Adoption of the Agenda

1. The Surveillance Body adopted the agenda proposed in the convening airgram GATT/AIR/2434.

Item A: Examination of notifications on standstill

2. The record of the Body's examination of the standstill notifications in MTN.SB/SN/1, MTN.SB/SN/2 drawn up in accordance with paragraph 3 of the agreed procedures (MTN.TNC/2, Annex) is annexed. This record also deals with a number of general points related to these notifications, including procedural points to which the Body reverted under Item C.

Item B: Statements by participants concerning other aspects of the Ministerial commitments to standstill and rollback

3. The representative of the United States said that for the sake of transparency, his delegation had asked the secretariat to send the communication on rollback to all participants. The United States had asked Japan to undertake consultations on the maintenance of quantitative restrictions which his delegation believed to be subject to the rollback commitment. His delegation assumed that paragraph 5 of the agreed procedures would be followed in this matter.

4. The representative of Japan noted that many other contracting parties maintained a great number of quantitative restrictions. It was peculiar that the focus seemed to be only on Japan. His country considered that the quantitative restrictions referred to in RBC/1 were consistent with the General Agreement and therefore were not subject to the rollback commitment. A number of them were being examined by a panel established at the request of the United States (C/145). Japan considered for these reasons that it did not have to enter into the consultations requested by the United States. The representative of Japan also noted that on 17 April 1987, the United States had imposed 100 per cent tariffs on the imports of certain industrial imports from Japan in connection with the dispute over trade in semi-conductors. His delegation considered that this measure contravened US obligations under the General Agreement as well as the standstill commitment. Japan had requested Article XXIII:1 consultations with the United States on this matter (L/6159) and understood
that the United States had accepted the request. His delegation hoped that this problem could be resolved through those consultations but, if that were not to be the case, Japan would notify the matter to the next meeting of the Surveillance Body.

5. The representatives of Chile, Australia, Uruguay, Argentina, Singapore, Malaysia, the European Communities, Thailand and New Zealand expressed appreciation to the United States for asking the secretariat to circulate RBC/1 to all participants. They requested more specific information as to exactly what products were covered by the quantitative restrictions referred to in that communication, and as affected participants expressed the interest of their delegations in joining the consultations.

6. The representatives of Hong Kong, the Philippines and Mexico said they would appreciate the United States giving information on the specific products covered by the Japanese quantitative restrictions, so that their delegations could decide whether they had an interest in this matter as affected participants and whether they would exercise their right to join in the consultations as provided in paragraph 5 of the agreed procedures.

7. A number of delegations urged that all communications on rollback, under paragraph 4 of the agreed procedures, should be circulated to all participants.

8. The representative of Israel said that his delegation would exercise its legal rights, under Articles XXII and XXIII and under any other relevant provisions of the General Agreement, in the appropriate GATT bodies.

9. The representative of Jamaica said that his delegation did not want to participate in any consultations on this matter. If all participants wanted to join such consultations, the danger existed that there would be no consultations, and no rollback. He urged participants to be prudent in the rollback exercise.

10. The Chairman stressed that paragraphs 4 and 5 of the agreed procedures envisaged, in the first instance, that consultations on the rollback communication of the United States would be held outside the Surveillance Body and that, at a later stage, the results of those consultations would be brought before the Body.

11. The representative of Hong Kong referred to the TNC Chairman's understanding on the surveillance mechanism concerning rollback undertakings (MTN.TNC/2, page 4), providing that "participants maintaining measures that may be subject to the rollback commitment should inform the Surveillance Body by 31 December 1987 of rollback undertakings resulting from the first round of consultations under paragraph 5". The fact that RBC/1 had been the only rollback communication so far circulated meant either that the notification requirement in paragraph 5 was not being complied with, or that no consultations on rollback were taking place. In
either event, this was a matter of serious concern, because if the participants reached the end of 1987 without achieving any results on rollback, a quarter of the period of the negotiations would have passed by with serious effects on the Uruguay Round.

