1. The Chairman announced that the subjects to be taken up in the following two days of meetings would be agriculture, dispute settlement procedures, tropical products, quantitative restrictions and tariffs, and, if time permitted, MTN agreements and arrangements and subsidies. He noted the linkages between the subjects themselves and with the work being done on each subject in the respective GATT bodies. He recalled that since 1982 the CONTRACTING PARTIES had generally followed the principle that GATT bodies would take due account of developments in areas of work linked to their own and that duplication of work would be avoided. He suggested that this principle would also be useful in terms of preparing for the new round.

AGRICULTURE

2. The Chairman indicated that the discussions of agriculture in the Senior Officials' Group appeared in SR.SOG/4, pages 5-18. He said that agriculture was one area in which the Work Programme agreed upon in 1982 had been carried out as far as possible at this stage. The Committee on Trade in Agriculture had reached consensus on recommendations intended to provide the basis, in negotiations, for developing better rules and opportunities for agricultural trade. The contribution of the Preparatory Committee was to move the work into the phase of negotiations. It should also be noted that the work of the Committee on Trade in Agriculture was a part of the overall Work Programme: it might later be necessary to see how it should be related to other elements of the negotiations.

3. The representative of New Zealand said that the present situation of international agricultural trade constituted a critical test for the credibility of the GATT system. Agriculture was dominated by protectionist devices, unfettered export subsidization, bilateral constraints, distorted and depressed world markets and festering trade disputes. In short, agricultural trade in the GATT was in danger of moving from a state of quarantine to permanent hospitalization. Ministers had seen that danger in 1982 and had decided to establish a Committee on Trade in Agriculture as a key element in the effort to integrate agriculture more fully into the international trading system. That work, agreed to by CONTRACTING PARTIES and reflected in the 1984 and 1985 Committee on Trade in Agriculture Recommendations, had progressed with full consensus and commitment from CONTRACTING PARTIES. The ground for advance had been well prepared. What was needed now was a prompt, universal commitment to translate the existing
basis for progress into an actual negotiating framework. In this regard, he recalled paragraph 7(v) of the 1982 Ministerial Declaration. In his view, it provided as good a starting point for fashioning objectives for negotiations as one could hope to find. First, "to bring agriculture more fully into the multilateral trading system", i.e. to make it part of the system and no longer something 'exceptional' or 'special'. In operational terms, this meant fewer derogations, waivers and exceptions and the removal of escape clauses and special provisions. A second mandate was "to improve the effectiveness of GATT rules". In other words, to put an end to the vagueness and ambiguity which had enabled protection and subsidization to increase without discipline. It meant turning vague concepts such as 'serious prejudice' and 'equitable share' into precise rights and obligations. It meant closing loopholes where technical devices evaded the literal terms of GATT articles and giving the dispute settlement system a basis on which to work. Third, "to seek to improve terms of access to markets" - i.e. to expand import access opportunity. International trade was frozen behind borders that rendered markets unresponsive and inflexible. In agriculture as anywhere else, import access drove the whole process of adjustment. Its fourth provision was "to bring export competition under greater discipline". It was necessary to end the open season on export subsidies. The only real discipline should be the discipline of the market. Decisions on export sales and pricing had to be brought into line with international market demand, rather than being based on open-ended subsidization. He noted that these were only elements which needed to be defined. The work of the Committee on Trade in Agriculture was a vital guide here, as it was for the particular approaches which could lead to attainment of objectives. The basis was there, and the priority was absolute. Against that background it could only be by an act of wilful abandonment of purpose that the problem of agriculture could prove to be inadequately addressed in a new round. He recalled that the European Communities had made a reservation with respect to paragraph 7(v) of the 1982 Ministerial Declaration, but expressed his hope that the progress which had been made in the three intervening years would allow for further work on the matter. With regard to standstill, a key aspect of the problem of agricultural trade was that the existing rules were not effective. That had a very special consequence for the concept of standstill, which was clear when it was known what was, and what was not, a GATT obligation: in agriculture this was nearly always in dispute. In operational terms, this meant that in the agricultural sector, contracting parties had probably the greatest scope to strengthen their negotiating hand, and for that reason the need for a clear standstill commitment was more important in agriculture than anywhere else. He suggested two key elements: first, a standstill on existing levels of import access opportunity. This would be an undertaking, for the duration of negotiations, to at least maintain existing levels of import access opportunity (whatever the basic protective device) for agricultural products. This would not be too difficult to quantify and monitor. Secondly, he suggested a standstill on trade-impacting subsidization. That would create more difficulties of technical quantification than the former element. Perhaps it could relate to direct export subsidies, or, on a broader basis, it might relate to the level
of total subsidy to agriculture, on a formula to be defined. As a rule of thumb, the formula could be taken to be that implicit in the coverage of measures notified or notifiable under Article XVI. However it was done, it would be far from perfect, but it would, at least, be a start. If there were no agreement on a standstill on agriculture, where it was most needed and where the basis had been well prepared, it was difficult to see where it could be agreed. It was essential to advance on this subject if the new round were to have any prospect of success. The recommendations of the Committee on Trade in Agriculture, now agreed by all CONTRACTING PARTIES, represented a step forward from the 1982 Declaration and provided a sound basis for future work. The Committee's task in the next few months was to turn the objectives they embodied into an operational negotiating framework for the new round.

4. The representative of Argentina said that he fully agreed with the statement of New Zealand. Agriculture was one of the most protected sectors, particularly in many developed countries. Previous rounds of negotiations had not achieved any substantial liberalization in agriculture. National agricultural policies, particularly those of developed countries, had generated massive surpluses which distorted the international market for agricultural products. GATT itself was under great pressure because it had not been able to resolve the problems in this sector, as witness the numerous disputes which had been brought before the Council or other GATT bodies. This trend should be stopped as soon as possible. The current international market for agricultural products was suffering from depressed prices and from an export subsidy war. This situation was aggravated by the protectionism which had existed for the past thirty years, including that maintained under waivers or derogations from GATT which were used or abused by a number of contracting parties. The domestic price and income support policies followed by many developed countries, which established producer prices without regard to international prices were, together with protectionism, the principal cause of the current situation. The 1982 Ministerial Declaration had been a first step in aligning agriculture with the GATT framework for all other sectors (apart from textiles) and had made it possible to orient the work of GATT towards certain well-defined objectives which had been summarized by New Zealand. A process of examination and elaboration had been initiated on the basis of the Ministerial Declaration. It was now urgent to begin an ambitious programme of liberalization and to establish strict disciplines under the GATT for the agricultural sector, particularly with regard to competition. This was one of the priorities of the new round. The examination undertaken on the basis of the 1982 Ministerial Declaration had resulted in the Committee on Trade in Agriculture's Recommendations, which had been approved by the CONTRACTING PARTIES in 1984. The 1984 Recommendations constituted an important point of reference and could also be used as the departure point for a substantial liberalization process, whose key elements should be improved market access, the phased elimination of export subsidies and other related practices, and the elimination of other non-commercial trade barriers. Specifically, there should be widespread tariff reductions, reinforcement of the disciplines of GATT, improved
predictability and guarantees of market access, and the elimination of the illegal measures maintained in the agricultural sector. This latter could be done as a priority element of the rollback commitment which CONTRACTING PARTIES should undertake prior to beginning the new MTN. Export subsidies and other related measures, such as export credits and preferential arrangements, should be subject to the strictest possible disciplines or prohibited. Certain trade distorting features which existed in international agricultural trade, such as sanitary and phytosanitary regulations which restricted trade, should if possible be eliminated. Those countries with the greatest responsibility in this area should assume the greatest commitments, particularly to adopt national agricultural policies which did not distort international trade. The need for special and differential treatment for LDCs had been emphasized in the 1982 Ministerial Declaration, and had been given priority in the 1984 Recommendations of the Committee on Trade in Agriculture. With regard to modalities, the subjects which were now before the Preparatory Committee differed from those discussed earlier in being covered by GATT committees or bodies established after the 1982 Declaration. It would be useful to receive from these groups reports on their expected future activities, especially those directly relevant to the work of the Preparatory Committee.

5. The representative of Canada said that the agricultural component of the new MTNs was one of the essential elements for a major negotiation that would lead to an expansion of international trade and a strengthening of the multilateral trading system. Much of the credibility gap that had been undermining the efficiency of the GATT itself could be traced back to the absence of effective disciplines, or contractual rights and obligations, that would apply to all major producers and exporters of agricultural products. Agricultural trade problems required substantive and lasting solutions, not a restatement of broad principles of limited applicability. The objectives of negotiations in agriculture should include: the enlargement of market access to all major import markets, leading to significant trade expansion; an increase in the predictability and security of negotiated market access conditions; enhancement of the fairness and effectiveness of trade rules applied to export subsidies, domestic support programmes and import regimes including variable levies, quantitative restrictions and tariffs; and development of a greater sense of equity in the GATT trading system by ensuring that the rules of the game applied equally to all major importers and exporters. He expressed his hope that the Ministerial Declaration would give direction to negotiations in this extremely important area.

6. The representative of Brazil said that liberalization in trade in agriculture constituted a priority for a large number of contracting parties, particularly developing countries, as well as for the preservation and strengthening of the multilateral system embodied in GATT. Trade policy in agriculture had in many instances been conducted outside GATT rules and disciplines, even in the modified form that they applied to agriculture. In consequence, access had not been sufficiently liberalized, conditions of competition had degenerated and the increasing direct and indirect costs of
support and protection had become a major source of concern to all governments. The situation that many contracting parties, in particular developing ones, were facing demanded urgent remedial action. Prices of agricultural commodities and products in general were very low. This discouraged agricultural production in developing countries whose export revenues were shrinking, thus limiting their capacity to import and their ability to meet their external financial obligations. It was imperative that any new round of multilateral trade negotiations take all these facts into account. The agricultural sector must therefore be included in any proposed new round. The set of Recommendations prepared by the Committee on Trade in Agriculture and approved by the CONTRACTING PARTIES in November 1984 represented a broad and comprehensive basis for negotiations. It was the view of many delegations that the meagre and unsatisfactory results of the Tokyo Round in the area of agriculture should lead contracting parties to seek more efficient ways of dealing with this sector in GATT. Any trade negotiations would have to deal with the problem of subsidies, taking into account both the difference between the impact of subsidy policies applied by developed countries and the effects of export assistance applied by developing ones, and the differences between the objectives of the developed countries and those of developing countries in applying subsidies to the area of agriculture. The question of market access was closely linked to the establishment of firm and credible commitments by all contracting parties on standstill and rollback measures. Furthermore, the strengthening of the disciplines of the General Agreement as applied to agricultural products required that all quantitative restrictions and other related measures should be brought under effective GATT surveillance and discipline. Although they were allegedly justified by the specificity of the agricultural sector, all exceptional measures such as those maintained under waivers, protocols of accession and pre-existing legislation should also be the object of examination. As a confidence-building measure, it would seem appropriate and desirable for the United States Government to indicate its determination to phase out the use of import controls in the agricultural sector applied under the waiver granted by CONTRACTING PARTIES in 1955.

7. The representative of Japan said that his country had the lowest agricultural self-sufficiency ratio among developed countries, which was one of several reasons why he attached great importance to agriculture. Trade in agriculture should be one of the major items to be dealt with in the new round of negotiations. Lack of clarity in GATT rules in this field had given rise to many trade disputes and had adversely affected the trading environment in general. The work which had been done so far in the Committee on Trade in Agriculture was very satisfactory. In the new round it would be necessary to seek mutually acceptable answers to the outstanding questions in this field, covering all trade distorting measures, from market access, including tariffs, quotas and other quantitative restrictions, to supplies, export subsides, and measures maintained under exceptions or derogations from GATT. This would serve as a basis for the new negotiations, which should focus on rule-making. Japan, the largest net importer of agricultural products, believed that it was necessary to pay due consideration to the
specific characteristics of agriculture. In seeking a lasting and viable solution to the problems of agricultural trade, it was necessary to strike a balance between domestic policies and trade interests. Elements such as food security and regional development should be taken into consideration in the formulation of effective rules for agricultural trade. All contracting parties should contribute to the stability and sound expansion of world agricultural trade.

8. The representative of Bangladesh agreed that liberalization of trade in agriculture should constitute an essential element in any major negotiations aimed at expansion of international trade. In paragraph 7(v) of the Ministerial Declaration of 1982 the CONTRACTING PARTIES had undertaken a commitment to bring agriculture more fully into the multilateral trading system, to seek improved terms of access to markets and to bring export competition in agricultural products under greater discipline. The Committee on Trade in Agriculture had undertaken detailed examination of all measures affecting trade, market access, competition and supply in agricultural products and had adopted a number of recommendations. It had also been decided by the CONTRACTING PARTIES that the Committee should continue its work and complete its examination of all the approaches referred to in its Recommendations. Further work should continue and be concluded within the new round of negotiations. The principle of differential and more favourable treatment for developing countries, and particularly for the least developed among them, should be clearly recognized in the elaboration of liberalization measures in trade in agriculture. The differences between the objectives of these countries and those of the developed countries in applying trade policy measures in agriculture had to be given due consideration. Negotiations in the field of trade in agriculture should essentially aim at improving access to all major import markets, with significant trade expansion: increasing the predictability and security of negotiated market access conditions; terminating waivers; eliminating quantitative restrictions; increasing transparency; and eliminating voluntary export restraints, sanitary and phytosanitary obstacles and grey area measures, among others.

9. The representative of Turkey said that there was no doubt that agriculture should figure in the Draft Declaration. Given the importance which trade in agricultural products had for most, if not all, contracting parties, it would be difficult to conceive of a new round of multilateral trade negotiations which would not include agricultural trade. For too long, trade in agricultural products had been excluded from the coverage of GATT rules by a plethora of measures taken outside the framework of the General Agreement. Since the Ministerial Meeting of 1982, the Committee on Trade in Agriculture had conducted a useful examination of measures which affected trade in this sector. However, the Committee's mandate was limited to preparing recommendations. It was now necessary to move towards meaningful negotiations, which could only take place in the framework of a new round. As to the objectives of the negotiations, liberalization should come first and foremost. Improved market access, especially for developing countries, should have high priority. The comparative advantage from which many
developing countries benefitted, due to climatic and other reasons, had been negated by the protectionist policies pursued in agriculture by most developed industrialized countries. Another subject which should receive priority attention was export subsidies. Many developing countries had their exports displaced in third markets by the aggressively subsidized products of some industrialized countries which until recently had been net importers of the same products. Such practices had become increasingly disruptive and must be brought under control. The new round could lead to a satisfactory outcome only if all participants were prepared to make concessions and open their markets as much as was allowed by their level of development. Agriculture was one of the mainstays of many developing countries' economies. Genuine liberalization of trade in agricultural products would greatly facilitate their taking a fuller burden of responsibility in the preservation of the GATT system.

10. The representative of Chile said that not only would the success of the new round depend on the success of the negotiations in agriculture, but on this also depended the success or failure of free trade. There could be no success in a new round if the developed countries would not renounce the use of waivers, subsidies, and all other types of protectionist measures, especially those incompatible with the GATT. It was indispensable to improve market access by making it more predictable and stable. For these reasons, it was necessary, as soon as possible, to begin liberalizing agricultural trade and subjecting it to strict disciplines under the rules and principles of GATT. Chile, in spite of being a developing country facing serious debt problems and instability in its foreign earnings, was nonetheless prepared to commit itself to adopt the necessary disciplines and internal policies needed to put an end to the chaos now characterizing international trade in agriculture. Chile expected as much from other contracting parties.

11. The representative of Thailand, speaking on behalf of the ASEAN countries, said that trade in agriculture was one of the most protected sectors in world trade, with barriers ranging from market access problems, including variable levies, quantitative restrictions, high tariff rates and phytosanitary regulations, to problems arising from massive direct export subsidies and domestic support programmes of major developed countries. The objectives of the negotiation on trade in agriculture should include a commitment to liberalize world trade by improving market access through the reduction and eventual elimination of all restrictive measures, including grey area measures not in conformity with GATT. In addition, an improvement of GATT provisions dealing with agriculture was necessary, especially those of Article XI dealing with temporary surpluses and third country competition. He also suggested a general commitment to abolish grandfather legislation which contradicted GATT rules, and the full application of the principle of special and differential treatment for developing countries to the sector of trade in agriculture. Agriculture should be dealt with in all relevant fora in the new round.
12. The representative of Nicaragua supported the statements which had been made by New Zealand, Argentina, Brazil, Chile and Thailand. Agricultural products were the primary source of export earnings for many developing countries, which were now negatively affected by the depressed market situation. Results in this sector would indicate the degree of commitment to genuine liberalization of the international trading system.

13. The representative of Cuba attached singular importance to trade in agriculture which had always been largely excluded from the international trade rules and was burdened with a range of restrictive practices and exceptions which made it an even more critical area. The objectives of negotiation in this sector should include improved and guaranteed access to the markets of developed countries which would permit an expansion of LDC agricultural exports. To achieve this, rules should be established which would stabilize international trade. Subsidy practices should be submitted to strict disciplines; export subsidies by developed countries which resulted in unfair competition should be eliminated. With regard to modalities in the agricultural sector, extension of the GSP systems to a greater range of agricultural products would be very desirable. It was also imperative to eliminate protectionist measures not compatible with GATT, as well as to reduce all non-tariff barriers which hindered trade. The need for special and differential treatment for developing countries, which had been agreed by Ministers in 1982, and the principle of non-discrimination, should be kept in mind during any negotiations in this sector.

