

# GENERAL AGREEMENT ON TARIFFS AND TRADE

CONTRACTING PARTIES  
Fortieth Session

## SUMMARY RECORD OF THE SECOND MEETING

Held at the International Labour Office,  
on Tuesday, 27 November 1984, at 10 a.m.

Chairman: Mr. H.V. Ewerlöf (Sweden)

Subject discussed: - Report of the Council

### Report of the Council (L/5734 and Add.1)

The CHAIRMAN referred to the report of the Council of Representatives on its work since the thirty-ninth session of the CONTRACTING PARTIES. He suggested that consideration of the report begin with points which were not related to the Ministerial Work Program (L/5734), and that the part of the Council's report related to the Work Program (L/5734/Add.1) be considered point-by-point at a later stage. The whole of the report would be put before the CONTRACTING PARTIES for adoption prior to the end of the session.

Mr. LUYTEN (European Communities) said he understood that nothing was settled on any of the points within the Work Program until the whole was accepted.

The following action was taken and statements were made on points dealt with in the report:

### Point 3. Consultative Group of Eighteen (L/5721)

The DIRECTOR-GENERAL said that the report of the Consultative Group of Eighteen to the Council on its work during 1984 (L/5721) had been forwarded to the CONTRACTING PARTIES, and he drew attention to paragraphs 11-14 of the report describing the Group's discussions on the status of the Work Program.

He recalled that the CONTRACTING PARTIES were called upon to approve the composition of the Group for 1985. As consultations were still continuing on this matter among certain delegations, he proposed that the CONTRACTING PARTIES revert to this question later in the session.

Point 6. Trade in Textiles

Mr. BAJWA (Pakistan), on behalf of developing country exporters of textiles and clothing, expressed concern over the increasing disregard of GATT disciplines and the consequent multiplication of protectionist actions against developing countries in international trade in textiles and clothing. He recalled the commitment in paragraphs 7(i) and 7(viii) of the 1982 Ministerial Declaration, and noted that developments in the past year in international trade in textiles and clothing stood in sharp contrast to these commitments. He said a trend had been developing for increasingly restrictive measures against the developing country exporters; such disregard for international obligations weakened the credibility of the Multifibre Arrangement (MFA)<sup>1</sup> and more importantly, that of the General Agreement. He then recapitulated the major developments in this regard, including the US application of additional criteria to establish a "presumption of market disruption or threat thereof", which had resulted in an unprecedented 130 consultation calls being issued and new restraints applied on developing country exporters of textiles and clothing in particular. A special review of the application of the consultation mechanism, which had been called for by the Textiles Committee in January 1984 and which was contained in Chapter 6 of the TSB report on its major review of the MFA, showed that the United States had had far greater recourse to this procedure in 1983 and 1984 than had any other importing country. Furthermore, these actions had been directed almost exclusively at developing countries including new entrants, small suppliers and cotton producers, and were in contravention of the spirit and objectives of the Arrangement, particularly Article 6 and paragraph 12 of the 1981 Protocol of Extension.<sup>2</sup> The strong rise of US imports of textiles and clothing in 1983 and 1984 could hardly be considered a sufficient justification for restraint. He emphasized that in 1984, the volume of imports from the developing MFA suppliers had increased at a rate less than half that of imports from non-restricted sources. This pointed to the discriminatory nature of the restraint actions against developing countries. Furthermore, the progressive erosion of the interests of the developing countries was exacerbated by the US initiation of countervailing duty investigations of textiles and clothing imports from 13 developing countries, and the new US customs regulations amendments relating to textiles and textile products. These two sets of trade measures were in conflict with Article 9 of the MFA and paragraph 23 of the Protocol of Extension, infringed upon the standstill commitments undertaken in the Ministerial Declaration, and created the risk of diversion of trade; they should, therefore, be withdrawn.

---

<sup>1</sup>Arrangement Regarding International Trade in Textiles (BISD 21S/3).

<sup>2</sup>BISD 28S/3.