12. A number of delegations emphasized the importance which their governments attached to the strict fulfilment of the Ministerial commitments to standstill and rollback and to the rôle which they thought the Surveillance Body should play as an "early warning system" against proposed protectionist measures which, if enacted, would violate the standstill and rollback commitments.

13. Some delegations expressed particular concern over a proposal by the Commission of the European Communities to impose a tax on vegetable and marine oils and fats. Such a measure, if enacted, would contravene the Community's obligations under the General Agreement, would violate the standstill commitment and would harm the trading interests of many participants in the Uruguay Round; it would be particularly damaging to the export interests of developing countries, whose debt difficulties would also be aggravated. The uncertainty created by the fact that the measure was being proposed was already damaging their trade interests. They urged the Community's member States to reject the proposal.

14. The representative of the European Communities underlined the difference between the normal GATT bodies and the Surveillance Body, which had a political task. In the light of this, he was prepared to discuss the proposed measure rather than simply take note of statements. He described the Commission's proposed measure concerning oils and fats as a price stabilization mechanism rather than a tax, and appealed to other countries not to rush to the judgement that the proposal was protectionist. He said that 98 per cent of the oils which would be affected by the proposed measure were refined within the Community, and that a large part of the oilseeds which would be affected, such as soyabees, were imported as cattle-feed. The tax would not distort the ratio of competitiveness between Community and imported products; it would therefore be non-discriminatory. He emphasized that the proposal was one element in a package aimed at limiting production and reducing expenditure. He noted that there had been considerable resistance to the proposal within the Community itself and stressed that the Council of Ministers had not yet decided on the proposed measure. The outcome was, to say the least, uncertain. In any case, the Community did not consider that the proposed measure would breach the standstill commitment.

15. The representative of Malaysia expressed the view that a more than 100 per cent increase over the present Community tax on the products in question could not be said to have no harmful effects on the competitiveness of exporters. On the contrary, this proposed high increase had already had disastrous effects on Malaysia's palm-oil industry. Whilst acknowledging that the powerful US soyabean industry was also against the Community's proposal, he expressed serious concern over the lobbying against palm-oil imports being carried on by that industry; this was
damaging the exports of Malaysian palm-oil to the United States. He then alluded to the comment made earlier by the Community (Annex, paragraph 5) on the possibility of blocking the Uruguay Round, saying that such threats pointed to asymmetry in the political and economic power of the major trading partners vis-à-vis others, especially the developing countries. If the concerns raised by his country and also by ASEAN could be heard by the capitals of the major trading nations and have a positive effect, then, to a certain extent, the Surveillance Body would have played a positive rôle.

16. Turning to a separate matter, the representative of the European Communities said that his delegation had for some time been concerned that the ongoing Article XXVIII negotiations under the Harmonized System should not be used in a manner which would falsify their neutral objective. The Community was negotiating on that basis, but had reason to fear that the results for certain contracting parties might not be as neutral in their effect and that some arbitrary increases in the level of duty rates would result. This matter was currently being discussed bilaterally, but the Community wanted to make clear that, in the event that the negotiations under Article XXVIII led to non-neutral results, paragraph (iii) of the standstill commitment would come into play. The Community was concerned not only with bound but also with unbound rates; throughout the tariff area there was the possibility, as a result of the Harmonized System exercise, for falsification, for situations to arise where the negotiating party concerned might have an undue advantage in the negotiations. His delegation wanted to make sure that such situations would be corrected.

17. Some delegations also expressed concern at protectionist draft legislation currently being considered by the US Congress. They said that the proposed legislation ran counter to the GATT obligations of the United States and to the standstill commitment; the proposals encompassed a wide range of issues from amendments to US countervailing and anti-dumping law to specified sectoral initiatives in such areas as agriculture and telecommunications.