14. The representative of Hungary, noting that it was difficult to put forward revolutionary ideas concerning the treatment of agriculture in the GATT, quoted from the Leutwiler report that "a trading system that permits less efficient producers both to prohibit imports and to use export subsidies to compete with, and displace more efficient producers on world markets, is fundamentally inequitable". He fully shared that diagnosis and looked to a new round to restore basic equity in the international trading system. In particular, the CONTRACTING PARTIES could no longer refrain from redressing the growing imbalance of rights and obligations resulting from the inequitable treatment of agriculture, which undermined the credibility of a system committed to non-discriminatory treatment and optimal opportunities for trade. The inequitable treatment of agricultural trade in the GATT had damaging consequences for small, efficient and traditional exporters of agricultural products like Hungary. He calculated that the Hungarian economy in the last three years had lost 450 million dollars in export earnings mainly due to the fact that there were no operative rules in the GATT for agricultural trade. The CONTRACTING PARTIES could not permit the burden of adjustment to be exported indefinitely and without limitation. In the new MTN, the CONTRACTING PARTIES should deal with the long-standing problems of agricultural trade on a priority basis, so as to ensure that this sector, which had hitherto been outside effective multilateral discipline, be brought within it. In the course of the negotiations, agriculture should be treated according to same GATT principles that were applied to other sectors. All restrictions on trade in agriculture, whatever their nature, origin or
justification should be the object of significant trade liberalization. Measures like variable levies and minimum import price arrangements that were not specifically covered by the GATT, should also be brought under effective discipline. As far as export competition was concerned, fair and effective operating rules were needed to eliminate all the trade-distorting effects resulting from competitive subsidization. To ensure the above aims, the Preparatory Committee's Recommendations should include a clear, unambiguous, precise and detailed negotiating mandate covering agricultural issues. Such a mandate would be the only guarantee that the bitter experiences of the previous exercises would not be repeated and that the interests of smaller exporters would not be systematically ignored.

15. The representative of Yugoslavia said that the Committee on Trade in Agriculture had carried out a useful examination of a number of possible approaches towards greater liberalization in this field. Because of the importance of agricultural trade for Yugoslavia's balance of payments and overall economic and social development, the present situation in international agricultural trade, whose financial and social policies were increasingly damaging, especially to developing countries, was of great concern to her. However, no contracting party benefited in the long run from the present situation of the trading system in this sector, while the damage to an ever larger number of contracting parties was difficult to estimate. Greater multilateral discipline was required, backed up by a will to observe stricter rules. In order to achieve greater liberalization of trade in agriculture, it would be necessary to deal with all measures affecting market access and supplies, including measures maintained under temporary exceptions or under derogations. The escalation of subsidies in the developed countries had harmful effects on international trade and on the interests of other trading partners. These developments demonstrated the need to strengthen GATT rules and disciplines in the area of subsidies on agricultural products. The subsidies imposed by developed countries in agriculture should be regulated in such a way as to permit the achievement of economic, social and other internal goals, while preventing their use as a way of gaining special advantages in international markets, or as an instrument of indirect protection against imports. One of the priority goals should be to eliminate the damaging effects of export subsidies applied by developed countries on the trade interests of developing countries. The development, financial and trade needs of developing countries should be fully taken into account in the negotiating process on agriculture, in order to translate into concrete terms the principle of differential and more favourable treatment.

16. The representative of Uruguay supported the statements of New Zealand, Argentina, Brazil, Hungary and Yugoslavia. For Uruguay, agriculture was a vital issue and its inclusion in the new round of negotiations was imperative. The Committee on Trade in Agriculture's examination of current problems in agricultural trade and identification of the steps which should be taken to liberalize it, taking into account special and differential treatment for developing countries, as well as the 1984 Recommendations, constituted a valid basis for initiating the process of liberalization. The
new round should provide the opportunity to examine and negotiate all aspects of agriculture including production, consumption and trade, as well as the policies of those countries which maintained restrictions in this sector. All restrictions in agricultural trade, regardless of their nature, origin or justification, should be brought into this process and made the object of clear liberalization measures. It was necessary as a minimum to reach an agreement which would permit liberalization of agricultural trade and the elimination of barriers which affected this trade. Export subsidies should be prohibited because of the damage they caused to efficient producers. In addition, sanitary and phytosanitary measures should no longer be used as hidden barriers to agricultural trade. A revision of the Arrangement Regarding Bovine Meat to include provisions which would permit fulfilment of its objectives was necessary to transform this from a merely consultative forum to a forum for the effective negotiation of solutions to the serious problems which affected trade in meat. The International Dairy Agreement should be reviewed and revitalized in the new negotiations.

17. The representative of Pakistan said that in agriculture little had been achieved in previous negotiations, including the Tokyo Round. A new round would lose all credibility if agriculture were not dealt with fully and successfully. Like many other developing countries, Pakistan had a particular interest in these negotiations, whose purpose should be to bring agriculture fully into the multilateral trading system by the application of GATT rules to agriculture in the same way as to manufactures. The negotiations should result in improved market access through reduction or elimination of tariffs, quantitative restrictions and non-tariff barriers, including variable levies and grey area measures. Export subsidies and domestic support programmes should also be addressed, as should measures maintained under waivers or exceptions. Agriculture was an area where developing countries would require special and differential treatment, which was justified because the bulk of the population of most developing countries was still dependent on agriculture and their standard of living was extremely low.

18. The representative of India said that if one were engaging in a new effort for the liberalization of trade, long-standing and unresolved problems should occupy a central place in the negotiations. The issue of agricultural trade was not only important for the developing countries, but also for the credibility of the multilateral trading system itself. He supported the objective of liberalization of trade in agriculture, and stressed that special and differential treatment for developing countries, which was an integral part of the GATT, should be applied in any set of rules which might be devised and in any exercise of liberalization which might be undertaken in the area of agriculture. The application of these principles should permeate all areas of the negotiation, including subsidies and access. Such negotiations should include waivers, exceptions contained in protocols of accession, and pre-existing legislation. The credibility of the exercise of liberalization itself would depend on what was achieved in this area, in which the trading system had so far not been able to make itself effective.
19. The representative of Czechoslovakia said that one of the main objectives of the new round should be to develop better disciplines governing agricultural trade and avoid global imbalances and conflicts in international markets. International trade in agriculture was an integral part of the GATT system. In considering this area, problems related to minimum food security and demographic balance should be taken into account. The 1982 Ministerial Declaration and the subsequent work of the Committee on Trade in Agriculture provided a reasonable basis for future negotiations on trade in agriculture which in his view should focus on the elaboration of existing GATT rules, rather than the creation of new ones.

20. The representative of Romania said that agriculture was a large component of his country’s economy. Trade in agricultural goods should be one of the major items in the new round of trade negotiations and should be dealt with as a priority item. The Committee on Trade in Agriculture had succeeded in reaching substantive results, and these should be the basis for negotiations in agriculture in the new round. He endorsed the view of other speakers that future negotiations in the field of agriculture should take into account in an appropriate manner the interests of developing countries.

21. The representative of Egypt said that agriculture needed to be brought fully within the multilateral framework of GATT; this would be beneficial for all countries, exporters and importers, developed as well as developing. Substantial efforts had been made in the past, notably in the Tokyo Round following the special reference to agriculture made in Article 3 of the Tokyo Declaration in 1973. Further efforts had been made following the 1982 Ministerial Declaration, and the recommendations of the Committee on Trade in Agriculture, adopted by the CONTRACTING PARTIES in 1984, provided a useful basis for further work. He expressed the hope that the new round would give special attention to agriculture, to compensate for past failures, and that a successful outcome in this sector would be achieved. Discussion of agricultural trade should also include standstill, rollback, special and differential treatment for developing countries, non-tariff measures, tariff escalation and all the problems which had been referred to by previous speakers.

22. The representative of Poland said that he accepted paragraph 7(v) of the Ministerial Declaration of 1982 as the starting point for future negotiations in agriculture. The intensive work of the Committee on Trade in Agriculture in the interim period had helped to alleviate, at least to some extent, a number of the conceptual difficulties arising in the area and needed to be continued. He agreed with previous speakers as regarded the immediate steps to be taken on standstill in agricultural trade practices. With regard to the longer-term perspective, agriculture should be taken up in the Ministerial declaration as one of the most essential subjects. While the work of the Committee on Trade in Agriculture should continue, trade in agriculture would have to be covered by the negotiations if only because of its inseparable link with other issues. The emphasis should be placed on the clarification and more equitable interpretation of the existing GATT
rules as applied to subsidies and market access. Since agriculture was a
global issue with far-reaching implications for national economic and social
policies, as well as for the integrity of the GATT system as a whole, the
arrangements which eventually emerged from the negotiations in this field
should be applied without discrimination throughout the entire GATT
community.

23. The representative of Jamaica recalled that it had been agreed to draw
upon the work of the permanent bodies of GATT and on the Committees which had
been set up under the Work Programme of 1982. In drawing upon the
interesting and substantive work done by the Committee on Trade in
Agriculture, specific questions needed to be addressed. The report to
Ministers should reflect the consensus that agriculture should be included in
any new round, with the major objective of bringing agriculture under GATT
discipline, rules and principles. This should include, inter alia,
exceptions and derogations, the consistency between domestic policies and
legislation and GATT obligations, subsidies and other measures which unfairly
limited access and distorted international trade, as well as tariffs and
non-tariff barriers. Several questions should be posed regarding the
modalities for treatment of agriculture in the new round. Would credible
commitments to standstill and rollback, and to differential and more
favourable treatment for developing countries, to ensure that they would at
least be no worse off than at the outset, be preconditions? Did the work of
the Committee on Trade in Agriculture provide a sufficient basis as far as
the issues to be submitted to a future trade negotiations committee or other
appropriate body were concerned? Alternatively, was it necessary for the
Preparatory Committee to request the Committee on Trade in Agriculture to
submit a trade liberalization programme that identified what tangible results
might be achieved (a) prior to launching a new round and (b) at an early
stage of the negotiations.

24. The representative of Gabon said that although Gabon was an important
importer of agricultural products, because of its solidarity with developing
countries whose economies were based on agriculture, he supported the
statements of Brazil, Argentina, Hungary and others.

25. The representative of Israel recalled that it had been agreed to draw
upon the work of the permanent bodies of GATT, and in this instance on the
Committee on Trade in Agriculture. The report submitted by the Committee on
Trade in Agriculture in 1984 was based on the premise that national
agricultural policies were untouchable. This was an approach which his
country would not wish to argue with, although it might not be the right one
if one really wished to bring agriculture into the framework of GATT. This
was a question which would need to be addressed by the Ministers of the
countries directly concerned. He said that Israel could under no condition
accept the approach discussed in the Committee on Trade in Agriculture of a
general prohibition on export subsidies as long as the concept of the total
sovereignty of national policies was maintained. Under the present
conditions, Israel was willing to pursue the second approach discussed in the
Committee on Trade in Agriculture for the improvement of rules and
disciplines on the use of export subsidies, but only if this were linked to a
mechanism assuring greater market access. He stressed that this was an item
of major importance to Israel and expressed his hope that these views would
be taken into account in the Ministerial Declaration.
26. The representative of Austria said that agriculture was an important issue which should find its place in the new multilateral trade negotiations. He stressed that the situation of agriculture in Austria was very different from that in the major agricultural producers. The agricultural sector was small in production, trade and consumption but was essential for a significant part of the population. Social, regional and even environmental policies, and other objectives of high priority to the people and Government, together with the specific characteristics of Austrian agriculture, must be taken into account in any future negotiations in this sector. In his view, in the area of agriculture, it was inappropriate to speak in terms of developing and developed countries as there were common features in the agricultural concerns of both groups of countries that should be taken into account.

27. The representative of Finland, speaking on behalf of the Nordic countries, said that they recognized the importance of this question and agreed that agriculture had to be included in the new round. Certain essential problems of agricultural trade could hardly be resolved outside an overall context of broad and balanced multilateral negotiations. There were certain elements which were essential as a workable and realistic basis for this part of the new round. At the Ministerial Meeting of 1982 and at the CONTRACTING PARTIES Session in 1984, certain agreements were reached regarding the work to be undertaken in GATT on questions relating to trade in agriculture. These texts were the result of lengthy and difficult negotiations, which led to carefully balanced compromises, and in the view of the Nordic countries, it would be natural to take them as the starting point for future negotiations, which should be conducted on the basis of a comprehensive approach. The basic objective of the negotiations on trade in agriculture should be to find lasting remedies to the problems in this field, to avoid global market imbalances and to develop improved disciplines governing agricultural trade. The emphasis should thus be on those phenomena that had caused problems. The negotiations would have to be based on recognition of the specific recognition of the specific characteristics of agriculture, which were reflected, inter alia, in the GATT, in the Tokyo Declaration and in the 1982 Ministerial Declaration and the 1984 Decision of the CONTRACTING PARTIES. A single framework would be necessary for all negotiations relating to agriculture, including those dealing with access to markets and those dealing with export competition. The Committee on Trade in Agriculture had done useful work in clarifying a number of concepts and possible improvements in the trading system governing agricultural products, and this work should be utilized in the forthcoming negotiations.

28. The representative of Switzerland recognized the importance of agricultural trade, which should figure prominently among the subjects to be treated in the new round. The objective of negotiations in agriculture should be to review and improve the rules applying to agriculture, within the GATT framework and as part of a balanced whole. Not only the rules themselves, but also their interpretation and enforcement, should be improved, taking into account the special character of this sector. It would be in the application of these rules, as adjusted and, if necessary, made more precise, that progress towards greater liberalization could be envisaged.
29. The representative of the United States said that the debate had made clear the importance of agriculture to many countries: it would certainly be a very critical element in the forthcoming negotiations. The agricultural policies of most countries were trade-distorting and expensive and the system was in serious disrepair. He placed considerable hope in the new round to correct the situation, but to ensure an optimal outcome it would be important to address agriculture flexibly, in as many ways as possible. Unless agriculture were given serious attention in the new round, there was a risk that the situation would deteriorate to the point where neither the United States nor the European Communities would be willing to take the first step, and in the meanwhile all other countries would be disadvantaged.

30. The representative of the European Communities characterized agriculture as an area of vital interest which might well be included in the area of contractual commitments, subject to certain conditions. Nearly all previous speakers had supported its inclusion in the new negotiations. This was, however, an area in which it would not be possible to negotiate without the Community, nor a fortiori against the Community. It was disappointing that the previous comments on this subject had essentially been a list of claims and familiar complaints, with no indication of contributions or concessions that countries might be prepared to make. The Community was being pressed to make concessions, but no-one had indicated what it would receive in exchange. He agreed that the market was in a state of disrepair and could accept a negotiation whose purpose would be to get all parties directly or indirectly responsible for the situation to absorb or eliminate surpluses. But if it were to be always the same countries that would be asked to make sacrifices, negotiations could not succeed. A negotiation in the sector of agriculture was a unique but fragile opportunity for the GATT; its chances of success should not be jeopardised by insistence on a catalogue of demands without the accompanying obligations. Agriculture was a sensitive area, with specific problems in every country; if this were properly understood and accepted it would make progress easier, and there would be an obvious consequence in terms of the modalities of negotiation. A single body should have the exclusive responsibility for negotiations on agriculture, since dispersion of responsibility among several different bodies, would throw out of balance the global, and at the same time specific, approach to agriculture which had been followed hitherto. There was no reason not to negotiate, but this was not the time to initiate new rules which would create additional insecurity in world trade and jeopardize efforts to stabilize world markets. Such proposals would call into doubt the seriousness of the intentions of those who claimed they wanted to negotiate in agriculture.

31. The representative of Jamaica said that he agreed that it was not sufficient simply to repeat demands which had been made in the Committee on Trade in Agriculture. He requested clarification of whether the European Communities agreed with others that agriculture should be a subject for negotiation in the new round: if so, what recommendations did they think the Preparatory Committee should make? He had previously raised some very specific questions regarding standstill and rollback as possible
preconditions for negotiations, and with regard to the possible need for the Preparatory Committee to request the Committee on Trade in Agriculture to submit a trade liberalization programme. If there were not consensus that agriculture ought to be a subject of negotiations, it would be necessary to continue the exchange of views until it was clear what was to be done with agriculture.

32. The representative of Australia said that the time had come for the international community to tackle the problem of agricultural trade. There was the prospect of a serious trade war which would hurt all parties, including those prepared to engage in subsidized export competition. International commodity prices were in an historic slump at a time when many of the countries which relied heavily on their export earnings from commodities, including agriculture, had serious debt problems and no other major source of foreign exchange. The long-term decline in agricultural prices was a consequence of the long-term suppression of prices by subsidy practices. Virtually all political leaders seemed to agree that current agricultural policies needed to be changed. Not only had the European Commission made some albeit unsuccessful attempts to reform the Common Agricultural Policy, but Trade Ministers of various EC member states had also expressed their dissatisfaction with the CAP. He cited an Australian analysis of the high price of the CAP in terms of non-agricultural employment in the Community. A successful negotiation on agriculture in the new round was a sine qua non for many contracting parties. Failing this, the credibility of the trading system would be lower than ever before. Agricultural issues, and particularly export subsidies, had to be addressed as a priority item. The same rules, objectives and principles which had been agreed in the GATT for manufactures should be used as the basis for negotiations on agriculture. All restrictions on agriculture, whatever their nature and original justification, should be tabled and made the subject of liberalization. Not only would agriculture be one of the key issues in the new round but it must not be left to fall behind any other issue. Negotiations on agriculture should be for the purpose of trade liberalisation. Leadership was now needed from the major trading countries in making changes which would be of benefit both to themselves and to the international trading community as a whole. The Group of Five countries had been willing to take steps to make some improvements in the international financial area. These same countries should be willing to try to bring about improvement in agricultural trade recognizing that it must be part of the process of structural adjustment.

33. The representative of the European Communities noted that it would be the purpose of the negotiation itself to reach agreement on a programme for liberalization. What was necessary now was to agree on whether or not agriculture would be included in the negotiations, and if so, under what conditions. The European Communities had previously indicated, in 1982, their reservations on trade in agriculture, making it clear that they would not accept any additional obligations related to agriculture; they had no
intention of lifting those reservations in the present circumstances. To open the door to negotiations, the specificity of agriculture had to be taken into account. That meant that agricultural products could not be dealt with in the same manner as any other product and that the conclusion of negotiations on all issues concerning agriculture should be the exclusive responsibility of one single body.

34. The Chairman proposed that the secretariat should prepare a summary of the views which had been expressed on this subject in order to assist the Preparatory Committee to move into a more concrete debate in the second round of discussions on this item. It would be necessary to move from a succession of unilateral statements to a dialogue or multilogue in order for the Preparatory Committee to prepare recommendations for Ministers. There was a difficult task ahead, but it had been agreed that this task had to be carried out in the Preparatory Committee with the help of the Committee on Trade in Agriculture. It also seemed agreed that the Committee on Trade in Agriculture had done very useful work; it might become necessary to draw even more on this Committee, though this did not imply that the Preparatory Committee could escape its responsibilities.