He recalled the objectives of the MFA and said that little or no headway had been made in reaching these objectives. The multilateral textile régime had consistently expanded in product and country coverage and had intensified in its restrictive and discriminatory application during its 23 year history. He described the economic distortions in textiles and clothing trade which the MFA had brought about, including disruption of the structural adjustment it was intended to foster. In conclusion, he said that the commitment embodied in the 1982 Ministerial Declaration represented a firm and positive expression of political will to eliminate restrictions and discrimination against textile and clothing exports from developing countries. The commitment to pursue concrete actions in this respect was a major test of credibility for the GATT system in general. Real actions were needed on the part of the developed countries to fulfil faithfully their existing obligations under the MFA, to reverse the increasingly protectionist tendencies and to implement the GATT Work Program on textiles on a priority basis.

Mr. JAYASEKERA (Sri Lanka) supported the statement by the representative of Pakistan and said that his country deplored the proliferation of consultation calls following the US adoption of the new criteria. Moreover, the investigations on the countervailing duty petitions were in conflict with Article 9 of the MFA, and paragraph 23 of the Protocol of Extension. He quoted from an article by the US Secretary of Commerce which highlighted world economic interdependence and the ills of protectionism, and said that he wished these concepts were extended to trade in textiles.

Mr. RAHMAN (Bangladesh) supported the statement by the representative of Pakistan and said that the developing countries had expressed the hope that these new restrictive US measures would be withdrawn. He made special reference to the problems faced by the small exporters and new entrants in trade in textiles, of which Bangladesh was one, and noted that the special provisions in paragraphs 2 and 3 of Article 6 of the MFA were designed mainly to take account of these countries' interests. He requested that the major importing countries keep this in view when formulating their textile policies.

Mr. SHUKLA (India) supported the statement by the representative of Pakistan. India's views on this subject were very well known and did not require reiteration.

Mr. CARTLAND (United Kingdom on behalf of Hong Kong) supported the statement by the representative of Pakistan and reiterated several of the points his delegation had made in the Council and Textiles Committee concerning the increase in US textile imports and the restrictive and discriminatory nature of the new US measures, including the country-of-origin regulations and countervailing duty petitions. The devastating effect of these measures on legitimate trade called for their withdrawal. Recent developments in textiles trade presented a disturbing picture, particularly against the backdrop of the conclusions

of the Textiles Surveillance Body's review of the MFA for 1984. It remained to be seen whether or not the Working Party on Textiles and Clothing would provide a means of halting and reversing this trend; but its work must continue, and contracting parties must be urged to act on the commitment to liberalize trade in textiles and clothing agreed to at the 1982 Ministerial meeting.

Mr. HAMZA (Egypt) supported the statement by the representative of Pakistan and noted that the Textiles Committee had agreed to keep these matters under review.

Mr. SMITH (United States) said that certain allegations had been made in statements on this matter which included errors of fact, such as the charge that the US countervailing duty investigations fell outside of GATT; these investigations were among the rights and obligations of participating contracting parties preserved by the MFA. He noted the implication made by several representatives that there had been a great flurry of restrictive measures on the part of the United States, and pointed out that in the case of Hong Kong, its exports to the United States had increased 56 per cent over the previous year. He noted that this issue had been raised six times in the Council in the past eight months, as well as in a special meeting of the Textiles Committee. His delegation wanted to reflect further on some of the statements made on this item and reserved the right to revert to this matter in either oral or written form during the course of the session.<sup>1</sup>

Mr. BLANKART (Switzerland) said that his country, as an exporter and importer of textile products, had a keen interest in the reciprocal opening of markets in this sector. Recent developments on the textiles front had not brought the objectives of the 1982 Ministerial Declaration any closer to realization; nevertheless, the possibilities envisaged in that Declaration were now being studied, even if no tangible results had yet been achieved. It was important to pursue that study because what was at stake, viz., a liberal trading system for international trade in textiles, was fundamental. He said that although the initial objective of the MFA had been to bring under control the proliferation of measures of all kinds with a view to beginning to dismantle them, it had become an increasingly greater derogation from the General Agreement. The experience gained from the MFA model was important, particularly for discussions on the grey area, and appropriate lessons should be drawn from it: the MFA should be replaced by an arrangement which was more consistent with the GATT, which took account of current realities, and which was applied by both developed and developing countries alike. Competition must be open to all and accepted by all, in order not to be replaced by an organization of markets inevitably subject to arbitrary action. The MFA had been a possibly useful and surely revealing experiment from which lessons must be drawn which went beyond trade in textiles to the future of the General Agreement and its application to world trade.