18. The representative of Canada said his country continued to be concerned over the credibility of the standstill and rollback commitments if the Surveillance Body did not deal adequately with the world's drift towards increased protectionism. Participants in the Uruguay Round had put a great deal of emphasis on creating an effective surveillance mechanism when launching the negotiations, and now that they were underway, all participants should demonstrate the will to make the mechanism function properly. Too little attention was being paid to the standstill and rollback commitments, as countries continued to contemplate further unjustifiable protectionist measures. The political commitments to standstill and rollback were clear and the mechanism for surveillance was workable. The commitments applied to all participants and there were no exclusions. There had been no agreement to apply the commitments in whole to some countries and not at all, or in part, to others. No country was starting from a totally clean slate. Individually and collectively, the participants in the Uruguay Round had to decide how to meet their collective commitments.
19. The representative of Korea reiterated the views which his delegation had expressed at the Body's meeting on 26 February (MTN.SB/1, paragraph 18), notably that the results of any consultations regarding the rollback commitment should be shared among all participants pursuant to the principle of transparency and on an m.f.n. basis, and that 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.

Item C: Discussion of any practical arrangements requiring consideration

20. The Chairman recalled that at its meeting on 26 February, the Body had agreed on certain practical matters concerning notifications on standstill and rollback, including: coverage of notifications; additional information that might be supplied by the secretariat; and procedures for circulation of notifications concerning consultations on rollback (MTN.SB/1, paragraph 21). In order to facilitate the task of delegations and of the Surveillance Body, the secretariat was circulating at this meeting a possible standard format for standstill notifications and suggested that, to the extent that delegations found it practical to do so, they should use the format for future notifications.

21. The Chairman also suggested, bearing in mind the need for notifications on standstill to be circulated sufficiently ahead of time to permit adequate consideration being given to them at meetings of the Surveillance Body, that the notifications be circulated ten days before the Body's next meeting. This would of course have implications for the date by which the initial notification must be sent to the secretariat, since the agreed procedures provided for 10 working days for comments on reverse notifications. The Surveillance Body so agreed.

22. The Chairman suggested that it might be useful if communications on rollback gave information on: the country maintaining the measure; the products and measures concerned; and the grounds for belief that the measures should be subject to rollback. This would enable delegations to decide whether they really needed to involve themselves in the process of consultations. The Chairman also suggested it was logical that if (under paragraph 5 of the agreed procedures) the notices of consultations on rollback were to be circulated to all participants, then (under paragraph 4) the initial communications should also be sent to all participants. The Surveillance Body so agreed.

Item D: Dates of next meetings

23. The Surveillance Body agreed that its next regular meeting would be held in September or October, that another regular meeting would be held in early December, and that the Chairman would consult with delegations to fix specific dates.
1. The Chairman remarked that the notifications by the European Community (MTN.SB/SN/1) and the United States (MTN.SB/SN/2) had only just been circulated. This was inevitable, given that the agreed procedures (MTN.TNC/2) provided 10 working days for comments by the participants maintaining the notified measures. Where such comments had been received within the time limit these had also been included with the notifications. A number of delegations stressed that since they had only just received the notifications, their comments were preliminary. They reserved their right to make further comments on any of the notifications at the Body's next meeting.

2. The Chairman recalled that the agreed procedures called for the Body to examine the relationship between actions or measures notified and paragraphs (i), (ii) and (iii) of the standstill commitment. He therefore invited delegations to focus in their interventions on the specific relevance of each notification to the standstill commitment. A number of delegations commented that some of the notifications in MTN.SB/SN/1 and 2 did not give enough information on their specific relevance to paragraphs (i), (ii) and (iii) of the standstill commitment. This made the required examination in terms of those paragraphs very difficult, and in some cases impossible.

3. The Chairman recalled that the Punta del Este Ministerial Declaration provided that the secretariat "may also provide further relevant information" on standstill and rollback notifications (MIN.DEC, final sentence of paragraph C). Furthermore, at its first meeting, on 26 February 1987, the Surveillance Body had agreed 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" (MTN.SB/1, paragraph 21). The secretariat was circulating to participants at this meeting some information on the notifications so far made (later circulated as MTN.SB/W/1). The information showed that in some cases it had been possible to provide some indication on the imports affected by a notified measure and on the participants whose exports were likely to be most affected. But in other cases, due to lack of specific information in the notification (for instance, the tariff lines affected) it had not been possible to gather such information within the time available.