DISPUTE SETTLEMENT PROCEDURES

35. The Chairman said that the debates of the Senior Officials' Group on dispute settlement procedures could be found in SR.SOG/4, pages 29-35. The summary records showed that there was some concern among delegations about the efficiency of the dispute settlement process, in the light of certain recent cases which had not been satisfactorily resolved. However, while a number of speakers were concerned about deficiencies in the dispute settlement procedures themselves, others believed that difficulties had arisen mainly from non-observance or abuse of the procedures. This was an important distinction which the Committee should bear in mind in considering how this instrument of cooperation between contracting parties may be made more effective. It was always possible for procedures of any kind to be improved, and if the new round offered a further opportunity to do this it should be taken advantage of, but it should be borne in mind that on several occasions, in 1966, 1979 and 1982, major efforts had been made to improve the procedures. It was important to avoid being diverted by the relative simplicity of procedural questions from the much more difficult underlying problems, which included the following:

- First, was it not asking too much of a panel of experts to reach clear and generally acceptable conclusions if the substantive rules which they were seeking to apply had been left vague, imprecise or subject to conflicting interpretation? This had been the situation facing certain recent panels.

- Secondly, was it not the case that the best-designed procedures in the world would not be effective unless they were respected? For example, in 1982 Ministers agreed on a number of improvements in the procedures, but there were still cases of excessive delay in constituting panels, in agreeing terms of reference, in adopting panel reports and in implementing their conclusions.
This led directly into the third underlying question, which was whether the political will existed to make the system work. Essentially that meant that governments had to be ready to accept the consequences of a judgement going against them.

These questions should be borne in mind in considering possible changes in this area. No doubt the procedures were capable of improvement, but this was a matter of common responsibility rather than of negotiation in the normal sense. In considering whether any improvements were necessary or possible, it should be remembered that over 90 per cent of all the panel reports submitted to the Council had been adopted and acted upon.

36. The representative of Chile said this topic should be elucidated before the end of the new round. The negotiations of new obligations meant little - in particular for developing countries - if there were no assurance that they would be implemented. The present practice of the GATT to adopt panel reports only by consensus was anomalous because it made the contracting parties violating the General Agreement judges in their own case. Trade pressures were the only means under the system to ensure the adoption and implementation of the reports. This was unfair because that pressure was not available to the less-developed contracting parties. A new mechanism should be established by the CONTRACTING PARTIES to ensure the proper interpretation and implementation of the provisions of the General Agreement and the MTN agreements. Without such a mechanism, without an effort to make the obligation of the contracting parties truly binding, the negotiations in the new round would not be meaningful. Only if the contracting parties knew that the obligations resulting from the new round would have to be implemented would they be careful and earnest in the negotiations.

37. The representative of Jamaica recalled that the MTN agreements included understandings or improvements to the dispute settlement procedures as did the GATT Ministerial Meeting of 1982. However, there was still need for further improvements, not necessarily through marginal procedural changes but through a renewed commitment to fulfil obligations. Contracting parties might wish to consider relying more on conciliation, and also giving third parties, acting through the GATT Council, the possibility to intervene in cases of dispute. This could well lead to increased adherence to GATT rules. It would be necessary to find ways to combine the dispute settlement procedures under the General Agreement with those established under the different MTN agreements. The experience under the Subsidies Agreement suggested an urgent need for reviewing this aspect. There was a link between effective dispute settlement procedures and the negotiation of new commitments. All contracting parties, particularly those without retaliatory market power, had to be given the feeling that the procedures would give them satisfaction in any dispute brought before the GATT. This subject therefore had to be taken up as part of the proposed new round.
38. The representative of the European Communities said that his delegation could agree very largely with all that the Chairman had said on the present problems in the dispute settlement area. The Community had already confirmed in the Senior Officials' Group that it was willing and prepared to explore any proposal to improve the dispute settlement system of GATT. The dispute settlement process was as much a symptom of the present problems as it was a cause of them and it was therefore likely, indeed probable, that it could be seen more clearly what ought to be done in the area of dispute settlement in light of ongoing negotiations rather than straight away at the outset. If it turned out that a future negotiation helped remove some of the uncertainties and ambiguities which existed at present, then to that extent the problem of dispute settlement would be diminished. However, the Community certainly recognized that there would come a time in these negotiations for the dispute settlement procedures to be considered. The Community believed that there was a limit to the possibilities of codifying every detail of the procedures in the hope of resolving thereby issues which were essentially of a political nature. The Community was of the view that dispute settlement could be over-dramatized. The history of disputes showed indeed a very substantial series of successes and only a relatively small number of failures. The failures had attracted attention and had to some extent overshadowed the successes which were worthy of recognition. This was an area where agreed undertakings were more appropriate than contractual commitments.

39. The representative of Bangladesh stressed that the dispute settlement procedures were crucial to the maintenance of the credibility of the General Agreement. Efforts should be made to remove a number of inadequacies that had remained after the 1979 Understanding and the 1982 Ministerial Declaration, such as the delays in the various stages of the procedures, unclear findings and recommendations, and lack of compliance with panel recommendations. Efforts towards improving the dispute settlement procedures were necessary to protect the interests of countries without retaliatory power.

40. The representative of Norway, speaking on behalf of the Nordic countries, stated that the dispute settlement mechanisms of GATT played a decisive rôle in securing reciprocity and proper balance of rights and obligations between contracting parties, which was of particular importance to smaller trading nations. There was ample evidence that the fundamental obstacle to efficient dispute settlement in GATT was not so much related to the procedures but to other factors such as the lack of will to make proper use of the existing mechanisms, and the existence of GATT rules that were too vague and unclear to be meaningfully interpreted or that were subject to long-standing and wide-spread divergence of interpretation among contracting parties. The Nordic countries recognized that there might still be scope for improving the procedures but the main problem did not lie there.

41. The representative of the United Kingdom, speaking on behalf of Hong Kong, said that certain problems had arisen from time to time in the operation of the GATT dispute settlement mechanism. These included delay at various stages of the procedure, difficulties with the adoption by the Council of panel findings and lack of compliance with Council recommendations. At the core of the issue of dispute settlement was the need to secure a
higher level of commitment from all contracting parties to abide by the results of the dispute settlement mechanism. In this context, particular regard had to be given to the difficulties faced by smaller developing contracting parties seeking equitable solutions in disputes involving larger, more powerful contracting parties. The ideas that had already been identified in the 1979 Understanding on dispute settlement and in the 1982 Ministerial Declaration needed to be developed into concrete proposals for action. Measures had to be devised and implemented to reduce delay, to increase surveillance and to prevent obstruction in the dispute settlement process. A possible means of giving effect to these objectives would be to establish within GATT a standing body on dispute settlement to assist and support the Council. Such a body, with membership open to all contracting parties, could be charged, first, with reviewing the past operation of the dispute settlement mechanism, identifying problems and proposing appropriate procedural improvements; second, with monitoring the progress of disputes and recommending how the dispute settlement mechanism might be expedited and facilitated in individual cases; and, finally, with keeping under surveillance any matter arising from the operation of the dispute settlement mechanism on which the CONTRACTING PARTIES had made recommendations or given rulings with a view to securing full compliance by the contracting parties to whom such recommendations and rulings had been directed. This suggestion was made in the recognition that dispute settlement was a complex subject on which different doctrinal approaches were apparent among contracting parties. It was a proposal which should enable some progress to be made without at this stage pre-empting the position either of those who believed that conciliation should be the prime objective or of those who preferred to see a more legalistic, certain and binding procedure. It was important that dispute settlement be addressed as a major element in the process of restoring confidence in the operation of the multilateral trading system. Proposals such as the one briefly outlined could well be examined and developed as the basis for the continuation of such work both before and during the launching of a new round of multilateral trade negotiations.

42. The representative of Romania recalled that the position of his authorities on the subject was reflected in document SR.SOG/4, page 30.

43. The representative of Australia said that the present procedures of the GATT and of the MTN Agreements were capable of producing perfectly acceptable solutions to disputes and that the 1979 Understanding provided the necessary basis for dispute settlement. Australia had put forward during the preparatory process for the 1982 Ministerial Meeting a comprehensive proposal on how dispute settlement procedures might be improved. The suggestions still remained valid. One of the key elements of the proposal was that reports should be adopted on the basis of an agreement among the contracting parties with the exception of the disputants. Another key proposal was that there should be time limits for the implementation of panel reports. The heart of the problem was not a matter of procedure but a question of how to resolve the desire of all parties to be winners. In some cases, there was disagreement between disputants over the interpretation of the vague language
of some provisions in the GATT and disagreement over the purpose of the GATT itself. The new round should clarify some of those issues. There was the further problem that quite often the disputants, in most cases major trading partners, sought to avoid the juridical solution to disputes by seeking solutions outside the GATT, solutions based on the exercise of strong economic power and not on a strict interpretation of the General Agreement. The aim should be to develop both a clarification of vague terms and improved procedures.

44. The representative of Czechoslovakia said that dispute settlement was an important subject which should be addressed in the new round as a major element in restoring confidence in the operation of GATT. Small trading nations were particularly interested in the good functioning of the multilateral dispute settlement mechanism and for this reason his government supported the efforts to strengthen the existing procedures and reinforce the authority of law. There was both a need for a higher level of commitment on the part of contracting parties to abide by the results of the dispute settlement procedure and room for improvement in existing dispute settlement procedures, for instance in the conciliation phase or follow-up to the dispute settlement. Conciliation was an important aspect of the dispute settlement process but there was also a need for an impartial body to assist in interpreting obligations under the General Agreement if conciliation failed. There was scope and need for reinforcing the authority of GATT principles and rules. The new round should include a comprehensive and serious review of the dispute settlement process in both its conciliatory and adjudicative aspects.

45. The representative of Japan stated that effective and smooth dispute settlement was indispensable if the GATT were to play a vital rôle in maintaining and strengthening the multilateral trade system. His government had placed utmost importance on faithfully respecting the dispute settlement procedures of the GATT in specific cases, despite great difficulties. The GATT dispute settlement mechanism had been working reasonably well except for a limited number of difficult cases. There were elements requiring improvement but the overall significance of the existing GATT mechanism should not be lost sight of. In the new round an effort should be made to arrive at a better and more effective implementation of the mechanism. It was noteworthy that the roster of non-governmental panelists had been established. It would facilitate the speedy selection of panelists. During the course of the new round issues such as the strengthening of surveillance over the dispute settlement process and a more active rôle of the GATT Council in interpreting GATT provisions should be addressed. The provisions of Article XXIII:2 obliging a contracting party to obtain authorization from the CONTRACTING PARTIES for any retaliatory action should not be changed.
46. The representative of Brazil stated that the GATT dispute settlement provisions were a very important and integral part of the General Agreement and as such should receive constant support from the contracting parties. Unfortunately, these provisions were being undermined by the disrespect for decisions arrived at through existing procedures. The contracting parties should therefore examine carefully whether the deficiencies lay in the provisions themselves or in their implementation by contracting parties. Greater efficiency and respect for GATT rules in this connection would be reinforced through the serious and strict observance of firm rollback commitments. The major trading partners, being those who most frequently resort to GATT for dispute settlement, had a special responsibility. They had shown in the recent past different degrees of aloofness towards panel decisions, an attitude which weakened the system and negatively affected the confidence of less-developed contracting parties in its functioning. Possible shortcomings of the dispute settlement system arose perhaps more from the divergent understanding of its nature than from specific deficiencies of the rules for the settlement of disputes. As stressed by many contracting parties, the dispute settlement procedure was a means to reinforce the authority of the law and to ensure its effectiveness rather than an instrument to question this law. The following basic points seemed essential in any discussion on this matter:

(a) The dispute settlement procedures should be seen as a way to ensure the effective application of existing substantive GATT rules to specific cases where controversy about interpretation may arise between contracting parties;

(b) The dispute settlement procedures should be used primarily as a conciliation mechanism whose final stage, if conciliation fails, should be of an arbitration nature rather than of a judicial nature;

(c) The dispute settlement procedures should thus not be used to create, by constructive interpretation, obligations which are not clearly established in the text of the General Agreement;

(d) The dispute settlement procedures should not be used as a supra-national jurisdiction, as a means to prematurely internationalize conflicts of a private nature, the solution of which should be first sought within the domestic jurisdiction of contracting parties.

The representative of Brazil concluded by saying that the special and more favourable treatment to which less-developed contracting parties were entitled could best be assured by the observance of the substantive rules of the General Agreement rather than by the reinforcement of the procedural norms of the dispute settlement arrangements.
47. The representative of Hungary stated that one of the factors contributing indisputably to the erosion of the GATT system was the unsatisfactory functioning of the dispute settlement mechanism whose basic rôle should be to reinforce the authority of the law and to ensure its effectiveness. A number of improvements could be made in the existing dispute settlement procedures. However, improving procedures would be a waste of time if lack of political will continued to obstruct the dispute settlement process. The best designed procedures would not be effective if not respected. The 1982 Ministerial Declaration stated that "obstruction in the process of dispute settlement shall be avoided". This principle could be expressed in concrete and binding rules. If, for the purpose of establishing consensus, the position of the parties to the dispute were disregarded, the multilateral consideration and action in respect of dispute settlement would become more meaningful and effective. In a multilateral trading system in which rights were to be enforced through retaliation the smaller trading countries felt completely helpless. This was a major problem which ought not to be disregarded in the future negotiations.

48. The representative of Canada said that the dispute settlement procedures were the cornerstone of the GATT, underpinning the contractual framework of the General Agreement. The strengthening of the dispute settlement system was an important objective for Canada in the new round. While important progress was made during the Tokyo Round, and subsequently in the context of the 1982 Ministerial Work Programme, the procedures still tended to be tilted toward a country taking a measure inconsistent with its GATT obligations. Without substantial progress on dispute settlement, the benefits arising out of progress made in the negotiations on other subjects would be limited. Improvements to the dispute settlement process, including for the various NTM agreements, should be a key subject for negotiation in the new round. Areas for consideration in these negotiations should include (a) the timeliness of panel reports, (b) the composition of panels, (c) the rôle of panels, (d) the rôle of the Secretariat, and (e) the adoption and implementation of panel reports.

49. The representative of Nigeria stated that the new round should concentrate on improving the dispute settlement procedures by removing the ambiguities in certain provisions which some contracting parties had taken advantage of. Excessive delays in constituting panels should also be avoided, as well as undue delays in reaching decisions and adopting the recommendations of panels. At the heart of the continuing credibility of the General Agreement was the continued effectiveness of the dispute settlement procedures. Governments must demonstrate the political will to respect the recommendations of panels in order to ensure the continued relevance of the General Agreement. The starting point was the Ministerial Declaration of 1982 which already provided useful suggestions for improving the dispute settlement procedures. The new round should therefore concentrate on removing ambiguities and on ensuring that there was no undue delay in the setting up of panels and that panel recommendations were respected and implemented.
50. The representative of Egypt said that an increasing number of disputes had been brought to GATT in recent years which could pose a threat to the harmonious development of trade relations among contracting parties. Retaliation had been used and the spiral of disputes might continue. In a new round of trade negotiations the improvement of the dispute settlement procedures should be a major subject. The improvement of the dispute settlement mechanism should produce greater equity and thereby protect the rights of developing countries. The aspect of conciliation should be stressed. The Ministerial Declaration of 1982 had attempted to streamline the procedures in this respect. The objective of the new round should be to give more importance to the conciliation procedures as preventive medicine and to stress the urgent need to make GATT's conciliation role more operational and effective.

51. The representative of Switzerland stressed that the issue of dispute settlement was of fundamental importance. The overall purpose of the new round should be to develop rules that could then be applied by panels and thus would ensure the proper functioning of the dispute settlement process. Procedural changes could not replace political will. However, some procedural improvements still seemed desirable. They should mainly enable contracting parties other than parties to the dispute to state their common views in the Council, for instance, so as to ensure a fair and objective implementation of the rules of the multilateral trading system.

52. The Chairman concluded the discussion by saying that the opinion appeared to prevail that the dispute settlement procedures were an essential part of the GATT legal system, that they could not work properly without the political will to make them work, that efforts to arrive at clearer and unambiguous rules during the new round would improve the dispute settlement process and that despite the 1979 Understanding and the 1982 Ministerial Declaration, procedural improvements were still possible. A number of concrete suggestions for improvement had been made and he had noted a general readiness to consider these and other suggestions in the new round. He suggested that the secretariat summarize the points raised so as to facilitate the drafting of a proposal for the Ministerial Declaration.

TROPICAL PRODUCTS

53. The Chairman recalled that this was a subject on which work in pursuit of the 1982 Ministerial Work Programme had been carried out actively under the aegis of the Committee on Trade and Development. The work done had perhaps reached the point at which it should be possible to move into the stage of negotiation. In principle such a negotiation need not await the launching of the new round, but substantive progress would no doubt be easier in the context of a global process of liberalization. The importance of the subject for many developing countries, particularly many of the least-developed, and for some of those carrying heavy burdens of debt, was widely recognized.
54. The representative of Colombia said that he shared the views expressed by the Chairman in regard to tropical products. He recalled that despite the importance of this sector for developing countries' exports the Tokyo Round and the work carried out in the light of the 1982 Ministerial Declaration had failed to produce positive results. While recognizing the link between tropical products and trade in agriculture he believed that the former issue should be treated separately from agriculture. The subject of tropical products should be included in the new round as a priority topic. The preparatory work already done would facilitate negotiations, which could start immediately after the launching of the new round if not before, and should be concluded speedily. The concessions which would be granted by developed countries should be put into force immediately and without waiting for the negotiations in other fields to be completed. The concessions made by developing countries in accordance with their trade, financial and development needs should be implemented at the end of the new round when developing countries would be able to assess the overall benefits obtained by them in negotiations.