---

<sup>1</sup>See SR.40/8, page 6 and L/5743.

Mrs. KLJAJIC (Yugoslavia) supported the statement by the representative of Pakistan, and wanted to see that the Working Party on Textiles and Clothing continued its work and that trade in this sector was submitted to GATT rules and regulations.

Point 7(h). The trading environment and balance-of-payments consultations

Mr. BATISTA (Brazil) recalled his delegation's statement on this matter at the November Council meeting (C/M/183, page 72) and asked that this be referred to in the Summary Record.

Mr. BURGUNO (Chile) asked that his delegation's statement in the November Council meeting (C/M/183, page 71) be referred to in the Summary Record. Chile intended to distribute to delegations a memorandum on this question.

Mr. SOHLMAN (Sweden), speaking on behalf of the Nordic countries, referred to the proposal that the Committee on Balance-of-Payments also review the developed countries' import régimes to determine their impact on the developing countries' payments situation, and said that such a change would fundamentally alter the character of the Committee's work. While his delegation agreed with others that the CONTRACTING PARTIES should consider ways to improve the balance-of-payments consultation process so as to make it more effective and more relevant to its objectives, the primary focus of these consultations should be on the consulting country's efforts to obtain balance-of-payments stability through adjustments in its own domestic policies. He pointed out that the relation between debt problems and market access involved considerations which, in certain respects, fell outside the GATT framework; these problems were being considered in a number of other international fora.

Mr. PAREDES (Peru) recalled that this matter had been discussed at the November Council meeting. With a view to proper implementation of the 1979 Declaration on Trade Measures Taken for Balance-of-Payments Purposes (BISD 26S/205), Peru supported Chile's proposal which called for consideration of a preventive mechanism designed to improve the international trade environment for developing countries, in order to allow them to expand their exports without having to cut back their imports. His delegation considered this initiative to be a balanced and fair approach to the treatment of developing countries' balance-of-payments problems in GATT, and one which should be given favourable consideration.

Point 9. United States - Imports of Copper

Mr. SMITH (United States) referred to the Council's report on this item (L/5734, page 31) which reflected Chile's concerns expressed in March 1984 about a US import relief petition. He said that the petition had later been denied, and asked that this subsequent development be reflected in the Summary Record.

Mr. BERGUNO (Chile) said that in September 1984, the President of the United States had rejected the US International Trade Commission's recommendation regarding the imposition of restrictions on the exports of certain copper items for which Chile was the main supplier. He noted that the United States had acted in conformity with GATT procedures in notifying the Commission's recommendation to the CONTRACTING PARTIES and in holding consultations with interested parties before any decisions were taken. Chile was satisfied with the decision taken by the United States, which gave proof of its will to fight against, and indeed to reject, protectionist measures. This was an example of the usefulness and effectiveness of GATT's consultation mechanism which made possible a timely and formal airing of views. He noted, however, that this very positive decision did not totally quench the protectionist fires. One example was the non-binding provision in the US Trade and Tariff Act of 1984 containing instructions to the President on the establishment of voluntary restraint agreements with copper-producing countries. Chile hoped that the policy on copper imports which had been adopted by the Government would be maintained and indeed strengthened.

Mr. PAREDES (Peru) supported the statement by the representative of Chile.

Point 11. Recourse to Articles XXII and XXIII

Mr. HARAN (Israel) noted that the Council's report contained no mention of the US recourse to Article XXIII:2 with respect to citrus fruit<sup>1</sup>, and he asked the Director-General for information as to when the Panel's report on this dispute could be expected. He suggested that in the future, any such panel reports outstanding be specifically mentioned in the Council's report even if there had been no action taken during the period covered.

