MEETING ON 26 FEBRUARY 1987

Appointments of the Chairman

1. The Surveillance Body appointed Mr. M. G. Mathur, Deputy Director-General, as its Chairman for the initial phase.

Adoption of the Agenda

2. The Body adopted the agenda proposed in the convening airgram (GATT/AIR/2370).

Discussion of the way in which the Surveillance Body will approach its work, including any specific practical arrangements requiring consideration

3. The Chairman noted that the Body's work was based on:
   - the Ministerial Declaration on the Uruguay Round;
   - the TNC Decision on the Mechanism for Surveillance of Standstill and Rollback, and the statements by the TNC Chairman on the mechanism (MTN.TNC/2);
   - the recommendation of the GNG (MTN.GNG/5).

4. Many delegations stressed the importance which their governments attached to the full implementation by all participants of the Ministerial commitments to standstill and rollback. It was observed that those commitments, while not legally binding, had been agreed at a political level and that their implementation, or lack of implementation, would be central to the conduct and outcome of the entire Uruguay Round. The commitments could not be implemented in an arbitrary manner. Delegations emphasized the need for consistently effective and even-handed surveillance of those commitments throughout the new round. They expressed the determination of their governments to play an active role in the Surveillance Body.

5. Some delegations warned against a too narrow interpretation of the standstill and rollback commitments which in their view also covered grey-area measures.
6. A number of delegations shared the view that the Surveillance Body's role was not to pass judgment on governments; its main purpose was to support governments in resisting domestic pressures for protection and in keeping their commitments to standstill and rollback.

7. One delegation saw the Surveillance Body's role as being to prepare the basic documentation to be used by the TNC in making the periodic reviews and evaluations called for in the Ministerial Declaration. Such documentation would include the notifications, additional information provided by delegations or by the secretariat, and reports on discussions in the Body. The notifications should be kept as simple as possible and should indicate the measure's perceived effect on trade. It would be useful if the notifying party, or the secretariat, could supply data showing the trade flows in the products involved. Reports and records by the Body to the TNC should be factual accounts of discussions in the Body, with notifications and additional information from the secretariat included as annexes. This delegation did not believe it was the Body's role to attempt to draw any conclusions concerning the fulfilment of the standstill and rollback commitments, but considered rather that its role was to present a complete report to the TNC that would enable the latter to make the evaluations called for in the Ministerial Declaration.

8. One delegation saw an important role for the secretariat in providing further relevant information on notifications, where necessary. Each notification should be a separate agenda item and the examinations which the Body was required to make, in terms of paragraph 3 of the surveillance text, should be thorough enough to enable the TNC to make a clear-cut evaluation of each measure notified. Some delegations said that discussions in the TNC should lead to a collective assessment of the effects of notified measures on the Uruguay Round and on the interests of individual participants.

9. The view was expressed that the Surveillance Body would play a technical role in the mechanism, while the TNC would provide a political evaluation of the impact of notified measures on the Uruguay Round and on the interests of individual participants. It was stated that the GNG would also have a role to play, since whatever happened in the surveillance process would have a great impact on the work of that group.

10. Some delegations, while agreeing that the Surveillance Body had a technical function, said its purpose went far beyond that, since it would be examining and monitoring political commitments which were unique in GATT's history. It could thus give political signals on the basis of its debates.

11. One delegation proposed that the surveillance process should be reviewed after about one year of operation so as to evaluate its effectiveness.