55. The representative of Sri-Lanka stated that many developing countries, including many of the least-developed, continued to depend on tropical products for their export earnings. Full liberalization of trade could bring considerable benefits and make these countries' participation in the new round more meaningful. Although commitments to liberalization in this sector had been undertaken in the GATT since the 1963 Ministerial Declaration, the aim of unrestricted duty-free entry for tropical products in primary, semi-processed and processed forms remained unfulfilled. Despite the fact that it had been decided to treat tropical products as a special sector for priority attention during the Tokyo Round, progress fell far short of expectations. The "consultations and appropriate negotiations" under the Work Programme of 1982 proved again most disappointing. Therefore, a fresh attempt on a comprehensive basis was needed in order to secure full liberalization. The statement made by the United States in the Senior Officials' Group that more than 75 per cent of its imports of tropical products were duty-free, while the average tariff for the others was 3 per cent, was welcome proof that the goal of full liberalization could be attained in the proposed new round. He also welcomed the statement by the European Community that the problem arising from their special contractual links with third countries would not prove to be an insoluble one. The decision taken by the Community last year to extend its stabilization scheme (STABEX) across the board to the least-developed countries showed the way to be followed. Special duty-free access for tropical products could likewise be extended across the board to all other developing countries, if not on an m.f.n. basis at least under GSP treatment. As far as the Action Programmes recently announced by the Japanese authorities were concerned, although some tropical products were included they could have gone further both in coverage and depth of tariff cuts; duties continued to be maintained on a number of tropical products. Tropical products should be treated as a special sector for priority attention. The proposed new round should aim at full liberalization in this sector covering action on tariffs and non-tariff measures, including internal taxes and levies and with particular attention to the problem of tariff escalation. A short and special time-table both for the negotiations and for the implementation of concessions should be established as proposed in L/5818. The negotiations on tropical products should fully comply with the provisions of Part IV of the General Agreement.
56. The representative of Malaysia, speaking on behalf of ASEAN contracting parties, recalled that discussions on tropical products in the Group of Senior Officials highlighted the particular importance which many less-developed contracting parties attached to the dynamic treatment of this sector. The reactions of other contracting parties might have led to the conclusion that the area of tropical products might finally be recognized as deserving the treatment that developing countries had pressed for on many occasions since the 1960s. He hoped that in the Preparatory Committee developed countries would elaborate on the views they had expressed in the Senior Officials' Group. Some representatives had alluded to special problems which might stand in the way of achieving duty and quota-free entry for tropical products into their markets, reference being made to the need to avoid distorting traditional trading relationships, to the sensitivity of certain product sectors and other constraints mentioned in the course of the three rounds of consultations held in the Committee on Trade and Development. A further consideration was that tariff structures in developed countries reflected the intention to protect their processing industries. The 1979 Report by the Director-General of GATT on the Tokyo Round of Multilateral Trade Negotiations had also mentioned several factors that had frustrated a better result in the Kennedy Round and the Tokyo Round in regard to tropical products. If these considerations were to be brought up again it would only diminish the credibility of the proposed new round. As far as the recommendations for the Ministerial Meeting were concerned, the ASEAN countries suggested the following elements: (a) tropical products should be treated as a special and priority sector in the new round; (b) negotiations should cover tariffs, tariff escalation, variable levies and non-tariff measures such as quantitative restrictions, import licensing procedures, state-trading, internal taxes, health and sanitary measures; (c) product coverage would involve all forms of tropical products; (d) establishment of a short and special time-table for negotiations and provision for advance implementation of concessions; (e) standstill and rollback commitments; (f) concessions would be extended on the basis of Article XXXVI, paragraph 8 regarding non-reciprocity. Finally, the representative of Malaysia repeated the proposal made by ASEAN concerning the harmonization of tariff rates applied by developed countries on tropical products to the lowest tariff rate applied on a given product.

57. The representative of Brazil stated that the area of tropical products was of particular interest to developing countries. In their statement on the improvement of world trade contained in document L/5818, some developing contracting parties had stated that a short and special time-table for negotiations on tropical products should be agreed upon before the launching of the proposed new round of multilateral trade negotiations. The results of the negotiations on tropical products should be implemented in advance of the conclusion of the proposed new round. The liberalization of trade in tropical products should proceed independently of the results of negotiations on other products or areas and must not be conditional upon concessions by developing contracting parties in other areas; an understanding on this point would be very important in order to broaden the necessary consensus for
the launching of a new round. Brazil was of the view that the Preparatory Committee was the appropriate forum for building confidence among all contracting parties for the launching of a new round of multilateral trade negotiations. Therefore, a positive and more specific reaction from developed contracting parties to proposals by developing countries on tropical products which had been on the table for some time would be welcomed.

58. The representative of Bangladesh emphasized the importance of the subject of tropical products. As a least-developed country which depended critically on tropical products for its export earnings, Bangladesh shared the view that effective liberalization of trade in tropical products should be a priority objective for the new round of negotiations. In spite of commitments undertaken under the 1982 Ministerial Declaration to liberalize trade in tropical products, including in semi-processed and processed forms, the progress achieved so far was disappointing. The review process initiated pursuant to the Ministerial Decision had helped in the identification and better understanding of problems faced by the developing countries. Nevertheless, the outcome of the series of consultations held on this subject had fallen far short of his delegation's expectations. Bangladesh acknowledged and appreciated the liberalization measures which some of the developed trading nations had introduced. Many developing countries had, however, referred to the continued presence and in some cases intensification of trade obstacles in the form of high tariffs and non-tariff measures including variable levies, fiscal taxes and technical barriers, among others, affecting products like jute and jute products, and tea, in which Bangladesh had a vital interest. He hoped that the forthcoming negotiations would result in the complete elimination of all remaining obstacles facing the developing countries, and more particularly the least-developed among them, in their trade in tropical products. He also hoped that the question of sensitivity in certain markets would not prove to be an insurmountable problem. Bangladesh fully supported the idea of closer cooperation in export promotion as it was of crucial importance to smaller developing countries. In fact the 1982 Ministerial Declaration had specifically provided for strengthening of export promotion activities in favour of the least-developed countries. Assistance in trade promotion, along with liberalization of tariff and non-tariff measures in trade in tropical products, should jointly contribute to the expansion of world trade in this sector and effectively benefit the developing countries dependent on the export of tropical products. He reiterated that in the liberalization of trade in tropical products the principle of special and differential treatment to the developing countries, including the least-developed among them, should be given due importance in line with the provisions of Part IV, the Enabling Clause and the 1982 Ministerial Declaration.

59. The representative of Pakistan recalled the importance of tropical products in the foreign trade and foreign exchange earnings of developing countries. While appreciating the progress made in the Tokyo Round on liberalization of trade in tropical products, he noted that problems still remained. In 1982, the Ministers had decided that the CONTRACTING PARTIES
should engage in consultations and negotiations. Whereas consultations were held and were found to be useful, no negotiations were engaged in. Pakistan believed that tropical products should be an important and priority area of negotiations in the new round. The objective of negotiations should be complete duty-free and quota-free entry of tropical products in the markets of developed countries; this objective had been set by GATT Ministers as far back as in 1963 and must be realized in the new round. Negotiations on tropical products should be a priority area and be conducted in the light of the provisions on non-reciprocity in Part IV and the Enabling Clause. Negotiations in this area should be completed and their results implemented within a short period, of say two years, from the launching of the new round.

60. The representative of Zaire stated that tropical products should be considered as a special priority sector in the context of a new round of multilateral trade negotiations. The need for special consideration and priority for this sector had already been recognized in the Tokyo Declaration. Standstill and rollback commitments should be undertaken in relation to tropical products. Developed countries should give up their restrictive fiscal policies and other measures which slowed down domestic consumption of processed tropical products exported by developing countries. Improvement of preferential treatment for tropical products, in particular those in semi-processed and processed forms, should receive priority attention in the new round. To this end concrete recommendations for the Ministerial Meeting should be adopted.

61. The representative of Peru shared the views expressed by the Chairman that following the work which had already been carried out the negotiations on tropical products could open immediately. She also shared the views of other developing countries which had stressed that the tropical products sector should be given priority. The negotiations should be opened as soon as possible and a programme should be adopted in this field even before the opening of the new round. Since there was no reason to await the completion of the new round of negotiations, they should be completed very speedily, at the maximum in two years. The negotiations should cover primary products, semi-processed and processed products. Tariffs, non-tariff measures and domestic fiscal taxes should be tackled with special attention to the problem of tariff escalation. Peru considered that the negotiations should be based on paragraph 8 of Article XXXVI of the General Agreement and paragraph 5 of the Enabling Clause. The industrialized countries should apply their concessions immediately and concessions by developing countries should be implemented only after completion of the new round, at a time when they would be able to assess its results.

62. The representative of Jamaica said that in considering the recommendations to be made to Ministers on the subject of tropical products the question whether tariff protection was in fact the most important factor limiting the access of developing country exports of tropical products had to be examined. In this light it should be considered whether tropical products on which many developing contracting parties relied heavily for export earnings should be treated in a more comprehensive manner which would include
price and income stabilization measures. The question whether tropical products should be brought under future work in agriculture would have also to be given attention. He felt that under a more comprehensive approach the effects of tariff escalation on the processed product, subsidies in favour of domestic producers in the importing countries, fiscal levies, and imperfections of commodity markets including commodity exchanges might be looked at with a view to achieving progress in negotiations. He believed that the proposal of the Ivory Coast presented at the GATT Ministerial Meeting in 1982 still had valuable elements and should be examined.

63. The representative of Australia stated that his country was prepared to support the inclusion of tropical products as a priority and separate issue in a new round of negotiations with a view to achieving further liberalization of trade in that sector. There was considerable scope to improve globally the treatment of tropical product imports. Indeed the work of the Committee on Trade and Development clearly pointed to certain areas where some improvement in treatment of tropical products could be made. He agreed that the approach to the negotiations on tropical products needed to encompass both tariffs and non-tariff measures. He also supported the principles of standstill on tropical product import and export measures and of non-reciprocity, as well as the objective of duty-free treatment and the early implementation of tariff reductions. Australia was prepared, to the extent that it had not already reduced tariffs on tropical products, to consider requests for further reductions.

64. The representative of India recalled that the subject of tropical products had been a long-standing problem. It was in the 1960s that this issue was first taken up by the developing countries. All contracting parties agreed with the objective of trade liberalization in this area. Although in some respects there had been progress over the last two decades, developed countries had continued to maintain restrictions on some tropical products. The last attempt made was at the 1982 Ministerial Meeting when Ministers again agreed that tropical products was a priority subject and decided that appropriate negotiations should be carried out aimed at further liberalization in this sector. In 1986, after four years, there had been no significant progress. This lack of action should be borne in mind when preparing recommendations for the draft declaration. These recommendations should reflect the sense of responsibility and urgency of contracting parties in regard to the area of tropical products, which was of great importance. India believed that before considering any recommendations the Preparatory Committee should reach a unanimous agreement on (a) the priority that should be given to this subject (b) the need for a special and short time-table for negotiations and (c) advance implementation of the results of such negotiations. These points had been put forward succinctly in document L/5818, as well as in interventions by India and many other delegations in the Senior Officials' Group. India felt that in order to retain the credibility of the GATT the commitment to liberalize trade in tropical products, undertaken collectively two decades ago, should be fulfilled.
65. The representative of Yugoslavia reiterated the position expressed by her country in the Senior Officials' Group on the subject of tropical products. She suggested that the secretariat prepare for the next meeting of the Preparatory Committee a paper containing a short time-table for negotiations in this area in accordance with the proposals laid down in L/5818, page 5.

66. The representative of Argentina recalled that the importance of the subject of tropical products for developing countries was well known to all contracting parties. Argentina supported firmly the proposals put forward by Colombia and by Malaysia speaking on behalf of ASEAN countries. These proposals were clear, concrete and familiar to contracting parties and it would be very useful to take them as the basis for the recommendations to be prepared for the Ministerial Meeting.

67. The representative of Egypt stated that trade liberalization in the area of tropical products was of particular importance and of the highest priority for developing countries. Commitments to liberalize this sector had a long history dating back to the 1960s. This might be in acknowledgement of the fact that tropical products originate mainly in developing countries, including some of the least-developed countries, and did not directly compete with the domestic products of developed countries. Tropical products were recognized as a special priority sector in the Tokyo Declaration and the Tokyo Round. The 1982 Ministerial Declaration reinforced the existing commitments in this area. Nevertheless, consultations held so far in GATT according to the Ministerial Declaration had produced limited results. The stage of negotiation should have been started and completed. The new round should therefore treat tropical products as a main subject. Any recommendations in regard to tropical products should be agreed upon before launching the negotiations. Such a recommendation should treat tropical products as a special priority sector, as was recognized in the Tokyo Ministerial Declaration. The recommendation should also refer to the establishment of a short and special time-table for liberalization in the area of tropical products. It should also state that action on tropical products should be completed prior to and independently of the results of negotiations on other products. Negotiations should take place on the basis of non-reciprocity and their results be implemented in advance.

68. The representative of Canada recalled that a number of important tariff concessions for developing countries had already been implemented in the context of negotiations in the Group on Tropical Products established in the Tokyo Round, with the result that most tropical products now entered Canada free of duty. Where barriers on tropical products still existed they tended to be mainly related to sensitive products. The work undertaken under the 1982 Work Programme on tropical products had been useful in identifying additional specific interests of both exporters and importers of these products. But it also was clear in that exercise that there would not be much progress on this subject unless and until a new round of negotiations was underway. Canada believed that an objective of the new multilateral trade negotiations should be to make further progress on liberalization of trade in these products in order that the new round be of benefit to all participants. To that end all contracting parties ought to address this question seriously.
69. The representative of the European Communities stated that the Community agreed that tropical products should be dealt with in a new round of negotiations. It was in that framework that it would be possible to find solutions to all aspects of the problem and to enable every contracting party to derive benefits from the negotiation without dwelling on the question of reciprocity versus non-reciprocity. It was in a global context that each and every contracting party could find benefits from the negotiation. He recalled that in its Resolution of 19 March 1985, the EC had undertaken to enter into a new round of negotiations, provided that it was a global one and that all topics were dealt with in parallel. Some statements made in the Committee in regard to tropical products went a little too far. He recalled that in the Tokyo Round, concessions made by developed countries on tropical products, including by the Community, had been implemented at the end of the negotiations and not phased in like other tariff concessions. As for the 1982 commitment, he believed that it has been broadly fulfilled. The Community had, like others, renewed the GSP for a further decade and improved it from year to year, taking due account of the requests made by its developing trading partners. The Community had contractual links with a number of developing countries which inevitably influenced the range of possible action in the area of tropical products. An additional consideration was that some products treated as tropical products in the discussions, such as rice and tobacco, also fell within the purview of the Common Agricultural Policy. It would be very difficult for the Community to agree that these products could be treated differently from other products covered by the Common Agricultural Policy in the negotiations. The Community had responded to the appeal made by the least-developed countries for priority concessions in a number of ways. Thus, the Community extended to these countries certain benefits that were granted to countries with contractual links with the EEC. Moreover, the least-developed countries enjoyed GSP zero duty rates and no restrictions were applied to their exports. These arrangements would continue to apply during the negotiations.

70. The representative of Japan reiterated his Government's awareness of the fact that tropical products constituted an extremely important priority area for the developing countries. The Committee on Trade and Development had identified the problems and specific requests relating to this issue. He believed that the idea of starting negotiations in this area in the early stages of the new round was technically possible and that it deserved consideration. Japan wished to participate actively in negotiations in this area on the basis of a mutually satisfactory procedure within the framework of the whole negotiating package. Action had been recently taken by his country in the field of tropical products to respond to requests from the developing countries. This action included tariff reductions, and inclusion in the GSP scheme or improvement of GSP treatment for a number of tropical products such as bananas, palm oil and nuts.
71. The representative of the United States said that the issue of trade in tropical products could be dealt with in the context of the new round. However, he felt that any attempt to establish priority issues for the new round would be counter productive and make impossible an agreement because not all countries would be likely to share the same priorities. Some progress, although somewhat limited, had been achieved over the past years in the area of tropical products. The question now was how to proceed further. He believed that the inclusion of the subject in the new round would facilitate progress through negotiations by enabling all countries to go further in the context of a broader package.

72. The representative of Norway, speaking on behalf of the Nordic countries, said that the Nordic countries had already expressed their views on the subject on a number of occasions, inter alia, in the Senior Officials' Group meetings. The Nordic countries recognized that the issue of liberalization of trade in tropical products should be included in the new round, given the importance of these products for the developing countries, and in particular for the least-developed among them. He reserved the right to revert later to the question of modalities of negotiations in this area, to which some delegations had already referred.

73. The Chairman noted that several representatives had focused on the content of possible recommendations in regard to tropical products. He proposed that the secretariat would examine whether the suggestions made could be put on paper in order to narrow down the views expressed to the point where the Committee could think of drafting.

TARIFFS

74. The Chairman said that negotiations in the area of tariffs would have their importance, as in all previous rounds. The records of the Senior Officials' discussions on tariffs was contained in SR.SOG/5, pages 21-26. The main points raised in those discussions were the following: (i) In spite of the use of the harmonization approach to tariff cutting in the Tokyo Round, tariff peaks of over 40 per cent continued to exist in some developed countries; (1) While the percentage of duty-free imports into most developed countries after the implementation of the Tokyo Round tariff cuts was quite high, there were now many products subject to what were regarded as "nuisance" tariffs - for example those below 5 per cent; (1) There were quite substantial differences in the level of tariff bindings as between different countries and different product sectors. In addition, a number of developing countries had indicated that tariff levels in their countries had been significantly reduced in recent years. It might be asked how far they could obtain credit for this in a new round and how far they would be willing to enter into tariff bindings or make other contributions. Tariff escalation was a further subject which might be taken up in the context of tariff negotiations. It had been stated by a number of countries that the Tokyo Round had not brought about satisfactory results in this area. The Chairman also recalled that in the tariff field, an exercise was presently under way.
aimed at the introduction of the Harmonized Commodity Description and Coding System. It was his understanding that renegotiations under Article XXVIII were to begin very shortly and that the delegations concerned were determined to conclude these at the earliest possible date, in order to obtain a solid basis on which they could conduct the tariff negotiations in the context of the new round.