The DIRECTOR-GENERAL informed the CONTRACTING PARTIES that the Panel intended to make its report available to the parties by mid-December.

Point 11(a)(i). Canada - Foreign Investment Review Act (FIRA)

Mr. BATISTA (Brazil) recalled his delegation's position on this item taken in the Council (C/M/174, pages 16-17).

Point 11(b)(i). European Economic Community - Imports of newsprint from Canada

The CHAIRMAN drew attention to a corrigendum (L/5734/Corr.1) related to this point of the Council's report, which had been circulated at the request of Canada.

---

<sup>1</sup> See L/5582, pages 40-42.

Mr. LUYTEN (European Communities) reserved his delegation's position on this matter and the right to raise this question at a later time.

Point 11(e)(i). United States - Imports of sugar from Nicaragua

Mrs. PEREIRA (Nicaragua) said that her delegation would speak on this issue in relation to Point 14 of the Council's report.

Point 12. European Economic Community - Quantitative restrictions on imports of certain products from Hong Kong - Follow-up on the report of the Panel

Mr. LUYTEN (European Communities) said that following the adoption of the Panel's report (L/5511) in July, the Community had taken two significant measures in response to the report: it had eliminated, for one region of the Community, a certain number of quantitative restrictions; at the beginning of 1984 a second stage had been started leading to an increase in certain quotas and an announcement in relation to digital quartz watches. His delegation was now in a position to announce a new set of measures resulting from the adoption of the Panel report: the de facto adoption of liberalized quotas on umbrellas; a 20 per cent increase in the annual quota on radio receivers; and an increase in the quota on toys. This last measure would be implemented in three stages, the most important of which would take place on 1 January 1985, leading to a de facto liberalization of the quota by 1 January 1987.

Mr. CARTLAND (United Kingdom on behalf of Hong Kong) welcomed the statement by the European Communities and said it was a positive and useful gesture. He noted, however, that a substantial proportion of the quota restraint on radio receivers was expected to remain in place for some time. He urged the Community to effect the final elimination of this restraint as soon as possible.

Point 14. United States - Imports of sugar from Nicaragua - Follow-up on the report of the Panel

Mrs. PEREIRA (Nicaragua) recalled her country's position on this matter and reiterated a number of the points raised by her delegation in the Council (L/5734, pages 55-56). Since May 1983, when Nicaragua was notified of the US measures, her country had closely followed the GATT dispute settlement procedures. She recalled various aspects of the bilateral consultations between Nicaragua and the United States, noting that the United States had indicated that it did not intend to invoke Article XXI which provided for exceptions in the application of discriminatory measures. Nicaragua had told the Panel that the reduction of its sugar quota represented a violation of Articles II, XI and XIII of the General Agreement and contradicted the principles embodied in Part IV. The Panel's conclusions had indicated that the

violation of Article XIII was so clear that it rendered examination of the remaining provisions unnecessary. Faced with the US non-observance of the Panel's recommendations, Nicaragua had no alternative but to request the assistance of the CONTRACTING PARTIES. In the event of a further reduction in the sugar quota for 1984/1985, Nicaragua could request the establishment of a working party to study the violations of the General Agreement which had not been considered by the Panel and, in particular, the provisions of Article XI, but this exercise might hamper other work in GATT without contributing anything significant to the consideration of this problem. The United States had made no attempt to develop arguments which might have helped to preserve respect for the system, and had shown no political will to reach a satisfactory solution. The US action weakened the dispute settlement process, which was a keystone of multilateralism. The responsibility for preserving the international trade system lay foremost with the developed countries, and her delegation believed that it would be dangerous for the CONTRACTING PARTIES to permit a precedent of this nature to be set.

Mr. GUZMAN (Dominican Republic), on behalf of the Geneva Group of Latin American and Caribbean contracting parties, read the text of Decision No. 188 of the Council of the Latin American Economic System (SELA), on the subject of the reduction of the US sugar import quota for Nicaragua. This Decision noted, inter alia, that the United States had not complied with the recommendations adopted by the CONTRACTING PARTIES, and urged the United States to assign a quota to Nicaragua which would conform to the principle of non-discrimination. SELA would support any actions Nicaragua might take within the GATT framework to obtain full satisfaction of its legitimate demands in this matter.