12. One representative suggested that the Surveillance Body should address four categories of measures. First, measures which had been adopted and which had been notified to the Body. Second, measures which had been adopted, but which had not yet been notified. These would not have the same rank of importance as the first category, but account should be taken of them in the overall picture. In a third category, the Body would not refuse discussion of measures formally in preparation. For this category, the Surveillance Body could play a constructive role in sending out timely political signals of concern and warning. The fourth category would comprise measures which had been unofficially reported, in the press for example, and on which it might be useful to obtain clarification in the Body.
13. One delegation said that it was not enough to wait until a measure had been taken before doing something about it, since by then the damage would already have been done. The Surveillance Body should serve as a forum where early warnings could be sounded, and messages put across, to help head off measures that might undermine the Uruguay Round or the GATT. By way of example, reference was made to the Textile and Apparel Trade Act of 1987 which had been proposed in the US Congress on 19 February 1987. This bill purported to determine that imports of all textiles and textile products and of non-rubber footwear, as a whole, were causing serious injury to the US domestic producers. On the basis of that blanket assessment, the proposed bill provided for quotas on imports from all sources under each and every category of textiles and textile products and non-rubber footwear. The textiles quotas would grow at one per cent per annum but the footwear quotas would remain at 1986 trade levels. The duration of these measures would be indefinite but there would be a review after 10 years. Compensation to affected foreign suppliers was envisaged only in the form of textile and footwear tariff reductions limited to 10 per cent and phased over five equal annual stages. This protectionist bill was claimed by its sponsors to be in accordance with Article XIX, and was already gaining support in Congress under the claim that it was a more reasonable and moderate measure than the Jenkins Bill on which the Presidential veto had so narrowly been sustained in 1986. However, this delegation said there was almost nothing about the proposed bill which could be regarded as in any way consistent with either the GATT or the Multifibre Arrangement. For example, Article XIX did not provide for long term blanket protection to whole industries producing several hundred different products in each of which the market situation was quite different. The bill, if enacted, would violate the standstill commitment: (a) because it would be inconsistent with both the GATT and the MFA which was an instrument negotiated within the framework of GATT; (b) because it would be a measure which would go beyond that which would be necessary to remedy specific situations; and (c) because it would be a trade measure taken in such a manner as to improve the US negotiating position, since it would effectively remove US textile and footwear tariffs from the scope of the multilateral trade negotiations. Moreover, the bill would forestall any attempt to negotiate liberalization of world trade in textiles and the return of this sector to the GATT, in accordance with the 1986 Ministerial mandate, by legislating for increased protection on an indefinite basis and in contravention of the GATT and the MFA. It was recognized that this bill was neither proposed nor supported by the US Administration. Indeed, the Administration had in 1986 vetoed the Jenkins Bill and had in 1987 introduced a generic trade bill designed to promote US competitiveness rather than to promote sectoral protection. Nevertheless, participants should be aware of the dangers posed by a measure of this nature. There was not only the danger that the proposed bill might be enacted but also the danger that it might not, and that some price in terms of promises to take some other type of protective action on textiles might be exacted. This delegation urged that the message should be conveyed that the proposed bill posed a threat to the Uruguay Round; it was being misrepresented as being GATT consistent when in fact it would have very harmful effects both on the GATT and on the multilateral trading system as a whole.

14. A number of delegations agreed with the view that the Body should also have an "early warning" function. They shared the concerns expressed over the harmful and trade-disruptive effects which proposed measures such as the Textile and Apparel Trade Act of 1987 would have, if enacted, on the Uruguay Round and on the GATT system. They urged the US Administration to make
utmost efforts to ensure that the bill was not enacted. Concern and objection was also expressed by some delegations regarding: the US tax on imported petroleum and petroleum products (C/146); the US customs user fee (L/6113); a European Community tax in preparation on vegetable oils and fats; a European Community restriction in preparation on imports of apples; and a European Community anti-dumping action in preparation on imports of steel from Mexico. Appeals were made to the Community not to impose such measures.

15. The representative of the United States said, with respect to the tax on imported petroleum and petroleum products and the customs user fee, that it would be inappropriate for his delegation to comment in the Surveillance Body on matters under discussion in dispute settlement cases. He noted that the US Administration opposed the proposed Textile and Apparel Trade Act.

16. One delegation suggested that proposed measures could be discussed, so that the Surveillance Body could help governments to resist protectionist pressures. This would require a high degree of cooperation from the country in which a measure was being prepared or proposed. For example, it would be necessary to have an assessment from that country of the chances of a proposed measure being enacted, before deciding whether to discuss it in the Body.

17. One delegation commented that the "early warning" idea was worth considering, but thought that care should be taken so as not to diminish the effectiveness of the Surveillance Body by overloading it. A number of delegations expressed opposition to proposed measures being notified. They noted that such notification was not provided for either in the Ministerial Declaration, or in the agreed procedures for the surveillance mechanism, and that such action might block the Body's work through long, unproductive debate. They urged considerable caution before allowing the Body to try to insert itself into the legislative process of participating countries.