4. The Chairman confirmed that further examination of any of the notifications would be possible at future meetings of the Body. The record of this meeting concerning the examination of the notifications on standstill would reflect the discussions so far, and would also record that a number of delegations had not had enough time to reflect on the notifications and present their views.
Notifications by the European Economic Community (MTN.SB/SN/1) and the United States (MTN.SB/SN/2)

5. The representative of the European Communities, making some introductory remarks before introducing his delegation's notifications individually, expressed satisfaction at the form in which the notifications had been circulated, giving space in each case for comments by the participant maintaining the measure. He also welcomed the additional statistical information provided by the secretariat. He emphasized that the Community's five reverse notifications did not only concern its own direct trade interests. Since any violation of the political commitment to standstill could have repercussions on the process of the Uruguay Round as a whole, the most important consideration was the possible impact that the multiplication of such violations could have on the negotiations. The Community wanted to emphasize that the Surveillance Body was not simply a technical body, nor a tribunal. It was above all a political body, in which each participant in the Uruguay Round could make its own political appreciation of the trade policy climate in which the negotiations were proceeding. His delegation did not need to have agreed conclusions on any notified measures from the Surveillance Body. The Community would not hesitate to draw its own conclusions, which could modify its tactics in the negotiations. If his delegation saw that the political commitments in the Punta del Este Ministerial Declaration were not being honoured, the Community would block, or slow down, specific parts or even the whole of the Uruguay Round. Similarly, it was up to every participant to be an active watch-dog of the way in which the Ministerial commitments to standstill were, or were not, being kept. To those who had expressed skepticism about the purpose of the Surveillance Body, he wanted to say that little by little it would show its importance.

(i) United States - Customs user fee

6. The representative of the European Communities noted that the Council had established an Article XXIII:2 panel to examine this measure. The panel procedure was underway and therefore the Community felt it was not opportune to press for an examination of the measure in the Surveillance Body, anyway at this stage. His delegation considered that the measure constituted a breach of paragraph (i) of the standstill commitment.

7. The representative of the United States said that the customs user fee was fully consistent with Articles II and VIII and thus there had been no violation of the standstill commitment. He did not propose to go into greater detail on this matter as it was under examination in Article XXIII:2 dispute settlement procedures.

(ii) United States - Tax on imported petroleum and petroleum products

8. The representative of the European Communities noted that the Panel established by the Council to examine this matter under Article XXIII:2 had produced its report (L/6175), and that the Council had adopted the report
on 17 June. In the light of the Panel's findings and conclusions, the Community believed that the US measure was clearly in breach of paragraph (i) of the standstill commitment in so far as the tax on imported petroleum was concerned. The Community requested the US Administration to bring that measure speedily into conformity with the General Agreement.

9. The representative of the United States said that his authorities were giving the Panel's report thorough examination. Referring to the statistics circulated by the secretariat, he said his delegation wanted to put these figures into perspective in order to help the Trade Negotiations Committee make its evaluation. Referring to paragraph 3.1.3 of the Panel's report, he noted that the tax differential of 3.5 cents per barrel of oil amounted to approximately 0.19 per cent of the price. Using minus 0.1 as a reasonable estimate of the short-term price elasticity of crude oil demand, a 0.19 per cent price increase on the 4.8 million barrels per day of net imports of crude oil and petroleum products into the United States, averaged into total US crude oil and petroleum products demand of 16.4 million barrels per day, amounting to a price increase of less than 0.06 per cent overall, resulting in a demand decrease of about 900 barrels per day or US$6 million per year at current prices. Despite the tax differential, the United States would thus import about the same volume of such products as before. These calculations showed that the effect of the tax differential on trade was minimal, and this fact should be taken into account in assessing the impact of the tax on the world trading system.