75. The delegate of Sri Lanka stated that although successive rounds of tariff negotiations and the proliferation of quantitative restrictions and other non-tariff measures had reduced the importance of tariffs as barriers in international trade, further progress in this area was needed and some tariff issues remained to be addressed in the proposed round of trade negotiations. The problem of tariff escalation on products processed from raw materials, many of which were of particular interest to developing countries, was one such issue. Tariff escalation restricted trade and inhibited the development of processing industries in the developing countries exporting primary products and raw materials. Thus, sectors such as tropical products, textiles, leather goods and processed foods were of particular concern to developing countries. It was known that only a few countries accounted for the bulk of developing country processed exports. It was also necessary to ensure that the Generalized System of Preferences would not suffer erosion through tariff reductions on an m.f.n basis. Where this was unavoidable, such loss of preferences or reductions in preferential margins should be compensated elsewhere through increased coverage, deeper tariff cuts and tariff bindings on products of particular interest to developing countries. Sri Lanka, also supported the proposal for broadening the criteria of "principal supplying interest" and "substantial supplying interest" referred to in Article XXVIII of the General Agreement. This proposal would accommodate smaller countries whose exports of a particular product to a given market represented a significant share of their total export earnings.

76. The delegate of Jamaica said that there should be a reduction in tariff peaks, particularly those of the developed contracting parties. Secondly, urgent attention to tariff escalation was necessary. Thirdly, tariff bindings should be an obligation undertaken by all contracting parties, i.e. developed and developing contracting parties. Bindings given or entered into by developing contracting parties did not necessarily have to be seen in terms of reciprocal value of concessions but more in terms of the reciprocal recognition that bindings were among the best guarantees for a predictable and assured trade liberalization. A fourth point concerned the conversion of non-tariff measures to tariff equivalents; the secretariat should make some specific proposals on this matter. Fifthly, tariff preferences accorded to developing countries within a contractual framework should be respected. Further trade liberalization should not necessarily impair the advantages these tariff preferences now provided for these developing countries. Sixthly, he agreed that the principal or substantial supplier requirements should be broadened in scope to recognise export dependence or at least the importance of the products in total exports of merchandise trade. In this
respect, the review of Article XXVIII along the lines set out by the
delegation of Switzerland provided a useful starting point. The Harmonized
System was expected to be a major exercise in the course of 1986 and the
secretariat might also wish to give some indications of the progress made in
this area over the coming months. It did not appear that many contracting
parties had given priority attention to this matter. Contracting parties
should recognize that while tariffs continued to be important in providing
protection for a number of developing contracting parties, they also
continued to be an important source of revenue.

77. The delegate of Bangladesh recalled that, although the average level of
tariffs had been reduced progressively in previous rounds of trade
negotiations, the problem of tariff escalation on products processed from raw
materials of particular interest to the developing countries, including the
least developed among them had still remained unresolved. It was clear that
high tariffs on processed products had inhibited the development of
processing industries and the overall growth prospects of the developing
countries. Examples of high tariffs which had affected the developing
countries could be seen in the area of tropical products, textiles, leather
goods and food items. Effective steps should be taken in the forthcoming
negotiations to achieve the elimination or reduction of tariffs on industrial
products originating from the developing countries, as had been agreed in the
Ministerial Declaration of 1982. He said that the following actions, among
others, might be taken in the area of tariff escalation, within the context
of the new round: (i) a firm and binding commitment to be undertaken at the
beginning of the preparatory phase to refrain from taking any new measure in
the field of tariffs; (ii) a short and special time-table should be
established for a reduction in tariffs affecting products, particularly
industrial products, exported by developing countries; (iii) a reduction of
tariffs should be achieved under the GSP schemes and there should be zero
bindings for tariffs on products of particular interest to developing
countries; (iv) special treatment should be given to products of particular
export interest to least-developed countries with the objective of providing
complete duty free access to such products; this was a commitment undertaken in
the Ministerial Declaration and could be seen in paragraph 3(a) of the
Annex to the Declaration; (v) as agreed in the Ministerial Declaration the
Harmonized System, adopted by the Customs Co-operation Council, should be
introduced early in order to provide a solid foundation for the forthcoming
tariff negotiations; adequate technical support should be given by the GATT
Secretariat to developing countries, particularly the least-developed among
them, in this regard; (vi) a credible surveillance mechanism should be
established to oversee and monitor the implementation of the decisions to
refrain from increasing and to eliminate tariffs; (vii) the criteria of
principal supplying interest or substantial interest as referred to in
Articles XXVII and XXVIII should be adequately broadened.
78. The delegate of the United States underlined the need for greater certainty in the international trading system. All contracting parties would have to make a contribution in the area of tariffs. He also drew attention to the disparity between the tariff levels in developed countries and developing countries. Because of the success of previous rounds of negotiations, average tariff levels in most developed countries were now relatively low. Non-tariff barriers had risen in their place and were more significant and more trade-distorting. There would be a tariff element in these negotiations but because it was not the essential element of trade-distorting measures, it would not be the centre-piece of the new round; the focus would be more on non-tariff measures.

79. The representative of Zaire said that the future trade negotiations should endeavour to find durable solutions to the thorny problem of tariff escalation. That problem was a serious obstacle to the development of young industries in developing countries, and a practice that served to perpetuate unfair division of labour designed to maintain the developing countries in the rôle of producers and exporters of primary products. Zaire hoped that the negotiations would result in concrete measures, with an appropriate timeframe, designed to reduce tariff escalation particularly in sectors relevant to the processing industry of developing countries. The problem of bindings and that of tariff escalation should be the subject of special treatment in the future trade negotiations while taking account of trade of particular interest to developing countries.

80. The delegate of Pakistan, referring to previous rounds of negotiations, including the Tokyo Round, had not concentrated in an equal measure on products of export interest to developing countries. Though the average tariffs of industrialized countries on manufactures were quite low, many product sectors of interest to developing countries, such as textiles, clothing, leather and leather manufactures and footwear, faced fairly high tariffs. GATT secretariat studies had identified these sectors. For example, according to GATT document COM.TD/W/315, the average post-Tokyo Round tariff of the United States on all industrial products was 4.3 per cent, whereas the tariff on footwear was 12.6 per cent, on hides and skins and leather and leather products 10.6 per cent, on textiles 18.2 per cent and on clothing 22.7 per cent. Similarly, in the case of Japan, it was 2.7 per cent on average of all industrial products, but on footwear it was 16.5 per cent, on leather manufactures 13.8 per cent and on clothing 13.8 per cent. In the case of the EEC, the average tariff on all industrial products was 4.6 per cent, but on footwear 20 per cent, on leather manufactures 8.0 per cent, and on clothing 13.3 per cent. There was thus a need for negotiations on tariffs. The objective of such negotiations should be a substantial lowering of tariffs of developed countries on products from developing countries. The negotiations should in particular address the problem of tariff escalation in a meaningful manner.
81. The delegate of Peru said that tariffs should be part of the trade negotiations and should be the subject of recommendations to Ministers. The objectives of the negotiations should be an improvement in access for the exports of developing countries, leading to a substantial increase in foreign earnings, the diversification of their exports and accelerated growth. In coverage, it should include manufactured and semi-processed goods, not only in relation to customs duties, but also for equivalent taxes, tariff quotas and variable levies. Tariff escalation was very important as a major problem affecting the economic and trade situation of developing countries: it inhibited the creation of processing industries based on domestic raw materials. There should be a special time-table for tariff cuts on manufactured or processed goods, especially tropical goods, textiles, foodstuffs and all products made from raw materials. There was need for a better balance under the provisions of Article XXVIII to take more into account the interests of developing countries. New criteria should be developed in order to provide developing countries with better opportunities to acquire negotiating rights, for example by taking into consideration the exports of a sector, or the exports of a given product as a percentage of the total exports of the country. For the tariff negotiations to be effective, determined action was required to eliminate quantitative restrictions and other non-tariff measures. The modalities for ensuring special and differential treatment for all developing countries should include a binding at zero duty of existing rates under GSP and also of rates on those products of interest to developing countries which are not included in the GSP. Contributions of developing countries in negotiations should take account of the principle of non-reciprocity, as spelled out in Part IV and the Enabling Clause. Consideration should also be given to the possibility of accelerated tariff cuts on products of interest to developing countries.

82. The delegate of Brazil stressed that in tariff negotiations due attention should be given to the principle of differential and more favourable treatment for developing countries. Special consideration would also have to be given to tariff escalation. In document L/3818, a group of developing countries had expressed specific interest in the reduction and elimination of tariff escalation. This constituted a serious problem for trade in many products of interest to them, including minerals and textiles. It should be noted that in the Tokyo Round tariff reductions on industrial products of interest to developing countries were twenty-five per cent lower than the average reduction on industrial products exported by developed contracting parties. In the agricultural sector, only thirty per cent of trade was affected by tariff concessions. Moreover, negotiations on tropical products had been disappointing and limited to minor improvements in GSP schemes. Bearing these facts in mind, it seemed that there was much scope for improving access for industrial and agricultural products of export interest to developing countries through tariff negotiations in the future round. If progress was made on the four subjects identified as important by the Chairman of the 41st Session of the CONTRACTING PARTIES, i.e. standstill, rollback, treatment of developing countries and safeguards, and there were also advances in dealing with the problems of trade in agriculture, the crucial remaining tasks for a new round of trade negotiations in GATT would be to enlarge market access through tariff negotiations and to eliminate quantitative restrictions and other non-tariff barriers. The new round would be less concerned with the elaboration of new legal texts than the Tokyo Round.
83. The delegate of Hungary stated that tariff negotiations should form an integral and important part of the new round. An additional aspect of the tariff question was the continuing deterioration of the relative competitive position of countries remaining outside Article XXIV arrangements. Therefore, his delegation was in favour of a new round of comprehensive tariff negotiations aiming at the further reduction of m.f.n. rates. As to the introduction of tariffs based on the Harmonized System, it was essential that tariff changes should be essentially of a technical nature and should not bring about significant increases in the rates applied at present.

84. The delegate of Canada said that tariffs were one of the most visible of the substantive issues which were under consideration for negotiation in the next round. Contracting parties in past rounds had been able to reduce tariffs significantly. There still remained, however, a range of tariffs in a number of markets which were significant barriers to trade. Moreover, in a large number of countries, there were still many unbound tariffs, particularly but by no means exclusively in the agricultural sector. The overall objective of the next round should be a further improvement in market access conditions on as broad a basis as possible, including in the areas of restrictive government procurement practices and specific border measures. With respect to tariffs, the negotiating objectives could include the total elimination of tariffs in particular product areas. Negotiating objectives should also include the binding of tariffs in all sectors, including agriculture, as well as the elimination of tariff escalation in resource-based industries. There was no valid reason for maintaining the large number of unbound tariff rates that currently existed, with the uncertainty in trade that they created. Without prejudging the form that tariff negotiations would take, the Canadian delegation considered that tariffs ought to be addressed in the new round in the context of broad efforts aimed at substantial overall market access liberalization.

85. The delegate of Chile agreed with previous speakers that the improvement of access to markets through tariff reduction must be promoted, in particular in the field of state trading. The coverage and degree of preferential treatment in favour of developing countries should be increased. The overall advantage received through the GSP should be preserved even though there would be some erosion of GSP margins in certain sectors. It was necessary to eliminate tariff escalation which created difficulties for exports of resource based products with high value-added, including fishery and forestry products. Non-tariff measures should be converted into tariffs. There should be a special formula for immediate liberalization in favour of the developing countries which were affected by high external debt or by natural catastrophies, and a revision of Article XXVIII in order to ensure a better balance of rights and obligations.

86. The delegate of Sweden, speaking for the Nordic countries, said that previous rounds of multilateral trade negotiations had resulted in generally low bound tariff levels, at least in most developed countries. The Nordic countries believed, however, that possibilities for further progress in the tariff area were not exhausted. Tariff peaks in a number of product areas should be reduced to the extent possible, thus contributing to a further harmonization along the lines of the tariff negotiations in the Tokyo Round.
The Nordic countries also considered that the work should aim at generally improving the extent and level of bindings, as this was an area where a greater balance of obligations was desirable. Tariff escalation might have to be addressed in a negotiation on tariffs, but this problem should be placed in its proper perspective. For example, more than 90 per cent of the Nordic countries' imports from developing countries entered duty-free. The active participation of all countries in tariff negotiations was important for a successful and balanced outcome in a new round.

87. The delegate of Czechoslovakia attached importance to the inclusion of tariffs as one of the major topics in the new round. Although considerable progress had been made in reducing tariff rates, there still remained a range of tariffs in a number of markets which acted as a significant barrier to trade. Imports under m.f.n. tariffs had become the exception rather than the rule. In this connection, the competitive position of countries not belonging to arrangements under Article XXIV had been particularly compromised. There still existed the uncertainty resulting from the existence of a large number of unbound tariffs. Tariff peaks in certain sensitive sectors still remained at relatively high levels. Also, the criteria of Article XXVIII concerning the "principal supplying interest" seemed to be insufficient as they did not take into account the position and rights of relatively small suppliers for whom exports of a product to a particular market were important. Czechoslovakia believed that the possibilities for further substantial progress in the area of tariffs had not been exhausted and that a further general reduction of tariffs based on harmonization formula was desirable. Such a formula could include the prospect of tariff elimination in cases of items with very low rates. In addition, Czechoslovakia shared the view that negotiations should aim at generally improving the extent and levels of bindings. In the light of the views expressed during the preparatory process, and taking into account the importance of this issue for many contracting parties, the recommendations on tariffs could read as follows: "to conduct negotiations on the reduction and elimination of tariffs, employing appropriate formulae of as general an application as possible, to improve the extent and levels of tariff bindings and to reduce tariff peaks and tariff escalation".

88. The delegate of Japan recalled that tariff negotiations had been a cornerstone of previous rounds of multilateral negotiations, and had led to significant decreases in tariff rates. Unlike in other subject areas, little preparatory work on tariffs had been carried out. A tariff-cutting formula such as the one used in the Tokyo Round was one idea, but the merit of this approach needed to be examined taking into account the generally low level of prevailing tariffs. He noted that after the completion of the Tokyo Round tariff cuts, average tariff rates on industrial products would be 3 per cent for Japan, 4.2 per cent for the United States, and 4.9 per cent for the European Communities. In a new round industrialized countries should work together to reduce tariffs to zero. There should be tariff negotiations in agriculture in the new round, but such negotiations should take into account the special characteristics of this sector. Japan was prepared to make its contributions to the successful outcome of tariff negotiations in the new round.
89. The delegate of the European Communities stated that in the area of tariffs, there was a continuing wide interest for the future negotiation. A future round of negotiation could not take place without including tariffs as a traditional element. At the moment, there was a considerable imbalance in the level of commitments among contracting parties. There was evidence of this in the different levels of bindings undertaken, not only between developed and developing countries, but also between developed countries themselves. In that connection, he suggested an update of the comparative table of bindings that was contained in TAR/W/22 in order to see precisely what the situation was. Apart from the problem of differential commitments among contracting parties, the Community was concerned about tariff peaks. For its part, the Community had succeeded in levelling out tariff rates to a far greater degree than was the case in many countries. Tariffs also existed which, by virtue of their high level, constituted not so much a tariff barrier as a prohibition to trade. That kind of situation arose in a number of countries, both developed and developing, and was a matter of concern. The Harmonized System should not be considered as part of the negotiations but as typical of ongoing work within the GATT which would not be included in the trade negotiations. With reference to standstill and rollback in the area of tariffs, there were a number of countries including the Community which had taken steps to accelerate the cuts to the point where the tariff reductions negotiated during the Tokyo Round had now been achieved a year ahead of schedule.

90. The delegate of Korea said that as tariff rates were reduced, and hopefully they could be reduced to zero among the industrialized countries, the impact of non-tariff measures would increase, e.g. technical barriers and distribution systems. Therefore, the tariff negotiation should be closely linked to the negotiation on non-tariff measures. He supported the idea of correcting the imbalances inherent in Article XXVIII.

91. The delegate of Switzerland stated that in spite of the emergence of other protectionist measures, tariffs remained important in international trade. They should therefore be among the topics to be covered by the negotiations, and Switzerland was prepared to take part in these negotiations. The new Harmonized System nomenclature was supposed to be introduced without any change in present tariff levels so that this matter should not be an element of the negotiation. The principle of tariff cuts through a harmonization scheme with a common formula should be agreed. This principle should be without any exceptions and should be applied by all contracting parties. Tariff peaks and the escalation problem would thus be solved, or at any rate become less serious. Harmonization would also help to solve the problem which had been referred to as "nuisance" tariffs. The idea that developing countries would take part in the harmonization exercise was based on the belief that it would bring them benefits. That was one of the reasons why Switzerland had proposed an amendment to Article XXVIII.
92. The delegate of India said that in sensitive areas and in areas of export interest to developing countries, the level of tariffs on some products had remained high compared to the general level of tariffs negotiated in previous rounds. This asymmetry had to be kept in mind when thinking of tariffs in any future negotiations. This point was particularly important because statements had been made in which tariff escalation had been mentioned. Article XXXVI:5, Article XXXVII:1(a), read with the explanatory note, contained commitments which were quite clear and there should be no doubt as to the application of these principles and criteria in any future negotiations. They should be included in the draft declaration for Ministers and should guide the negotiations. In regard to the disparity in tariff levels among different contracting parties, it should be borne in mind that the present economic situation in developing countries would not permit them to reduce tariffs in any significant manner. Many of those developing countries which had embarked on a unilateral liberalization of their import régimes in the last few years had been forced to go back on the liberalization measures because of an adverse balance of payments which was a result of factors beyond their control. A solution to this problem would be to improve market access for the exports of developing countries.

93. The delegate of Egypt said that tariffs had been the cornerstone of previous multilateral trade negotiations and would still be a major subject of negotiation in the new round. Tariff escalation inhibited the development of processing industries in developing countries in such sectors as tropical products, textile and leather goods and processed foods. A special time-table should be established for the reduction of tariff escalation and this matter should be subject to improved surveillance. Another point was preferential treatment for developing countries and how to emphasize the products of export interest to developing countries in the forthcoming negotiation and to take into account the situation facing developing countries. The binding of tariffs was another important aspect of the tariff question. Bindings could be at existing levels or they could be at a higher level.