18. On rollback, one delegation said that it would be submitting to the Body, as a reference basis, a list of all restrictive measures that had been identified as constituting obstacles to exports of products of interest to developing countries. Another delegation proposed that: (1) the results of any consultations regarding the rollback commitment should be shared among all participants according to the principle of transparency and on an m.f.n. basis; (2) once notifications on the rollback commitment were made to the secretariat, negotiations should start as soon as practicable, say one month thereafter. Interested parties should make their best efforts to reach agreement as promptly as possible, say within six months; and (3) the Surveillance Body should be given the opportunity to examine measures notified under rollback even when consultations had not produced agreement between the parties concerned.

19. On standstill, one delegation said that no country should be allowed to raise tariffs in the course of transposition into the Harmonized System, because such an increase would violate the standstill commitment prohibiting the introduction of measures to enhance negotiating positions in the Uruguay Round.

20. The Chairman noted that there had been a full and useful expression of views under this agenda item, during which there had been a reaffirmation of the commitments to standstill and rollback as well as an appreciation of the rôle of this Body in the surveillance mechanism. There had also been
suggestions as to how the Body could most effectively function and approach its work. Some specific suggestions had been made, which would need reflection, having due regard to the text of the decision establishing the Body which had been agreed after very careful discussion and reflection. There had been some discussion of the suggestion that the Body could also address measures being proposed or prepared. Consideration of this suggestion would have to take account of the distinction between a matter being brought before the Body in the form of a statement, and a notified measure which would require examination under paragraph 3 of the agreed procedures. Some specific concerns had been expressed about potential developments in the trade policies of particular countries; at this stage, the Body could only take note of those concerns and express the hope that there would be no need to pursue them in the Body's future work.

21. Concerning practical matters affecting the Body's work, the Chairman did not consider that it should at this stage try to establish any agreed list of points which notifications should cover, but it would facilitate work if notifying participants could provide a precise indication of: the measure taken; the product headings or tariff lines involved; the country or countries to which the measure applied; and why the measure was considered relevant to the fulfilment of the standstill commitment. He proposed that the secretariat could supply further relevant information about any action or measure covered by a notification such as, for example, its trade or country coverage, and that such information could be circulated to all participants. Concerning paragraph 5 of the agreed procedures, requiring participants to send to the secretariat timely notice of any consultations on rollback for the information of all participants, he proposed that such information should be sent on a restricted basis to each participant individually, instead of being put out for circulation in a Surveillance Body document. The Surveillance Body so agreed.

22. The Chairman noted that the agreed procedures provided for three regular meetings of the Surveillance Body each year and for two regular meetings of the TNC. It was, of course, not for this Body to fix meeting dates for the TNC, but those procedures suggested that the next regular meeting of the Surveillance Body could be held in June, in the expectation that the TNC would meet in July, that the following regular meeting of the Surveillance Body could be in late November with the TNC being expected, in the normal course, to meet again in December.

Examination of notifications submitted in accordance with the agreed procedures

23. The Chairman noted that only one notification had been made in accordance with the agreed procedures: the communication from Mexico (MTN.GNG/W/1) requesting the surveillance mechanism to examine Mexico's complaint concerning the United States tax on imported petroleum and petroleum products.

24. The representative of Mexico noted that on 4 February 1987 the Council had established a panel to examine this matter. Now that the composition of the Panel had been agreed (C/146), his delegation was not insisting that the Surveillance Body examine this matter, because Mexico was convinced that the Panel would find a satisfactory solution to the problem. Depending on the progress of work in the Panel, Mexico reserved the right to revert to this matter in the Surveillance Body.

25. The Surveillance Body took note of the statement.
Other Business

26. In response to a query about what kind of records and reports would be made on the Body's work, the Chairman noted that the agreed procedures provided that there would be a record, for each of the Body's meetings, of any examinations carried out under paragraph 3, and the Body would report on any deliberations under paragraph 6. Notes would also be needed on any other discussions held in the Body.

27. After a short discussion, the Body agreed that the secretariat prepare records, reports and notes reflecting the main points made and that it check with delegations where necessary before issuing them; no further approval by the Body would be necessary.

Date of next regular meeting

28. The Surveillance Body agreed that its next regular meeting would be held on 18 and 19 June 1987.