10. The representative of the European Communities said that the statement by the United States begged the question of why, in those circumstances, was it necessary to impose the tax. However, that was not the real issue before this Body. The Community's main concern here was with the political implications of the fact that in this case there had been a clear breach of the standstill commitment. The measure should be brought into conformity with the General Agreement as soon as possible.

11. The representatives of Canada and Mexico supported the statements by the Community.

(iii) United States - Department of Defense Appropriations Act in respect of machine tools

12. The representative of the European Communities said that two important principles were at stake in this matter. The first was the commitment in the Agreement on Government Procurement involving certain levels of obligation relating to the entities covered by that Agreement and the products traded by those entities, and the extent to which signatories could expect those entities and products to be subject to the terms of that Agreement. The second principle was that all signatories to the Agreement should receive equal treatment and enjoy equal access to the government procurement opportunities provided. In the case under examination, the Department of Defense Appropriations Act had placed the commitments and obligations of the United States in doubt, after the date on which the
standstill commitment had taken effect. As a result of the Act, the Community could no longer supply a particular type of machine-tool to the United States. A worse aspect of the measure was the discriminatory treatment offered to another contracting party which continued to have access to US defense appropriations.

13. The representative of the United States noted that this matter had been discussed in the Committee on Government Procurement. He added that the adoption of the Mattingly Amendment to the Department of Defense Appropriations Act was not contrary to the standstill commitment, because the machine-tool purchases referred to had been excluded from the Agreement on Government Procurement -- since its inception -- to protect essential security interests, as permitted by Article VIII of the Agreement. There had thus been no new action which could be claimed to violate the standstill commitment. The preferential treatment for Canada was not contrary to Article XIII:1 of the General Agreement because a valid national security exception applied to these items under the Government Procurement Code. During the negotiations under that Code, the United States had attempted to provide the broadest possible coverage of US procurement. The US annex to the Code covered federal supply categories at the two-digit level and stated that US procurement in these areas was "generally covered". This term reflected the fact that some exclusions from the list were necessary for national security reasons. The machine-tools exclusion in question had already been clearly identified at the four-digit level in the US Federal Acquisition Regulations. The United States had never hidden this fact and wished that other countries were as transparent. Moreover, the US coverage was in the interest of Code signatories. The alternative to limited two-digit coverage was not to cover any of the category in which the machine-tools in question were found. Procurement opportunities for the remaining items in this category continued to be open to all Code signatories. The Mattingly Amendment represented neither a violation of the General Agreement nor of the Government Procurement Code. Rather it affected bilateral military agreements which were not covered by either of those instruments.

14. The representative of Switzerland noted that his authorities had an interest in this case, and that his delegation might comment on the matter at a future meeting of the Body, after Switzerland had had time to study the notification in detail.

(iv) Indonesia - Prohibition of exports of tropical woods

15. The representative of the European Communities said his delegation had made this notification not so much because Indonesia's measures were obviously hampering the Community's trade, but above all because the measures were liable to contravene Indonesia's obligations under the General Agreement, in particular those under Article XI. Every participant in the Uruguay Round had to honour its commitments, and the Community considered that the Indonesian measures contravened paragraph (ii) of the standstill commitment which stated that participants should not take any
trade restrictive or distorting measure in the legitimate exercise of its GATT rights that would go beyond what was necessary to remedy specific situations. He stressed that the intention of the notification was not to create problems for Indonesia. However, it was the sum of such measures violating the standstill commitment that could upset the entire negotiating process of the Uruguay Round.

16. The representative of Indonesia said that his authorities were still studying the Community's notification and would provide further information at a later date. Making some preliminary comments, he said that Indonesia had a long-term program to rehabilitate its tropical forests; the program aimed at preserving the country's natural resources. There had been alarming destruction of Indonesia's tropical forests in recent years because of short-term interests. As the program needed a long time to yield results, the remaining resources had to be regulated. The program therefore also aimed to maintain the supply of raw materials, including rattan and ramin, to domestic industry, particularly to small-scale enterprises. The steep decline in oil prices and the depreciation of the US dollar in 1986 had brought new problems to Indonesia's economy and had led to the Government's decision to find ways to increase income from non-oil exports. The program for tropical woods was therefore vital to Indonesia's economy, export earnings, debt-servicing and employment.