Mr. SMITH (United States) said that the United States had consistently maintained that the action which was the subject of Nicaragua's complaint had been taken for broader reasons than trade considerations, and that to lift the measure which was the subject of the Panel report would require a resolution of the broader dispute. That continued to be the position of his Government. He emphasized that the United States had been candid as to its position in this case. It had not obstructed Nicaragua's resort to the GATT dispute settlement process, it had stated explicitly the conditions under which this issue could be resolved, and it recognized that Nicaragua had certain rights under Article XXIII which it had reserved and could continue to exercise.

Mr. JUNG (Czechoslovakia) said that the resolution of this matter was fully within the ambit of GATT and that the Panel's findings and conclusions had correctly related only with the trade issue under dispute. His country, as others, opposed the use of trade restrictive measures for political ends; contracting parties should fully respect the relevant principle embodied in the Ministerial Declaration. He said that the Panel conclusions should be acted upon without delay, and noted that if the dispute settlement process was to have any meaning, the parties involved had to accept panel findings and conclusions.



Mr. BERNALDEZ (Spain) said that the CONTRACTING PARTIES should ensure that the GATT dispute settlement mechanisms took into consideration the need to see to it that the necessary steps were taken regarding implementation of the recommendations, findings and conclusions of panels. Spain noted that there was a discriminatory element in the present case, and hoped that such a problem could be avoided in the future.

Mr. HUSLID (Norway), on behalf of Norway, Finland and Sweden, said that these countries had on a number of occasions underlined the importance of an efficient, functioning dispute settlement mechanism in GATT, and had consistently supported efforts in this direction. They had actively taken part in the recent discussions on further improvements in the dispute settlement procedures and were glad to note that such improvements had been presented (L/5718/Rev.1) for adoption at the present session. He recalled the statement on behalf of these countries at the November Council meeting (C/M/183, page 16) which pointed out that the more fundamental problems in dispute settlement were due not to procedures, but to the lack of will to adopt and implement the findings of the panels. The Panel on the dispute between Nicaragua and the United States had reached clear conclusions, and its report (L/5607) had been adopted by the Council without dissent on 13 March 1984. No arguments based on the General Agreement had been put forward to support a view that the Panel's findings and conclusions could not be implemented. In the light of the facts, and especially in the interest of the credibility of the GATT dispute settlement mechanism, Norway, Finland and Sweden expected the United States to take measures without delay to comply with the conclusions in the Panel's report.

Mr. PAREDES (Peru) referred to the SELA Decision No. 188 and noted that the Panel's recommendation on this matter had not been implemented by the United States; he hoped this would be done. The US failure to comply with this recommendation went against the legitimate interests of a developing country under the General Agreement and was incompatible with paragraph 7(iii) of the Ministerial Declaration. Moreover, there was a severe danger for developing countries that this type of action might be repeated in the future.

Point 15. United States tax legislation (DISC) - Follow-up on the report of the Panel

Mr. LUYTEN (European Communities) recalled that in July 1984 the United States had adopted the Foreign Sales Corporation Act (FSCA) to replace the DISC, and that the Community had raised in the Council two issues of concern: the compatibility of this new legislation with the General Agreement and in particular with the Council understanding of December 1981 (L/5271), and the taxes which had been deferred under the DISC and which the FSCA had forgiven. He said that this fiscal exoneration, by giving tens of billions of dollars to US firms, would

exercise an influence on exports, or on the capacity to export, in the years to come. At the November Council meeting the Community had proposed plurilateral consultations to allow the United States to express its views and to give interested contracting parties an opportunity to seek clarification on these issues. His delegation understood that this proposal had been largely accepted; a decision on procedure in this matter could be taken at the next Council meeting.