94. The delegate of the United Kingdom speaking for Hong Kong stated that whilst it was true that a good deal of work had been done on tariffs in previous rounds, that a considerable proportion of tariffs were now bound and that tariffs had come down to relatively low average levels, there were still substantial problems in certain areas. It should be a priority in the new round to reduce remaining tariff peaks which affected certain sectors in certain markets, such as footwear, textiles and clothing. Despite the extensive application of quantitative restrictions in the textiles and clothing sectors, tariffs remained high on these products in most developed markets. Previous rounds had failed to address this problem and textiles and clothing had been subject to the lowest percentage of tariff cuts of any sector in both the Kennedy and Tokyo Rounds. Moreover, textiles and clothing were effectively excluded from GSP benefits by most GSP donor countries. The protective effect of these high tariffs, particularly in the clothing sector, was enhanced by the tight quota restrictions which forced suppliers into higher-quality, higher-value goods where a high degree of tariff escalation was encountered. For these reasons, a significant reduction of textile and clothing tariffs should be a matter of priority for the tariff negotiations in the new round.
95. The delegate of Australia agreed in general terms that tariffs were not going to be the central focus of this round as they had in the past. Nevertheless, a number of tariff peaks remained in key sectors and those should be reduced as a matter of priority. There was scope for bindings, either new or updated, and Australia was prepared to approach the issue of binding its domestic tariff in the spirit of recognizing the rôle that this would play in enhancing stability and predictability in trade and in trade liberalization. On the question of export markets, Australia like many developing countries was principally a raw material commodity exporter. Some 75 per cent of its exports were commodities, about half of which were non-agricultural. One reason why manufacturing industries had not developed as fast as they might have in some countries was the inhibiting effect of tariff escalation in some industrialized countries. This was particularly notable for down-stream products of resource industries e.g., refined metals. In common with a number of developing countries and in particular those of the Asian/Pacific region, Australia placed priority on the reduction of the distortion caused by such tariff escalation.

96. The delegate of Yugoslavia considered tariffs an important subject of future negotiations. There was a lot to be done in this area, through lowering duty rates in all sectors, through a larger number of bindings, especially in the sector of agriculture, and through cuts of tariff peaks, especially in the sensitive sectors of export interest to developing countries. Tariff escalation also deserved special attention. Yugoslavia agreed that there had been some delay in the preparation of this subject for the future negotiations, especially in the field of the Harmonized System since some of the developing countries had not yet examined what had to be done. Tariffs were still an important problem for the exports of developing countries.

97. The delegate of Gabon underlined that tariffs were important. In spite of the results of earlier negotiations, in particular the Kennedy and the Tokyo Rounds, tariffs still affected world trade, especially North/South trade in manufactured and semi-processed goods. Substantial progress had been made for raw materials, but manufactured and semi-manufactured goods did not enjoy favourable terms of access to all markets, in particular of developed countries. This was a brake on industrial growth in certain developing countries. He hoped that in the future negotiations, the problem of tariffs would appear as an important topic and that certain products of particular interest to developing countries might benefit from preferential tariff cuts.

98. The delegate of New Zealand considered that substantial liberalization of access to markets was vital in a new round. For that reason he felt that tariffs would have to be part of the negotiation. The fundamental point was to liberalize and to increase trade opportunities. All contracting parties would need to make their own contribution to the process. For some it might mean a significant liberalization and binding of tariffs, for others the focus might be more on non-tariff measures. It was the question of overall liberalization that needed to be in the forefront. The extent of liberalization, rather than the mechanisms used, was the important point.
99. The Chairman concluded that the debate had shown that tariffs would be part of a new round. The debate had also shown that there were a number of approaches. At this stage it was useful to determine the parameters of the declaration and the time would come when one would have to go into the specifics of the tariff negotiations. He therefore thought it would be useful for the secretariat to make in this area, as in other areas, a short summary of the discussion, as a contribution to further work towards a recommendation.

QUANTITATIVE RESTRICTIONS AND OTHER NON-TARIFF MEASURES

100. The Chairman said that the record of the discussion in the Senior Officials' Group on the subject of quantitative restrictions and other non-tariff measures was recorded in SR.SOG/5, pp.12-21. He noted that this matter had always been in the work programme of the GATT, most recently as a result of the Ministerial Decision in 1982, which led to the creation of the Group on quantitative restrictions and other non-tariff measures. This group had done very useful work in reviewing measures, the grounds on which they were maintained and their conformity or otherwise with the General Agreement. The Group had also created very valuable documentation as a basis for future work. Moreover, a modest start had been made on the process of eliminating restrictions not in conformity with GATT or bringing them into conformity, and of liberalizing other quantitative restrictions and non-tariff measures. He also drew the Committee's attention to the CONTRACTING PARTIES' decision to carry out a multilateral review in October 1986 with a view to speeding up the elimination or liberalization of measures. He said that in his view the results achieved under the Work Programme meant that if a political decision were taken to move forward into negotiations, very little preparatory work would remain to be done. There was, however, a distinction to be made between the action that would be appropriate in the case of measures not in conformity with GATT and that appropriate to legal restrictions. In the case of non-conforming measures the process of elimination would probably be largely autonomous or unilateral. Negotiations in the usual sense of give and take would be more appropriate to the liberalization of legal measures. There was a clear link between this subject and the concepts of standstill and rollback and with safeguards, all of which the Committee had recently discussed. There were also likely to be linkages with areas yet to be discussed, including notification and surveillance. In regard to the question of surveillance or monitoring, he said that the Committee might wish to consider what rôle the regular reviews in the Group on Quantitative Restrictions and other Non-Tariff Measures could play in the implementation of an agreement on standstill and rollback. In addition, the Committee might think it appropriate to seek the advice of the Group on two points; firstly the drawing up of appropriate negotiating techniques in this area, and secondly, the identification of particular types of non-tariff measures that might warrant multilateral action.
101. The representative of Korea said that quantitative restrictions and other non-tariff measures should include trade distorting distribution systems. This problem arose from monopolistic arrangements whereby the distribution of particular products was exclusively channelled into one particular country or agency. Such arrangements created a serious distortion in international trade. A second point to be considered was the concept of minimum viable production in connection with quantitative restrictions. It was well known that in connection with textiles and clothing industries which were regarded as strategic this concept had been invoked to justify quantitative restrictions of one kind or another. The concept of minimum viable production was closely tied to arrangements in this sector, and should be a serious subject matter of discussion and negotiation in the new round.

102. The representative of Bangladesh said that the proliferation of quantitative restrictions and non-tariff measures, more than tariff escalation, were posing a serious threat to international trade. The Group on Quantitative Restrictions and Other Non-Tariff Measures, established pursuant to the 1982 Ministerial Decision, had done useful work in this area, but considerable ground remained to be covered to achieve fully the objectives laid down by Ministers. These objectives included the elimination of quantitative restrictions not consistent with GATT and the liberalization of other types of quantitative restrictions and other non-tariff measures. The Ministerial Declaration had also mentioned explicitly the need to remove measures affecting products of particular export interest to developing countries. These measures had particularly affected the trading interests of smaller developing countries, including the least developed countries. Some liberalization actions which had been initiated by a few developed countries in favour of the least-developed countries recently had been more than offset by new restrictive measures. In this connection, it should be recalled that paragraph 3(c) of the Annex to the 1982 Ministerial Declaration called for elimination or reduction of non-tariff measures affecting products of particular export interest to these countries. There was an urgent need to ensure the full and effective implementation of the decision. Trade liberalization in the area of quantitative restrictions and other non-tariff measures required the following actions:

(i) A firm and binding commitment to refrain from introducing any new quantitative restrictions or other non-tariff measures, to be made at the beginning of the preparatory phase of the proposed new round.

(ii) A binding commitment to roll back within a short, specified time period all existing quantitative restrictions and other non-tariff measures inconsistent with GATT.

(iii) One of the main aims of the new round should be that substantial progress be made in liberalizing quantitative restrictions and other non-tariff measures, giving due attention to the export interests of developing countries.

(iv) There should be a multilateral and enforceable surveillance mechanism to monitor and oversee standstill and rollback provisions in this area.
(v) Special treatment should be given to the least-developed countries through complete elimination of non-tariff measures affecting products of particular export interest to these countries.

(vi) The GATT secretariat should provide increased technical assistance to the developing countries, particularly the least-developed among them, in order to assist them in dealing with these matters.

103. The representative of Turkey said that the primary objective of the proposed new round of multilateral trade negotiations should be to achieve a significant reduction in barriers to trade. Many of these barriers, which took the form of quantitative restrictions, affected sectors of crucial importance to developing countries, such as agriculture and textiles. The subject of quantitative restrictions and other non-tariff barriers should therefore be handled as a matter of priority within the context of the new round. The Group which had been set up to fulfil the mandate contained in the Ministerial Declaration on this matter had been able to submit a number of recommendations for action. Some developed countries had already begun to dismantle quantitative restrictions, albeit in a modest way. Although a developing country, Turkey had autonomously followed an increasingly liberal import policy in the last few years. As part of that policy all import prohibitions had been eliminated in the course of 1985. In addition, a significant number of tariff positions had recently been exempted from licensing requirements. It was to be hoped that other countries, especially among the developed countries, would proceed in the same direction. No reciprocity should be expected in the case of measures which were not compatible with the GATT. Quantitative restrictions taken in conformity with the General Agreement should be dismantled as part of the proposed round of multilateral trade negotiations. The question of quantitative restrictions and other non-tariff measures was clearly connected with those of standstill and rollback. A particular issue deserving attention in these areas was the establishment of a surveillance and monitoring mechanism. The GATT Council's Special Sessions, which reviewed developments in the trading system and the documentation prepared by the secretariat for these meetings, contributed to ensuring transparency. Further efforts in that field were warranted.

104. The representative of Hungary said that it was necessary to make a clear distinction between measures which were not in conformity with the General Agreement and those measures which were justified under the GATT. In regard to the first group of measures, no negotiation could be envisaged either in the forthcoming trade negotiations or in any other GATT forum. The elimination of illegal measures was closely related to the problem of standstill and rollback. The credibility of the proposed new round required that contracting parties concerned proceeded without undue delay with the elimination of these unjustified measures independently of the negotiations. In the case of measures for which there was a GATT justification, these should be included in the negotiations on the basis of appropriate negotiating techniques for their progressive elimination in a non-discriminatory fashion. Priority should nevertheless be given to quantitative restrictions and other non-tariff measures inconsistent with the GATT.
105. The representative of the United Kingdom speaking for Hong Kong said that whilst a good deal of work had been done on quantitative restrictions and other non-tariff measures under the 1982 Ministerial work programme, the results had been modest and not easy to measure in terms of real liberalization. Further efforts were needed in the context of the new round and this was a subject which should be highlighted in the Draft Declaration. The objective should be to devise a time-bound phase-out programme based on both country notifications and reverse notifications. Such a programme should be multilaterally agreed, binding and subject to an effective surveillance mechanism to review progress and ensure that individual phase-out commitments were met. It was essential that such a programme should distinguish clearly between those measures which were not in conformity with the General Agreement, and those for which some GATT justification existed. Those which were not in conformity should be eliminated or brought into conformity. The termination of such measures was an obligation on contracting parties and was not a matter for negotiation. No legality should be conferred on such measures in the course of phasing them out. Transparency and effective surveillance would be important elements in drawing up the programme, and there should be ample opportunity given to examine the conformity of individual measures.

106. The representative of Zaire said that the commitment of the CONTRACTING PARTIES to standstill and rollback should concern most specifically quantitative restrictions, non-tariff measures and tariff escalation. This matter should be an important element of the future negotiations. The Ministerial Declaration should specify appropriate and realistic action to ensure the progressive elimination of these measures, which impeded trade and were particularly harmful to weaker trading partners. A question raised by the Swiss delegation at the meetings of the Senior Officials' Group was whether these issues concerned the rules themselves and the need to adapt them, or rather the fact that contracting parties had not succeeded in applying these rules in an appropriate and equitable manner. This question provided the basis for a useful discussion.

107. The representative of Poland said that two essential tasks facing the GATT were to eliminate quantitative restrictions and other non-tariff measures inconsistent with the GATT and to ensure that any quantitative restrictions and other non-tariff measures which had a GATT justification and which remained in force after the negotiations were subject to effective disciplines. For inconsistent measures, a commitment to their elimination should be implemented prior to and outside the new round, and should cover simultaneously all measures and all contracting parties affected by the measures. Effective discipline for GATT-consistent measures should include product-by-product notifications, supplemented where necessary by "reverse" notifications. These arrangements should be monitored by a permanent GATT body which would succeed the present Group on Quantitative Restrictions and Other Non-Tariff Measures.
108. The representative of Czechoslovakia said that quantitative restrictions and other non-tariff measures represented one of the key problems in international trade, and although some progress had been made under the 1982 Ministerial Work Programme in this area, the results had been modest. This subject should therefore be given priority consideration within the proposed round. The starting point should be the elimination of all measures for which GATT justification could not be established. There should be no negotiations on non-conforming measures and no attempt to confer legality on such measures. In regard to other quantitative restrictions and non-tariff measures, there was scope for negotiations which should be based on non-discrimination. Appropriate negotiating techniques should be devised. The bilateral request - offer procedure used in the Tokyo Round had not produced satisfactory results, and proved to be to the disadvantage of smaller trading nations. A mechanism should also be established in the context of the new round to monitor the process of dismantling obstacles to trade, or existing mechanisms should be strengthened. The Committee's recommendations to Ministers should specify the following objectives:

- to eliminate quantitative restrictions and other non-tariff measures which were not in conformity with GATT without reciprocity and under the terms of a phase-out programme to be agreed prior to the new round;

- to reduce or eliminate on a non-discriminatory basis and in accordance with a time-bound scheme to be negotiated in the MTN other quantitative restrictions and non-tariff measures by employment of appropriate methods and negotiating techniques.

109. The representative of Chile said that attention should focus on eliminating restrictions which brought down prices, brought about huge surpluses that could not be managed and which distorted trade and competition. A primary objective should be strict adherence to GATT obligations, in particular Articles I and XI as they applied to quantitative restrictions and other non-tariff measures and to the so-called grey area. Quantitative restrictions which were not in conformity with the GATT should be eliminated at once, and could not be the subject of negotiation. Efforts should be made to avoid any arbitrariness in the use of quantitative restrictions and that was a matter requiring strong political will and proper legal guarantees. In addition, contracting parties should eliminate or place limits on quantitative restrictions and other equivalent measures which, although they were justified or allowed under the GATT, had a negative effect on access to markets. The Group on Quantitative Restrictions and Other Non-Tariff Measures had not been able to change the general picture in this field. The elimination of quantitative restrictions was a priority objective which had to be treated at a higher level. Finally, there should be an immediate elimination or reduction of quantitative restrictions for the benefit of developing countries, at any rate in certain sectors of production that were of special interest to these countries.

110. The representative of Cuba said that her delegation wished to reiterate their statement made in the Senior Officials' Group on this subject, which was reflected in the summary records. In Cuba's particular case, it was notable that a large proportion of total exports were subject to a variety of non-tariff measures in several markets of interest. This information was
available as a result of work undertaken by the Technical Cooperation
Devision at Cuba's request. She wished to use this occasion to thank the
secretariat for this assistance. Non-tariff measures which were not
permitted under GATT should be eliminated unilaterally before the new round
of negotiations was launched and they could not be subject to negotiation.
Those measures which had some GATT justification should be gradually
dismantled through negotiations before the conclusion of the new round. The
creation of an effective surveillance mechanism in this field was a matter of
primary importance. In all this work, it was important to bear in mind the
need to provide special and differential treatment for the benefit of
developing countries.

111. The representative of Canada said that his country's views on the
question of quantitative restrictions and other non-tariff measures had been
set out in the record of the Senior Officials' Group. The issues lying
behind this subject related fundamentally to the more general objective of
market access liberalization, and thus cut across the range of topics under
discussion. These issues should all be subject to negotiation in the context
of the new round of negotiations.

112. The representative of Norway, speaking on behalf of the Nordic
countries, said that a number of non-tariff areas were brought under new
discipline in the Tokyo Round but the time had come to take a broader look at
non-tariff measures, and there were several reasons for this. Firstly, in
step with the general lowering of tariffs, there had been a proliferation of
non-tariff measures. Secondly, in accordance with the notion of a fair and
open multilateral trading system, it was to be expected that various
restrictive measures should be subject to approximately the same discipline.
Consequently, loopholes in the area of non-tariff measures should be
tightened. Thus, in their broad sense, non-tariff measures should be
included in a new round, with a view to accomplishing further multilateral
action in this field. One should in the new round seek to identify NTM's
which warranted multilateral action.

113. The representative of the European Communities said that the area of
quantitative restrictions and other non-tariff measures should be included in
a negotiation. The work that had been done in the Group on Quantitative
Restrictions and Other Non-Tariff Measures had run its course and it was now
important to move forward into a negotiating phase. One of the problems to
be addressed in this area was the relationship between quantitative
restrictions and other non-tariff measures. The latter were harder to
identify and therefore to deal with, even though they probably had greater
economic impact than quantitative restrictions. It would not be constructive
to make distinctions between different types of measure in terms of
legalistic definitions. It was often more complex than would appear to
distinguish as between one type of measure and another, and if real progress
were to be made, more emphasis should be placed on the elimination of
quantitative restrictions and other non-tariff measures which had a real
impact rather than on the sterile debate of the past. Under these
conditions, contractual commitments could be negotiated in this area.
114. The representative of Japan said that a significant amount of work had been done in the Group on Quantitative Restrictions and Other Non-tariff Measures, and also a number of countries, including Japan, had made specific progress towards liberalization. He said his Government was prepared to play an active rôle in negotiations in this area, taking full account of the work so far achieved by the Group. In this respect, it was to hoped that all quantitative restrictions of a discriminatory nature maintained by any countries would be eliminated as early as possible. Quantitative restrictions and other non-tariff measures could not be discussed in isolation from other elements of the new round, such as standstill and rollback. In addition, various new developments in trade which might be classified as issues relating to non-tariff measures could also be dealt with in the new round under this heading.

115. The representative of the United States said that the Group on Quantitative Restrictions and Other Non-tariff Measures had done useful work over the last three years. The recommendations adopted by the CONTRACTING PARTIES in November indicated the scope of work that remained in this area. This was an important item to be considered in the new trade round. The negotiations on quantitative restrictions and other non-tariff measures should encompass measures taken by all contracting parties with a view to liberalizing and expanding trade for the benefit of all.