17. A number of delegations said they looked forward to hearing further comments by Indonesia on this matter in due course.

18. The representatives of Argentina, Malaysia and Mexico said that the Indonesian measures were legitimately taken to preserve natural resources. Preservation of forests was undertaken in Europe, America, Asia and elsewhere. This type of measure should be remote from the work of the Surveillance Body. The representatives of Argentina and Malaysia considered that Indonesia's measures had no trade-restrictive or distorting effect.

19. The representatives of Chile, Mexico and Pakistan said that the Ministerial Declaration clearly provided for special and differential treatment for developing countries, not only in the context of existing GATT obligations but also in the Uruguay Round. The Community's case, in terms of paragraph (ii) of the standstill commitment, was imperfect and ill-founded. The representative of Pakistan said that the second paragraph of the Community's notification against Indonesia was so vaguely worded that his delegation wondered whether the Community was sure what it was complaining about.

20. The representative of Jamaica recalled that when paragraph (ii) of the standstill commitment was being drafted, a number of countries including his own had wanted an additional sentence to be included which stated that "in the exercise of GATT rights, particular care should be taken not to restrict or distort trade in products or sectors of special importance for the exports of less-developed contracting parties". Even
though that sentence had not been included, the sentiment was still to be found in the Objectives of the Ministerial Declaration. On the face of the Community's notification, he did not believe that it was well-founded. However, he could make no judgement until Indonesia provided further information.

21. The representative of Yugoslavia said that her delegation had analysed the notification by the Community in terms of paragraphs (i), (ii) and (iii) of the standstill commitment and concluded that it was not relevant to any part of that commitment.

22. The representative of Egypt, stressing that his comments were only preliminary, said that on the basis of the incomplete information so far provided, his delegation could not see how Indonesia's measures could be said to contravene either Article XI or paragraph (ii) of the standstill commitment. In any case, the preservation of natural resources was a basic and legitimate element of any government's policy.

23. The representative of the United States said that special and differential treatment for developing countries did not mean that they were exempt from the standstill and rollback commitments which they had undertaken. Actions by any participant which violated those commitments would have to be taken into account when the Trade Negotiations Committee made its political evaluations.

24. The representative of the European Communities said that a whole range of developing countries which had intervened on this matter appeared not to have understood the messages which the Community was trying to transmit. It would have been better to await the promised explanations from Indonesia. His delegation wanted to know whether Indonesia's export prohibition was really aimed at protecting its forests. If so, the Community would want to study what finished tropical-woods products Indonesia was exporting, and the effect that the measure would have on the industries of Hong Kong and Korea, for example. The Community would also want to know whether the measure was being justified by Article XX(b), or perhaps by Article XX(g) which related to "the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption". Indonesia, as a contracting party, had undertaken the standstill commitment, and had the same obligations as all other participants. Otherwise, a new "grey area" was being set up. He emphasized that it was dangerous to see this question in North-South terms.

(v) Brazil - Expansion of the list of products for which the issue of import licences is temporarily suspended

25. The Chairman noted that Brazil had agreed to the notification on this measure by the Community in MTN.SB/SN/1 being examined at the same time as the notification by the United States in MTN.SB/SN/2, since they both concerned the same Brazilian measure.
26. The representative of the European Communities said his delegation was concerned as to the scope of the measure which affected around 2,200 products. He noted that the issue was being addressed in the Committee on Balance-of-Payments Restrictions, but contested Brazil's assertion in its written comment on the notification that actions taken under Article XVIII:B could not also be considered in the light of the standstill commitment, since such an assertion would negate that commitment. The Surveillance Body should look at the impact of this measure on the Uruguay Round in the light of the Committee's work.