Mr. SMITH (United States) said that the US position on this matter had been made clear at the November Council meeting and was reflected in the Council's report (L/5734, page 58). The United States had emphasized its willingness to consult bilaterally with any contracting party on the FSCA and had noted that the Community had declined to accept this offer, which the United States still maintained. He reiterated that Article XXIII panel recommendations envisaged prospective remedies, not alleged "back damages". The United States had implemented the Panel recommendations in the DISC dispute by enacting the FSCA, and by so doing had complied with its obligations under the General Agreement and the December 1981 Council understanding. If the EEC or any other delegation wanted to challenge the GATT consistency of the new law, or any aspect of it, the proper procedure would be to request consultations under Articles XXII or XXIII.

Mr. LUYTEN (European Communities) said that his delegation had already started bilateral consultations, and welcomed the US announcement that it was ready to consult under Article XXII, as this Article provided for both bilateral and multilateral consultations. He hoped that this question could be settled rapidly.

Point 16(a)(v). Customs unions and free-trade areas; regional agreements - Biennial Reports  
Agreements between the European Economic Community and Austria, Finland, Iceland, Norway, Portugal, Sweden and Switzerland.

Mr. BERGUNO (Chile) said that, as noted in the Council's report, his delegation had requested further information on the Agreements between the EEC and Austria, Finland, Iceland, Norway, Portugal, Sweden and Switzerland. The information subsequently furnished by the parties to the Agreements was not sufficient for an examination of their scope and effect on reciprocal trade and on the trade of other parties; accordingly, his delegation asked for more detailed information on them. He then underlined some considerations of a general nature based on the information already obtained; these included the developing countries' declining share of trade in various important sectors, and the possible inadequacy of the Generalized System of Preferences (GSP) schemes applied by the parties to those Agreements. Chile believed it was

necessary to make a deeper analysis of the Agreements in the light of obligations under the General Agreement, particularly Part IV, and reserved its right to revert to this matter at an appropriate time and in an appropriate forum.

Mr. BLANKART (Switzerland) recalled that the statistical data requested by the Chilean delegation had been furnished in April 1984. While Switzerland was ready to supplement that information if necessary, he underlined that these Agreements had been negotiated and concluded under Article XXIV and had been duly submitted to the CONTRACTING PARTIES. He said that contrary to the GSP schemes under which Chile, among other countries, enjoyed preferences, the free-trade Agreements were concluded on a basis of reciprocity.

Point 17(b). Pakistan - Renegotiation of Schedule

The CHAIRMAN drew attention to the recommendation of the Council that the draft decision in Annex I of the Council's report be adopted by the CONTRACTING PARTIES by a vote.

The decision (L/5742) was adopted by 47 votes in favour and none against.

Point 17(d). United States - Caribbean Basin Economic Recovery Act (CBERA)

Mr. SMITH (United States) said that the Working Party on the Caribbean Basin Economic Recovery Act (CBERA) had produced a comprehensive report after an exhaustive review of the US request for a waiver; the report fully and accurately reflected every member's views, and the draft decision annexed to it (Annex II of the Council's report) was a carefully crafted instrument designed to address all the concerns raised in the Working Party. His delegation believed that the draft decision protected the interests of all contracting parties and urged every contracting party to support it when a vote was taken. As more than 20 contracting parties were not present at the session, including some beneficiaries of the CBERA, the United States requested that the vote on this decision be postponed to the intersessional period when balloting could be done by airmail or telegram in accordance with the rules, and would thereby enable all interested contracting parties to participate.

Mrs. PEREIRA (Nicaragua) said that her delegation was surprised to hear the US proposal to delay the vote on this matter; the discussions in the Working Party had been dominated by a certain feeling of impatience, due evidently to the US need to legalize an existing situation which fell outside the undertakings accepted in the 1982 Ministerial Declaration and which was not in conformity with the

General Agreement. It had been decided at the November Council meeting that the US request for a waiver would be submitted to the CONTRACTING PARTIES for a vote at the present session. Her delegation wondered whether the United States could, on a unilateral basis, request that the vote be postponed. In Nicaragua's view, the CONTRACTING PARTIES alone were competent to take a decision in this respect and there was no reason whatsoever to justify its postponement; consequently, a vote on this derogation should be taken at the present session. Discrimination for non-economic reasons was unacceptable; therefore, granting such an exception would have very severe repercussions.