116. The representative of Brazil said that the proliferation of quantitative restrictions and other non-tariff measures, particularly those inconsistent with GATT, had become one of the key problems of international trade. Ministers had clearly defined the basic tasks in this area in the 1982 Work Programme. The Group on Quantitative Restrictions and Other Non-tariff Measures had been working in this area since 1983 and although much remained to be done, it should be possible within the framework of a new round to arrive at quick results. It would be difficult to envisage a new round of negotiations without a serious negotiation on quantitative restrictions and non-tariff measures. Trade liberalization with respect to quantitative restrictions and other non-tariff measures should begin with the removal without reciprocity of those restrictions and measures which were inconsistent with the GATT. These measures could not be the subject of negotiation, and the Preparatory Committee should propose, prior to the launching of a new round, that such measures be phased out. This was precisely what many contracting parties had in mind in proposing the adoption of a rollback commitment. The liberalization of those restrictions and measures consistent with GATT rules should proceed according to a special calendar to be agreed upon by the Preparatory Committee before the launching of negotiations. Furthermore, the results achieved should be implemented immediately, independently of the conclusion of a new round of negotiations. The elimination of GATT-inconsistent measures and negotiations on the liberalization of other measures should be subject to a monitoring mechanism.

117. The representative of Uruguay said that his delegation had spoken on various occasions about quantitative restrictions and other non-tariff measures, frequently in connection with linked topics, such as rollback, standstill, settlement of disputes, and surveillance problems. He said that his country had undertaken a detailed study of all measures that impaired its access to the markets of other countries. A comparison of such information at the beginning and end of the new round would establish whether the round had been useful.
118. The representative of India said that his delegation could not afford to be non-discriminatory between what was legal and what was not legal. This was not a sterile distinction. It was the results of such discussions which became sterile in the absence of sufficient political will to fulfil commitments that had been assumed under the General Agreement. For future negotiations to be credible and useful, it was necessary to create a suitable negotiating environment. He said that in this connection he supported the specific proposals made by both Hong Kong and Brazil with regard to the phasing out and surveillance of illegal measures.

119. The representative of Argentina said that there was a close link between standstill, rollback and quantitative restrictions and other non-tariff measures. It was necessary to arrive at a clear definition of existing problems and to agree on the dismantling of unlawful measures. If they could not be eliminated they should be brought into line with the General Agreement. Some contracting parties tried to use arguments to justify measures by way of social or economic problems, and these were not provided for in the General Agreement. There was no question of negotiating on measures which were not in conformity with GATT. One negotiating modality for other measures might be to give priority to the elimination of restrictions affecting product sectors of particular interest to developing countries.

120. The representative of the European Communities said that it was necessary to establish a distinction between the concept of legality and that of consistency. In the context of the General Agreement, which was a contract lacking the normal enforcement mechanisms available in a national setting, it was inappropriate to talk of legality. It might, on the other hand, be possible to identify some measures which were not consistent with the provisions of the General Agreement. This terminological distinction was important to an understanding of how it might be possible to secure trade liberalization within the framework of GATT. In relation to methods of work, at this stage the basic question facing the Committee was whether or not a particular issue was to be the subject of negotiations. This was a phase of pre-negotiation, during which there was no question of revealing individual negotiating objectives for a particular topic.

121. The representative of Egypt said he supported the statements made by Hong Kong, Brazil and India with regard to the phasing out and monitoring of quantitative restrictions and other non-tariff measures which were inconsistent with the GATT. In regard to consistent measures, the rights of developing countries were established under Article XVIII. These rights were extended in scope by the 1979 Decision of the CONTRACTING PARTIES on Safeguard Action for Development Purposes, which stated that developing countries may resort to these measures, not only with regard to the promotion of particular industries, but also for the development of new, or the modification or extension, of existing production structures. He said that it was the hope of his delegation that this right would be further extended and elaborated upon in the new round.
122. The representative of Sri Lanka said he supported the view expressed in document L/5818 that a short and special time table should be established for the elimination and liberalization of quantitative restrictions and other non-tariff measures in the new round. As stated in the Ministerial Declaration of 1982, there were two elements which needed to be addressed. There were those quantitative restrictions and other non-tariff measures which were inconsistent with GATT and these had to be eliminated autonomously with a time-bound programme. There were also those measures which conformed with the GATT whose liberalization could be undertaken in the negotiations under a progressive liberalization programme based on non-discrimination. This could be carried out on a request and offer basis. He said his delegation also wished to draw attention to the reference in the 1982 Ministerial Declaration to the fact that in achieving liberalization adequate attention should be given to the need for action on quantitative restrictions and other measures affecting products of particular export interest to developing countries. Available statistics suggested that on the contrary, the exports of developing countries were being subjected to increasing discrimination. It was as though the principle of special and differential treatment was being applied in reverse.

123. The Chairman commented that it appeared from the debate that the question of quantitative restrictions and other non-tariff measures would be a subject for negotiation. The task of the Committee, as in other areas, would be to define what type of recommendation should be addressed to Ministers in this area. In order to facilitate the further work, the secretariat would provide a note to concentrate the next stage of the debate on the objective of the recommendation.

**MTN AGREEMENTS AND ARRANGEMENTS**

124. The Chairman said that the record of discussions in the Senior Officials' Group on MTN Agreements and Arrangements was contained in SR.SOG/6, pages 1-9. He recalled that there were nine specific agreements or Codes negotiated in the Tokyo Round. The main points arising in the discussion on this issue in the Senior Officials' Group were the following:

- A concern for the unity and consistency of the GATT system;
- A concern with the accession of developing countries to the Codes, which was of course closely related to unity of the GATT system;
- Concern about practical implementation of certain of the Codes.

125. The Chairman suggested that the Committee deal first with any problems or issues relating to the Codes as a whole, turning later to any points which members of the Committee may wish to make about particular agreements. He noted that the Working Group established to review the operation and effectiveness of the Codes, and any obstacles to their acceptance by contracting parties, pointed to certain special difficulties in the case of the Subsidies Code. These were now being examined in the Subsidies
Committee. Apart from that, the Working Party did not identify any general obstacles to accession to the Codes, or any generic problems applicable to the Codes as a whole. In the light of this the Committee might wish to consider whether it was necessary to make any recommendations about the Codes in general. The Chairman expressed his hope that the Committee would focus on any specific problems arising from individual Codes rather than seeking an overall review. He said it was his impression that most of them were working satisfactorily and that such problems as had arisen could be dealt with in the relevant committees. It would be useful to take advantage of a new round to correct weaknesses or remove ambiguities in the Codes but the impression should not be given that the whole of the system as it emerged from the Tokyo Round was in need of fundamental change.

126. The representative of Canada said that certain aspects of the MTN Agreements concluded in the Tokyo Round required improvement in the light of experience. Objectives in the new round should include substantial progress towards the reduction or elimination of non-tariff barriers affecting market access:

(a) by broadening the scope and coverage of the Agreement on Government Procurement and by improving the Agreement on Technical Barriers to Trade;

(b) by reviewing the Subsidies and Countervailing Duties Code, with the aims of increasing discipline on subsidies which adversely affected the trade interests of contracting parties, of clarifying the rules regarding the definition and measurement of subsidies and of improving the rules and procedures governing recourse to countervailing duties.

127. The representative of Colombia said that to decide that this was a matter to be negotiated on in the next round would in a sense be to query the results of the Tokyo Round in this field. The working party that had analyzed the problems in the light of the 1982 Ministerial Decision had reached the conclusions mentioned by the Chairman: it was to be hoped that the Group working under the Subsidies Committee would arrive at satisfactory conclusions. The results of the Tokyo Round should not appear to be called in question but the functioning of the Code committees must be kept under review. It had to be recognized that the way in which observers participated in the work of the Code committees had not given the results that were hoped for. This problem must be attended to but this could be dealt with in the course of normal GATT work: it was not necessarily a matter for the new round.

128. The representative of Jamaica said that at the conclusion of the Tokyo Round developing contracting parties had expressed the view that the Codes should in no way impair the consistency and coherence of the General Agreement. In view of the major undertaking of the proposed new trade round which would entail a review of the General Agreement and would include
proposals to introduce new areas, it was perhaps time for the reintegration of the Codes into the trading system based on the General Agreement. The comments of the Jamaican delegation on this subject were attached as an annex to the report of the Working Party on MTN Agreements and Arrangements (L/5832/Rev.1 of 7 August 1985).

129. The representative of Japan said that the experience of MTN Agreements and Arrangements in general was positive. They had contributed considerably to an increase in trade policy disciplines, particularly in the field of non-tariff measures, and also to a strengthening of the multilateral trading system through the reduction of trade barriers. It was to be hoped that the MTN Agreements would have as many participants as possible, thereby enhancing the unity of the General Agreement, and that they would continue to exercise a significant influence in their respective fields. However, Japan recognized that some of the substantive rules of the MTN Agreements were inadequate and needed to be continuously reviewed for possible improvement and updating in the light of recent changes and developments in international trade and of the experience gained through the implementation of the Codes. Japan had previously suggested that some of the Codes might be reviewed as part of the new round of negotiations. They now believed that certain Codes should be reviewed in the new round, and for this purpose suggested that each of the MTN Committees should examine the areas and points which might be taken up in the new round.

130. The representative of Bangladesh stated that the CONTRACTING PARTIES agreed in 1982 that effective steps should be taken to create conditions under which the different MTN Agreements and Arrangements negotiated in the Tokyo Round could be accepted by as many contracting parties as possible, including the developing contracting parties. With this end in view a review had been under way in GATT to determine the adequacy and effectiveness of these Agreements and Arrangements and their relevance to the developing countries, including the least-developed among them. There was also a separate decision in paragraph 3(d) of the Annex of the Ministerial Declaration to assist the least-developed countries to participate in the Codes. The progress achieved in this area had been less than satisfactory. Some developing countries felt that a few developed trading partners had sought to use these Agreements to impose new types of restrictions on developing countries, or to harass smaller trading partners in order to extract export restraint undertakings from them. The proliferation in the use of countervailing and anti-dumping procedures in areas of critical importance to the developing countries like textiles was an example of this. There was also a feeling among many developing countries that unacceptable demands were sometimes made as a price for participation in some of the MTN Agreements and Arrangements. Sometimes the problem of conformity of these Arrangements with their national legislation had been an obstacle to their acceptance by a number of developing countries. Bangladesh agreed that effective steps should be taken to create conditions under which all contracting parties could accept the MTN Agreements and Arrangements. To this end the following points, among others, should be taken into consideration:
i) in the review process it should be ensured that the Agreements do not lead to the erosion of the principle of special and differential treatment for developing countries;

ii) studies should be carried out of means to ensure that the requirements of the Codes were not in conflict with the national legislation of developing countries in general;

iii) in the review process greater attention should be given to the concerns of contracting parties who feel that their rights under the GATT had been adversely affected or were likely to be affected by certain provisions of the Agreements;

iv) some of the MTN Agreements and Arrangements needed improvement and revision in order to secure their main objectives of trade liberalization and greater trade discipline and this could be a subject of negotiations;

v) there should be an effective follow-up and surveillance mechanism to ensure proper application of the provisions of the MTN Agreements and Arrangements, keeping in view the overall objectives of GATT and the particular interests of the developing countries;

vi) special assistance should be provided to the least developed countries to enable them to appreciate the full implications of the provisions of the Codes and facilitate their full participation in them.

131. The representative of Brazil said that there was considerable concern among contracting parties, mainly developing ones, that the MTN Agreements had not slowed down the trend towards protectionism and, in some cases, had contributed to it. Several developed contracting parties had referred to "the need for a review or interpretation of certain provisions of these Codes," "for some Codes to become more adapted to reality", or "for improvement in specific areas of the MTN Agreements". Questions to be clarified were what kind of review or interpretation these contracting parties had in mind, and what it would mean to adapt multilaterally negotiated legal instruments to reality, particularly when current reality included so many practices which deviated from the principles and objectives of the Codes. Consideration must also be given to how a multilateral round of trade negotiations open to all contracting parties could review or reinterpret Codes which had not been adhered to by a large number of contracting parties. It must be recognized that some of the Codes elaborate and develop on specific provisions of the General Agreement in a manner which would represent a gain for all contracting parties. Brazil believed that it would be necessary to foresee the possibility of including in the General Agreement proper, certain concepts and disciplines which up to now had only been included in Codes.
132. The representative of Pakistan said that while the conclusion of the MTN Agreements and Arrangements was an achievement of the Tokyo Round, very few developing countries had since acceded to them because most of the Agreements, either in their substance or in their interpretation or implementation, failed to take the particular interests of developing countries into account. Unless these problems were addressed few developing countries would find it interesting to join the Agreements. Pakistan, for example, would like to join some Agreements, but found it difficult to do so because of problems that would be encountered. The MTN Agreements and Arrangements therefore needed to be revised and improved. This could be done either in the new round or in the existing machinery of GATT.

133. The representative of Chile said the Agreements adopted during the Multilateral Trade Negotiations represented interpretations of the rules of the General Agreement. The fact that all countries had not accepted the Codes meant that the contracting parties interpreted and applied the provisions of GATT in different manners. Moreover, within the Codes themselves there were also serious differences of interpretation. It was therefore urgent to negotiate formulae for their coordination and harmonization. The functioning of the Code committees should also be harmonized, since small delegations having to participate in the work of all GATT committees and working parties frequently found that the same subject was discussed in several committees or groups. Accession to the Codes by all countries, and in particular the developing countries, should be facilitated.

134. The representative of the United States agreed that the impression should not be created that the results achieved in the Tokyo Round were insignificant. At the same time, one of the objectives of the new round should be to improve the present system, and one way to do this would be to strengthen and improve the Codes. There were a number of issues that signatory governments should address regarding the Codes - for example:

- clarification of ambiguous language and certain terms in the Subsidies Code;
- improved rules regarding primary products in certain Codes;
- expanded coverage of the Procurement Code; and
- increased mutual acceptance of test data by Standards Code signatories.

The United States recognized that work now going on in the relevant Committees was complementary and consistent with new round objectives. Nevertheless, an opportunity should be created for the signatory governments to adopt improvements developed in the broader new round negotiations.
135. The representative of Czechoslovakia stated that the MTN Agreements and Arrangements had exercised a useful influence in their respective fields on the international trading system, complementing the General Agreement and in some cases contributing to increased disciplines and predictability in trade policies. But they had not prevented the use of non-tariff measures and the actual implementation of some of them had been accompanied by practices not in accordance with the intentions of their drafters. Some major trading partners had adopted legislation, for example in the field of anti-dumping measures, which facilitated arbitrary resort to such measures. Some of these measures had become techniques for the harassment of the exporting country instead of legitimate measures of protection. The Codes could help to curb protectionism and introduce predictability and uniformity in the trading system provided more uniform interpretation of the relevant concepts and provisions were attained, provided national legislation of the signatories were brought into conformity with the Codes and provided the relatively limited number of signatories was increased. The essential task in this field would therefore be to subject the existing Codes and their actual implementation to a detailed examination and to impart uniformity and certainty to the provisions and the concepts they contained.

136. The representative of Egypt said that the subject of the MTN Agreements should be taken into account in any future negotiations. An examination of the status of acceptance of the Codes showed that the majority of developing countries had not acceded to them. This was because of the difficulties experienced by developing countries participating in the Codes and of difficulties in applying the Codes which faced potential new members. This was the reason for the Ministerial Decision of 1982 to consider the adequacy and effectiveness of the Codes. In the new round further discussion and negotiation should take place with regard to the Codes because larger participation in them would undoubtedly promote the strength and consistency of the GATT system itself. The withdrawals from certain Codes which had taken place should be seen as a danger signal. To avoid further withdrawals and to encourage wider acceptance of the Codes, a review in the new round would be essential.

137. The representative of the European Communities said that in 1982 Ministers had decided that it was necessary to review the situation of the MTN Codes and a working party had been set up in 1984 to carry out this task. That working party had adopted its report which the Council had endorsed. On the first pages of the report it was stated that when new obligations were created, additional to those already existing within the General Agreement, it was quite clear that contracting parties were being asked to accept new obligations by signing the Codes. This was inescapable. However, it would have been impossible to obtain the two-thirds majority needed to modify the General Agreement so as to embody the new obligations set up by the Codes. It was therefore decided to open the Codes for signature by those contracting parties which were ready to assume these new obligations. The purpose of the new negotiations should be to strengthen the multilateral trading system, and in order to do so it would be appropriate to examine these new obligations.
The Community would be ready to go further than in 1979 by extending the field covered by certain Codes, and by trying to achieve their acceptance by many more contracting parties. A number of possible improvements or enlargements of obligations could be envisaged; for example, in the case of Government Procurement, where interested contracting parties could try to extend the coverage of obligations under that Code. The Code on Technical Barriers to Trade had also been mentioned, and here again, a certain number of improvements or new obligations could be considered both by the signatories and also by those who were not yet signatories; this would be in the interest of all countries, developing and developed. Certain aspects of high technology could also be taken up within this Code. The Code on Subsidies and Countervailing Duties perhaps should be examined in greater depth. Here the negotiations in 1979 had left a number of ambiguities, and many conflicts had arisen since 1979, particularly in the agricultural sector. It had been shown that this situation could not be rectified through dispute settlement procedures. All agricultural problems, including subsidies, would have to be examined within the Committee or the negotiating group that would deal with agriculture. There were also problems of definition of subsidies, problems of the level of subsidy or of the countervailing duty which would have to be treated in the Subsidies Committee. All this would have to be done and then incorporated into the Code on Subsidies and Countervailing Measures. This type of discussion on improvement of the Codes would be part of the global negotiation, but it would not be the same type of reciprocal commitment as in agriculture, tariffs and so on. It would rather be a matter of agreed undertakings, preferably involving the largest possible number of contracting parties.

138. The representative of Jamaica said that in reviewing the Agreements and Arrangements care should be taken not to persist in the present direction of partial scope agreements, limited in membership and in their application of the principles of the General Agreement. He sought clarification of the Community's position as to whether all problems in agriculture should be treated as a whole, or whether the issue of subsidies should be taken separately.