27. The representative of the United States said that since this was his country's first notification on standstill, he wanted to make clear that the US approach to the work of the Surveillance Body was to bring to its attention trade measures which caused the United States serious concern and which it believed were relevant to the standstill commitment. Such was the case with the measure taken by Brazil which effectively prohibited imports of the products in question, thus adversely affecting US exports as well as those from many other countries by denying market access opportunities for: chemical industry raw materials, various machinery, typewriters, calculating machines, certain foodstuffs, fish, various alcoholic beverages, and many other products. Moreover, it appeared that these restraints were applied in a discriminatory manner; products traded in accordance with agreements reached in the context of the Latin American Integration Association (ALADI) were not affected by this prohibition. His delegation was aware that this action had been notified under GATT balance-of-payments provisions, but the United States reserved its position on the consistency of this action with those provisions, and wanted to register its concern about the severity of the measures relative to any GATT justification.

28. The representative of Brazil said his delegation had been surprised to learn of the Community's and the US notifications, given that Brazil had notified the measure on 2 February 1987 in L/6126, pursuant to paragraph 3 of the Declaration on Trade Measures taken for Balance-of-Payments Purposes. The Community's notification acknowledged the role that the Committee on Balance-of-Payments Restrictions would play in reviewing the measure. Indeed, it had been the Community itself which had suggested in consultations with the Chairman of the Committee that, in the light of the modifications introduced by Brazil, it would be appropriate to hold full, instead of simplified, consultations with Brazil. His delegation had not opposed that request, because it believed that the Committee was the only competent forum to deal with this issue. The Committee was itself a surveillance body -- as acknowledged in document MTN.GNG/NG14/W/3 -- responsible for multilateral surveillance of all restrictive measures taken for balance-of-payments purposes under the provisions of Articles XII and XVIII:B and under the Declaration on Trade Measures taken for Balance-of-Payments Purposes. The Surveillance Body should examine actions or measures which were subject to the commitment "not to take any trade restrictive or distorting measure inconsistent with the provisions of the General Agreement or the Instruments negotiated within the framework of
GATT or under its auspices". The Brazilian measure was not only consistent with the General Agreement, but was based on relevant GATT articles, and did not go beyond what was necessary to remedy the balance-of-payments difficulties facing his country. He noted that in document C/W/517, prepared for the special Council meeting on 16 June 1987, paragraphs 234 and 235 had been transferred by a corrigendum to the section related to "import measures notified as being applied for balance-of-payments purposes"; those paragraphs summed up the Brazilian notification and had not been challenged by any contracting party. The Brazilian delegation to the Committee's consultations to be held later in 1987 would be prepared to carry out an in-depth analysis of the measure. He was confident that members of that Committee would be satisfied with the explanations offered. His delegation proposed that the Surveillance Body should recognize that this matter should be dealt with in the Committee and that the Body should not take any action on the notifications by the Community and the United States.

29. The representative of the European Communities said that the nature of surveillance by the Committee on Balance-of-Payments Restrictions was different from that of the Surveillance Body, which had a political function. The work of the Surveillance Body was additional to the traditional functions of other GATT bodies which carried out surveillance. The Community could not agree to Brazil's proposal. It would not be appropriate for the Body to set aside the examination of any measure which had been notified to it.

30. The representative of Switzerland supported the statement by the Community. If there were any other interpretation of the Surveillance Body's function in surveying implementation of the standstill commitment, Switzerland would no longer understand the substance of that commitment.

31. The representative of Jamaica said that the Community and the United States were entitled to notify the Brazilian measure in terms of the standstill commitment. However, he was so far unconvinced that the Brazilian measure violated any element of that commitment.

32. The representative of Chile said that the standstill commitment applied to the whole "grey area". Since the Brazilian measure had been taken in conformity with the General Agreement, paragraph (i) of the standstill commitment would not apply. The key sentence in paragraph (ii) stated that parties should not take actions "that would go beyond that which is necessary to remedy specific situations", and that judgement could only be determined by the Committee on Balance-of-Payments Restrictions. The matter should therefore go to the Committee first before the Surveillance Body could deal with it.

