph B(i) above, supplied by the contracting party or parties under review;

(b) a report, to be drawn up by the secretariat on its own responsibility, based on the information available to it and that provided by the contracting party or parties concerned. The secretariat should seek clarification from the contracting party or parties concerned of their trade policies and practices. [The secretariat may be invited by the contracting party or parties under review to hold such exchanges in the relevant capital if the contracting party or parties concerned feel the need to do so.] [Discussions in the relevant capitals between the secretariat and the contracting party or parties concerned should may be a part of this process at least for reviews of the top twenty entities.]

(v) The reports by the contracting party under review and by the secretariat, together with the summary record of the respective meeting of the Council, will be published promptly after the review.

(vi) These documents will be forwarded to the next regular Session of the CONTRACTING PARTIES, which will take note of them.

E. Implementation and reappraisal of the mechanism

(i) The trade policy review mechanism will be implemented on a provisional basis from the date of the adoption of this Decision by the CONTRACTING PARTIES. In the light of the experience gained from its operation, the CONTRACTING PARTIES will review, and if necessary modify, these arrangements at the end of the Uruguay Round.

F. Overview of developments in the international trading environment

(i) Enhanced surveillance requires, in addition, an overview of developments in the international trading environment which are having an impact on the multilateral trading system. Such an overview should also be undertaken by the Council of Representatives. It should be assisted by an annual report by the Director-General setting out major GATT activities and highlighting significant policy issues affecting
the trading system. The enhanced surveillance thus provided would also strengthen the existing "early warning" aspect of the special meetings of the Council. It is understood that this overview by the Council, together with the trade policy review mechanism, would replace the existing reviews in special Council meetings established under paragraph 24 of the 1979 Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance.

Greater Ministerial Involvement in the GATT

6. The CONTRACTING PARTIES should meet at Ministerial level at least once every two years, in order, inter alia,
- to make a fuller contribution to the direction and content of GATT work;
- to reinforce the commitment of governments to the GATT system;
- to give greater prominence to GATT in domestic political arenas;
- to assess trends in international trade and place these trends in their wider economic and political context;
- to enable the CONTRACTING PARTIES to contribute effectively to international discussion at the policy level of the international adjustment process; and by these means
- to increase the contribution of the GATT to greater coherence in global economic policy-making.

Increasing the contribution of the GATT to achieving greater coherence in global economic policy-making

7. The CONTRACTING PARTIES should invite the Director-General to approach the heads of the IMF and the World Bank, as a first step, to explore ways to achieve greater coherence in global economic policy-making through strengthening the relationship of GATT with other relevant international organizations. He shall report back by 1 September 1989.

8. The report shall take into account the views, issues and proposals raised in the context of the Negotiating Group.

Further work on improvement of the functioning of the GATT system

[9. The Negotiating Group on Functioning of the GATT System [should] [may] continue to consider whether a consultative Ministerial group should be established within the GATT.]*

*See Section II, paragraph 97.
10. The Group should continue to explore other means by which to improve the overall effectiveness and decision-making of the GATT.

11. The Group should also continue work on its third negotiating objective of increasing the contribution of GATT to achieving greater coherence in global economic policy-making, including the examination of the other substantive questions which have been raised to date.

12. The Group should complete by 31 March 1989 its work on the draft format for country reports under the trade policy review mechanism (see annex to the text on the Functioning of the GATT System in Section II above of the present report).
DATES OF FIRST MEETINGS OF NEGOTIATING GROUPS IN 1989

TARIFFS
NON-TARIFF MEASURES
NATURAL RESOURCE-BASED PRODUCTS
TEXTILES
AGRICULTURE
TROPICAL PRODUCTS
GATT ARTICLES
MTN AGREEMENTS AND ARRANGEMENTS
SAFEGUARDS
SUBSIDIES AND COUNTERVAILING MEASURES
TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS, INCLUDING TRADE IN COUNTERFEIT GOODS
TRADE-RELATED INVESTMENT MEASURES
DISPUTE SETTLEMENT
FUNCTIONING OF THE GATT SYSTEM

24 January
25 January
23 January
26 January
13-14 February
1-3 February
14-15 February
16-17 February
6 and 9-10 March
15-16 February
9-10 February
28 February and 2-3 March
6 March
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