139. The representative of the European Communities replied that in the view of the Community all problems relating to agriculture, including all subsidies, should be discussed in a single forum. This might be the Committee on Trade in Agriculture or a group specially created for the negotiations. When the negotiations on agricultural subsidies were on the point of being finalized, or indeed concluded, since those results would have implications for the Subsidies Code, it would obviously be necessary to examine the results in the framework of the Code. At some stage therefore it would be necessary to re-examine the Subsidies Code including its agricultural aspects. It was to be hoped that the largest possible number of contracting parties would take part in this review of possible amendments to the Code and in due course be able to accept it. The problem of limited membership in the Codes was more a matter of economic interest - of unreadiness to accept additional obligations - than a concern with the consistency of Codes with the GATT. This clearly applied to the Civil Aircraft Code, to Government Procurement and to others. Though it must be hoped that improvement of the Codes would encourage wider participation, it could not be expected that all contracting parties would be willing to accept additional obligations.
140. The representative of India said that the question of the suitability of this subject for inclusion in the draft recommendations for the Ministerial Meeting in the proposed new round of MTNs needed more detailed examination. Much had been said regarding the need to improve and make more effective some of the disciplines of the Codes and to improve their adequacy and effectiveness. This was part of the ongoing work of the Code committees. India shared the concern of others about the conformity of practices of certain signatories with the principles and objectives of the Codes. The question of conformity of national legislations with the Codes had also been raised in the past. But it was not clear whether it would be appropriate in a new round of trade negotiations to address at the multilateral level the review or interpretation of Codes which were not adhered to by a large number of contracting parties. The question had also been raised of integration of the work in the Codes with the General Agreement as a whole, which posed the question whether the Codes tended towards Balkanization of the GATT. One definite result of the Codes had been the application of conditional m.f.n., which threatened to create two different levels of obligation within the General Agreement. These questions required serious consideration, but a clearer idea was needed of what would be envisaged in having the Ministerial meeting address itself to the question of the MTN Agreements and Arrangements.

141. The representative of Austria expressed the view that although in general the Codes had worked very well, some improvements and clarifications could nevertheless be useful in facilitating wider participation, particularly by developing contracting parties. Austria was flexible as to whether this improvement should be carried out in the new round or in the normal GATT framework. With regard to subsidies, Austria believed that agricultural subsidies should be treated together with the other issues in this sector in a single forum, since they were directly related to the specific problems of the agricultural sector.

142. The Chairman concluded that in this case, perhaps more than in any other, a distinction would need to be made between the problems on which it would be necessary to prepare draft recommendations to Ministers and those which appeared to belong to the normal activities of the GATT. He suggested that the secretariat should produce a short paper as a guide and a focus for the next discussion on this subject.

SUBSIDIES

143. The Chairman said that one of the most disturbing factors in the area of subsidies was that some major problems, with great potential for damage to third parties and to the trading system, were not being considered at the multilateral level. The situation was becoming worse. It was with this concern in mind that some delegations had raised the issue of subsidies as a separate item. Considerable discussions had taken place, especially since the end of the Tokyo Round, in the Committee on Subsidies, and to some extent also in the Committee on Trade in Agriculture. The problems discussed were related to the existing export subsidies, in particular those on primary
products, on domestic subsidies that distort trade, on the definition and calculation of countervailable subsidies and other subjects. Other problems that had been encountered related to the application of the injury test and the cumulation of imports in injury determinations, problems which affected especially developing countries and small suppliers. A further problem concerned the disruptive effect on trade that could result from countervail proceedings. The Chairman said that he did not wish to belittle the efforts that had been made in different fora of the GATT to overcome the difficulties that had been identified, and it was true that some proposals and suggestions had been on the table for some time. It appeared, however, that the problems relating to subsidies and the application of countervailing duties could only be solved in a negotiating context and with due attention to all their aspects.

144. The delegate of Australia stated that the General Agreement and the Subsidies Code dealt with both manufactured and non-manufactured products. It followed that the negotiation of rights and obligations on subsidies should be dealt with as a discrete issue and not limited to any single product sector. In terms of importance, it should be borne in mind that subsidies were a major factor in distorting the allocation of resources and trading opportunities. There was no doubt that their use or abuse was a principal cause of trade friction. Many disputes on subsidy practices brought under the General Agreement had not been resolved. No dispute brought under the Subsidies Code whether covering primary or non-primary products had been resolved. The Subsidies Code had made little substantial contribution to the reduction of tensions in the area of subsidization or towards removing the prejudicial effects of subsidies on the trade interests of contracting parties. The Code rules had rather been interpreted in a way to protect trade-distorting practices in both the primary and non-primary sectors. Consequently, the Code did not contribute any significant clarity to the principles on which trade should be conducted; attempts to improve its interpretation and application had been blocked. Many contracting parties, and this included the majority of developing countries, were not members of the Code, largely because of the unilateral and selective interpretation that some members of the Code applied to the rights and obligations of the Code. However, third countries needed protection from these unilateral interpretations. Consequently, in order to have the most comprehensive participation as possible, any examination of subsidies should be conducted in a genuine multilateral forum and certainly in a wider forum than the Subsidies Code. It should cover all product sectors. Under Article XVI:5, the GATT already provided a procedure for the contracting parties to review the operation of Article XVI with a view to examining in the light of actual experience its effectiveness in promoting the objectives of the GATT and avoiding subsidization seriously prejudicial to the trade and interests of contracting parties. Australia was therefore proposing a review and renegotiation of the provisions of Article XVI concerning all subsidy practices with particular, but not exclusive, focus on

- improving and clarifying the provisions of Article XVI:1 concerning the obligations of contracting parties to limit subsidization so that its prejudicial effects may be reduced, and

- replacing present provisions concerning export subsidies on primary products with the same provisions as apply to export subsidies on manufactured products.
The delegation of Australia stressed that this review should be undertaken in a separate group. Such an approach would ensure not only equitable rules across all sectors but would correct the differential between the rights and obligations assumed by different contracting parties. Australia put forward this proposal on the understanding that the issue of modalities would be addressed after the list of subject matters had been completed.

145. The delegate of the Dominican Republic said that his country, like the majority of developing countries, was suffering serious damage as a result of subsidies paid by certain developed countries, in particular in the field of agriculture. He mentioned in this connection subsidies on sugar which had led to dumping of this commodity and depressed prices. Through this unfair competition, the Dominican Republic had been displaced from its traditional markets. One of the fundamental objectives of the new round should be to determine more efficient standards on subsidies and to reduce the disturbing effects of these subsidies on world trade.

146. The delegate of the United States, referring to the possibility of escalating competition in subsidies, recognized that subsidies were not only protectionist in nature, but often also predatory and led to countermeasures as allowed for under the General Agreement. The United States strongly supported negotiations which could restore discipline over the use of trade-distorting subsidies. His Government had been very disappointed with the way in which the existing rules of Article XVI and the Subsidies Code had been observed, or rather with the way the disciplines had not been observed. The United States was willing to negotiate on subsidy questions in the new round and agreed with the Australian statement that these questions were much broader than those in the agriculture field. A number of countries had pointed out the increase in countervailing duties over the past few years. Discussions that had been held over a period of time on safeguard measures had shown that subsidy issues also led to agreements on so-called voluntary restraints. It was clear that the current situation was not sustainable for long. Similarly, the United States did not like to find itself forced back into a pre-Tokyo Round world in this area. It was therefore essential to negotiate a revised discipline on subsidies.

147. The delegate of Jamaica agreed with previous speakers that subsidies had emerged as a major trade-creating, trade-expanding and trade-distorting influence. They had been used to improve efficiency as well as to introduce inefficiency in the sectors of agriculture, industry, services and high technology. The developed contracting parties had spent several tens of billions of dollars on subsidies, and this situation continued. In this excessive use of subsidies, the distinction between direct and indirect, public and private subsidies had virtually lost real meaning: there had certainly been adverse consequences on structures of production and trade. Developing contracting parties with limited financial resources had had their legitimate trade interests prejudiced by the use of subsidies by developed contracting parties. This was therefore a major and priority area requiring careful review and urgent action by contracting parties to correct and avoid
further structural imbalances and distortions in international markets. Among the points that should be reviewed were the following: the examination of the relationship between the use of subsidies, especially by developed contracting parties, and the attainment of the objectives of the General Agreement, namely "developing the full use of the resources of the world and expanding the production and exchange of goods." In this respect the relationship between financial and trade measures would require greater exploration and precision. Further points to be considered were the impact of subsidies on macro- and micro-structural adjustment, and improved discipline, including transparency in the use of subsidies, to ensure compliance with GATT obligations. The Subsidies Code had not fulfilled its promise and there was agreement that this Code should be reviewed. This should be done as part of the review of the General Agreement, involving the interpretation and application of Articles VI, XVI and XXIII. The delegate wondered whether it was intended that standstill and rollback measures should be applied to subsidies.

148. The representative of the European Communities said that the question of subsidies had already been discussed in the context of the MTN Agreements. He realized that each participant had the right to raise any question which seemed vital for its own interests. However, as a participant, the EEC also had the right to oppose the inclusion of a specific question in the negotiations, or to refuse to participate in negotiations on such a question. The EEC was not convinced of the utility of addressing subsidies as a separate item, particularly under the conditions proposed by Australia.

149. The delegate of Chile stated that subsidies should be incorporated in the new round and that the Australian statement contained important suggestions regarding modalities. A Code should be developed that would be much clearer and stricter, forbidding export subsidies, subject to exceptions which would be clearly defined, and in this context it was necessary to analyse the situation of subsidies in the important field of agriculture. The financing under favourable conditions of the exports of developing countries should be analysed and the accession to the Code on Subsidies by developing countries facilitated. An efficient mechanism should be set up that would protect the interests of a weaker contracting party facing a more powerful country in a situation of the imposition of countervailing duties.

150. The delegate of Canada stated that the disciplines on the use of export subsidies on primary products, whether the original disciplines under Article XVI or those in the Subsidies Code, were ineffective. This absence of discipline had largely contributed to a deterioration in trade relations and to the GATT's credibility crisis. There was a broader dimension to this question, and experience had shown that other areas of the Subsidies Code required attention, for example the conditions governing the application of countervailing duties. In the Canadian view, the objectives of negotiations in this field should include the creation of effective disciplines on the use of export subsidies on primary products, the improvement of the rules and procedures governing the determination and measurement of subsidies generally as well as the application of countervailing duties and the strengthening of the dispute settlement procedures of the Subsidies Code.
151. The delegate of Japan agreed that the subsidy issue should be taken up in the context of the new round. In so doing, Japan believed that it was extremely important that the concept, scope and measurement of subsidies should be clarified and elaborated. On subsidization of agricultural products, the delegate of Japan reiterated that it was one of the major issues to be addressed in the negotiation on trade in agriculture.

152. The delegate of Uruguay considered that subsidies should be part of the new negotiations, because subsidies deprived the developing countries of legitimate trading opportunities, in particular in the field of agriculture where their products were competitive in third markets. It was necessary to have more discipline with respect to subsidies. There was also a need to clarify existing obligations which were not very precise, in particular in the agricultural sector. It was also necessary to have more discipline with respect to countervailing duties which affected trade to a very large extent, e.g. on the question of cumulation of imports in injury determinations.

153. The delegate of Argentina agreed with others that subsidies represented a very serious problem for international trade, and that the problem had worsened over the past few years. As a developing country, Argentina did not have sufficient financial resources to give assistance to its exports and so was in a very unfavourable position. Questions relating to subsidies as well as to countervailing duties should be taken up in the new round. This would permit fuller participation in the negotiations bearing in mind that Argentina was not a signatory to the Code. The proposal by Australia should be examined very carefully.

154. The delegate of Cuba considered that subsidies was a subject that merited particular attention by the Committee because the practice of subsidization had created very serious difficulties for producers of basic products. An example which had already been mentioned was sugar which was a main export product of Cuba. The Committee should adopt recommendations to Ministers which would clear the way to a solution in this area. The adoption of effective disciplines on subsidies and the effects of subsidies could be an important achievement which would give substance to the new round, if this finally took place. The use of subsidies by developed countries seriously prejudiced the interests of developing countries, which more than ever needed foreign currency in order to solve, among other problems, that of indebtedness. The Australian proposal should be very carefully taken into consideration.

155. The delegate of Sweden, speaking for the Nordic countries, stated that the new round provided a natural context for discussing possibilities of strengthening multilateral disciplines as regards subsidies. Trade frictions over subsidy issues had tended to increase. The Nordic countries would see a twofold objective in pursuing further interpretations and elaborations of rules governing subsidies, namely to limit trade-distorting effects of subsidies and to ensure that domestic subsidies, when they are used, promote a positive adjustment process. The question thus was not whether subsidies should be addressed in the new round but rather how and with what aims. It was obvious that subsidy issues were relevant in a number of potential areas for negotiation. There might be certain common denominators in all these areas but there were a number of quite specific basic considerations in each area. This should be taken into account when deciding on the most appropriate negotiating modalities.
156. The delegate of Hungary recalled his statement in the debate on agriculture when he pointed out that fair and effective rules were needed to eliminate the trade distorting effects of competitive subsidization. He pointed out that the latest developments had amply demonstrated that the lack of elementary discipline in this area had seriously affected the trading interests of smaller and efficient agricultural exporters.

157. The representative of the European Communities reminded the Committee of his delegation's position expressed earlier in the debate. He noted that concern had been expressed about the effects of export subsidies and various other forms of export assistance on trade in agriculture, as well as on trade in other sectors. He said that subsidy practices took many forms and were resorted to in many sectors. It was precisely the complexities of the issues involved which made it necessary to take account of the context in which subsidization occurred. Thus, the European Communities had difficulty with the idea that subsidies applied to agricultural products could be usefully discussed in any other context than that of trade in agriculture.

158. The delegate of Australia said that the GATT was facing a trade war on subsidies in some major sectors, and this was causing considerable concern to a number of countries. This concern was shared by the countries which were spending most on subsidization. There could be little doubt, therefore, that the issue of subsidies, including agricultural subsidies, would have to be squarely faced in the negotiations.

159. The delegate of the United States stated that it was not possible to talk about strengthening and improving the system without dealing with subsidies. This was one of the fundamental weaknesses of the existing system which had to be dealt with on as wide a front as possible.

160. The representative of the European Communities stated that if one wanted to solve problems in agriculture, all forms of subsidies and assistance had to be negotiated, not only export subsidies. Subsidies would be included in the new round, and the Communities were prepared to negotiate subsidies under the Subsidies Code, under the agricultural heading or anywhere else. However, a balanced package could only be agreed by putting each area of negotiation in the appropriate context.

161. The delegate of Korea stated that the Committee should be guided by realism in dealing with the complicated and difficult question of subsidies. Special consideration should be given to developing countries in this area. These countries should be treated leniently in the subsidies field in order to allow them to become more competitive. He recalled that Korea had initially relied extensively on subsidies but more recently had abolished them.
162. In concluding the discussion the Chairman said it seemed to be agreed by everybody that subsidies were a matter for negotiations. A much more systematic analysis of differing positions would be needed in order to move the discussion forward. In the meantime, for the Committee's next discussion of this subject, the secretariat would attempt an analysis of the positions of contracting parties in order to facilitate a more focused discussion of how agreement on this question might be reached.

163. The next two meetings of the Committee were scheduled for the 25-27 February and 17-20 March. At the meeting of the 25-27 February, the following matters would be taken up: structural adjustment and trade policies, trade in counterfeit goods and other aspects of intellectual property, exports of domestically prohibited goods, textiles and clothing, export credits for capital goods, problems of trade in certain natural resource products, exchange rate fluctuations and their effects on trade, and services. At the meeting of 17-20 March, the Committee would continue with any of the above-mentioned subjects if necessary, and then proceed to consider: Article XVII of GATT, Article XXIV of GATT, renegotiation of concessions (Article XXVIII), functioning of the GATT system, notification and surveillance procedures, compensatory trade, trade in high-technology goods, trade-related investment measures, restrictive business practices, and the relationship between the new round and monetary and financial arrangements. Delegations would then be invited to introduce any additional subjects which they would like the Preparatory Committee to consider. It was also the Chairman's intention to examine at the March meeting the questions of modalities and institutional arrangements for the new round and participation in the multilateral trade negotiations. Finally, the Committee would take up the subject of objectives of the new round. The rationale for taking objectives last was that it should be possible to discuss them more productively in an overall context after hearing members' views on individual subjects. It was to be hoped that in a discussion of objectives it would be possible to begin to consider in a fairly specific way the form and content of a draft Ministerial Declaration.

164. The representative of India recalled that the Decision establishing the Preparatory Committee stated that in performing its tasks, the Committee would take into account the views expressed in the Group of Senior Officials. He said that the Chairman's announcement of a particular subject for consideration by the Committee could in no way affect or prejudice views expressed on this matter by his delegation and many other delegations in the Senior Officials' Group. He would return to this point when the subject was raised at the instance of interested contracting parties.
165. The Chairman said that as regarded the dates for the Ministerial Meeting, consultations had been held with the UNCTAD Secretariat about the problem, to which a number of delegations had referred, of a possible clash between the Ministerial Meeting and the meeting of the Trade and Development Board which was also scheduled for September. The UNCTAD Secretariat had indicated that they would be able to schedule the dates of the Trade and Development Board meeting so as to avoid the week beginning 15 September. Many delegations also indicated strong and growing support for the week of 15 September. The Chairman proposed that in the light of these considerations, the Ministerial meeting should be held in the week beginning 15 September. It was so agreed.

166. The representative of Brazil said that his delegation had taken note of the Chairman's statement. He wished to place it on record that while his delegation did not oppose a consensus on this matter Brazil did not participate in the consensus.

167. The representative of India said that since a final decision on the dates for the meeting of the Trade and Development Board would be taken within a few days, it would be preferable to await this decision before deciding finally on the dates for the Ministerial Meeting. There was no reason why both meetings could not be accommodated, but in this way there would be no danger of a clash in dates.

168. The representative of Korea said that he understood the reasons for not scheduling the Ministerial Meeting earlier in September. He regretted, however, that this meant that Seoul could no longer be offered as a site for the meeting, as this would only have been possible at the beginning of the month.

169. The representative of Bangladesh said that his delegation supported the views expressed by India on this question and that he wished to reserve his delegation's position on the date for the Ministerial Meeting until the position had been clarified in regard to the rescheduling of the Trade and Development Board meeting.

170. The representatives of Egypt and Yugoslavia supported the views of India on this matter.

171. The Chairman said that while the decision to hold the Ministerial Meeting in the week beginning 15 September would stand, if a genuinely serious problem emerged in the process of consultations to which he had referred it would of course be necessary to consider the matter. He would therefore reconfirm the decision as soon as the process of consultations had been completed.

The meeting adjourned.