33. The representative of Israel said that the issue of notifications to the Surveillance Body, and the examination of measures by other competent GATT bodies, should be separated. Israel considered that while all kinds of measures, GATT-consistent or otherwise, could be notified to the Body,
the rôle of the Committee on Balance-of-Payments Restrictions should not be undermined. He suggested that notifications, such as the ones under discussion concerning Brazil, should be examined by the Committee in accordance with the normal procedures. If certain parties were of the opinion that the measures concerned fell within the parameters of paragraph (ii) of the standstill commitment, there was still the possibility of discussing them in the different context of the Surveillance Body in the light of the Committee's report.

34. The representative of India said he was not clear whether the Community and the United States were notifying the Brazilian measure under paragraph (i) or (ii) of the standstill commitment. Actions taken under Article XVIII were consistent with the General Agreement, and Brazil had stated that the measure did not go beyond what was necessary to remedy the specific situation; it had furthermore emphasized the temporary nature of the measure. His delegation wanted to know the exact nature of the violation against which the Community and the United States were complaining.

35. The representative of the European Communities said that while his delegation was not prepared to address at this point any specific paragraph in the standstill commitment which the Brazilian measure might contravene, the fact that the measures affected around 2,200 products was a cause for concern. The Community appreciated Brazil's agreement to have full consultations in the Committee on Balance-of-Payments Restrictions. Meanwhile, the notification was made because it was justifiable to do so in terms of the standstill commitment.

36. The representative of Yugoslavia said that the notifications on the standstill commitment submitted for consideration at the present meeting provided evidence for the view that the practice of extensive notification of measures taken by contracting parties under the safeguard provisions of GATT - namely the provisions contained in Articles XI, XII, XVIII, XIX, XX, XXV, etc - could have the opposite effect of the one which had been aimed at by the participants in the Uruguay Round when undertaking the commitment and agreeing to establish the Surveillance Body. Contracting parties submitting notifications should be extremely selective and should ask for the examination only of those measures whose effects were so great that they jeopardized the political interests of participants in the Uruguay Round. The work of this Body should contribute to creating a climate of confidence in GATT and in the results of the negotiations. The notifications on measures taken by Brazil for balance-of-payments purposes did not supply proof that Brazil had violated any elements of the standstill commitment.

37. The representative of India said his delegation continued to consider that the notifications against Brazil were not relevant to any of the paragraphs in the standstill commitment.
38. The representative of Brazil said that the majority of the products covered by the measure were luxury goods, whose import suspension would greatly contribute to restore his country's balance of payments. His delegation considered that the United States and the Community were entitled to notify the Brazilian measure to the Surveillance Body only if the measure had first been fully examined and not accepted by the Committee on Balance-of-Payments Restrictions.

39. The representative of Switzerland pointed out that the appropriate forum to challenge a decision by the Committee on Balance-of-Payments Restrictions was not the Surveillance Body, but the Council or the CONTRACTING PARTIES.

40. The representative of Jamaica said that the Body had spent a disproportionate time at the present meeting examining notifications against measures taken by less-developed contracting parties which had little substantial impact on the Uruguay Round.

41. The representative of Brazil said his delegation took note of Switzerland's statement in paragraph 39.

42. The Chairman noted the point had been made that the fact that certain commitments were being examined in other GATT bodies need not prevent them from being discussed in the Surveillance Body. Equally, the point had been made that it might not be possible to proceed very far in examining some measures in this Body, in relation to some aspects of the standstill commitment, until the examination of those measures had been concluded elsewhere in GATT.

General

43. The Chairman recalled that the agreed procedures called for the Surveillance Body to transmit a record of its proceedings to the next meeting of the Trade Negotiations Committee, to be held on 3 July. This record would also be transmitted to the GNG for its information. The TNC, on the basis of the records and reports transmitted to it by the Body, was to make a periodic evaluation of the implementation of the standstill and rollback commitments (paragraph 8 of the agreed procedures). The representative of Australia said that a proper evaluation by the TNC of the notifications made so far would probably be possible only after further examination of the notifications at the next meeting of the Surveillance Body.