Mr. GUZMAN (Dominican Republic) expressed the view that the CBERA was an instrument that could be very useful for vitalizing the economies of the Caribbean countries. The basic, favourable effects of the scheme, however, providing additional incentives to investment with a view to the export of primary products and manufactures to the North American market, were to be expected not in the immediate future but in the medium- and long-term. The CBERA should not only have continuing GATT support, but should remain in force for a period no less than the twelve years envisaged; otherwise, a large part of its positive impact would be lost. He pointed out that although the CBERA plan had been unilaterally established, it became bilateral once a country made the sovereign decision to participate in it. The CBERA, despite its well-known limitations, contributed to overcome the present situation of economic decline and stagnation to the extent that it facilitated access to the US market for a particularly weak group of under-developed countries; this was the reason his Government fully supported it. His delegation therefore asked the CONTRACTING PARTIES to grant the deferral which the United States had requested, and was in favour of all contracting parties having an opportunity to vote on the request.

Mr. SMITH (United States) pointed out that the United States had expeditiously notified its actions and had requested a waiver in accordance with the relevant GATT procedures. It had taken a year of hard work to prepare a draft waiver, and this reflected the US concern for the legitimate interests of a number of contracting parties. He repeated the US request that the vote on this matter be postponed until it could be taken under intersessional procedures which would allow all contracting parties to participate.

The CHAIRMAN said that it was up to the United States, as the country requesting the waiver, to decide whether it wanted to put the request to a vote at the present session.

Mrs. PEREIRA (Nicaragua) said that her country would not oppose a consensus on this issue; nevertheless, Nicaragua knew of no precedent for remitting back to the Council a matter which had been referred to the CONTRACTING PARTIES.

The CONTRACTING PARTIES agreed to refer this matter to the Council for appropriate action in the light of the statements made on this point at the present session.

Point 18. Accession and provisional accession  
- Provisional accession of Tunisia

The CHAIRMAN drew attention to the recommendation of the Council that the draft decision in Annex III of the Council's report be adopted by the CONTRACTING PARTIES.

The decision (L/5740) was adopted.

Point 19. Philippines - Rates of certain sales and specific taxes

The CHAIRMAN drew attention to the recommendation of the Council that the draft decision in Annex IV of the Council's report be adopted by the CONTRACTING PARTIES.

The decision (L/5741) was adopted.

Point 21. Poland - Suspension of most-favoured-nation treatment by the United States

Mr. SOSNOWSKI (Poland) said that the US suspension of m.f.n. treatment for Poland was of particular importance not only for his Government but also for the integrity of the GATT system. His delegation had made repeated efforts to find an appropriate solution to this problem but had been confronted with a negative and inflexible position on the part of the United States. Despite a radical change in the circumstances surrounding this case, especially in regard to the improvement in Poland's import performance, no progress had been made in resolving this matter. The lack of a positive US response to this improvement confirmed Poland's firm and oft-stated belief that trade-related criteria had never been a significant factor in the US action. He recalled that one year earlier, the representative of the United States had said that the matter was "under continuing review in Washington"; one year later, and after tens of millions of dollars of losses sustained by Polish exporters, it was legitimate for his delegation to ask when and how this situation would be terminated.

Mr. SMITH (United States) said that the United States had acted within its rights under paragraph 7 of the Polish Protocol of Accession (BISD 15S/49). It was clear at that time that Poland had not honoured the obligations of its GATT schedule, and that paragraph 7 of the Protocol clearly gave the United States the right in those circumstances to suspend the application to Poland of such concessions or other obligations under the General Agreement as was considered necessary. This matter remained under continuing review; however, in his Government's view, Poland continued not to meet the obligations of its schedule of concessions. Thus, the suspension of the General Agreement vis-à-vis Poland remained well within US rights under the Protocol.

The meeting adjourned at 1 p.m.