SENIOR OFFICIALS' GROUP

Record of Discussions

Note by the Secretariat

1. The Group of Senior Officials, established by the Decision of 2 October of the CONTRACTING PARTIES (L/5876), instructed the secretariat to issue summary records of the Group's discussions.

2. At the meeting of the Group on 12 November, the Chairman stated his understanding that the record would cover only substantive discussions, and noted that most of the Group's discussions after the meeting of 1 November had covered points of procedure.

3. These summary records are accordingly being issued by the secretariat under the symbol SR.SOG/- as follows:

SR.SOG/1	14 October	SR.SOG/7	30 October (first part)
SR.SOG/2	15 October	SR.SOG/8	30 October (second part)
SR.SOG/3	16 October	SR.SOG/9	31 October (first part)
SR.SOG/4	22 October	SR.SOG/10	31 October (second part)
SR.SOG/5	23 October (first part)	SR.SOG/11	1 November (first part)
SR.SOG/6	23 October (second part)	SR.SOG/12	1 November (second part)

Substantive points made at the meeting of 8 November will be included in SR.SOG/11.

4. During the discussions, a number of delegations referred to explanations of their positions given in written communications and statements[1] with regard to the proposed new round of multilateral trade negotiations. Reference was also made to relevant statements in the Council debates on 5-6 June and 17-19 July 1985 (C/M/190 and C/M/191, respectively) and in the special Session of the CONTRACTING PARTIES held on 30 September - 2 October 1985 (4SS/SR/1-5).

5. Some delegations stated in the Group that they had frequently refrained from intervening in the discussions because they felt that their positions had been adequately set out in the communications, statements and records referred to in paragraph 4 above, or had been expressed by another delegation, or because they had reserved their right to revert to some of these matters at a later stage in the preparatory process.

6. Two copies of these summary records will be issued to each contracting party. Further copies will be available on request.

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[1]These communications and statements are: Developing countries L/5647 and L/5744, 24 Developing countries L/5818 and Add.1, ASEAN countries L/5848, Australia L/5842, Austria L/5849, Brazil L/5852, Canada L/5834 and L/5836, Chile L/5850, EFTA countries L/5804, European Communities L/5835, Jamaica (informal paper circulated to the Group), Japan L/5833, Korea L/5851, New Zealand L/5831, Nordic countries L/5827, Switzerland L/5837 and L/5883 (originally issued as Spec(85)52), United States L/5838 and L/5846.

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22 November 1985
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GENERAL AGREEMENT ON TARIFFS AND TRADE

SENIOR OFFICIALS' GROUP

Record of Discussions

Discussions on 22 October

The Chairman opened the meeting. With reference to the question of observers he said that there was still no consensus as to how to solve this problem. As it would be lacking in courtesy towards those countries that had requested observer status not to respond, he suggested to try to arrive at a final solution by the following day in order to be able to give a reply to those countries. He recalled that at the last meeting it had been suggested that the secretariat might circulate notes which would provide an informal list of points made at each meeting. Some doubts had subsequently been expressed about the desirability of such notes. After considering the matter further, the Chairman had concluded that it might be better not to circulate notes of this kind at the present stage. Since the discussions in the Group were still developing, the circulation of partial lists of points made in the course of the meetings might cause some problems by giving an unbalanced view. Moreover, notes of this kind inevitably brought out some fine nuances of meaning. Therefore, delegations might feel it necessary to discuss and correct the points listed, an activity which would represent a diversion of effort from the real tasks of the Group. No doubt delegations would, in any case, be making their own notes on these matters for internal use, and delegations wishing to check particular points with the secretariat could do so. The question of the report to the CONTRACTING PARTIES would be considered later on after the Group had given consideration to the specific subjects and modalities of negotiations. As there were no comments from delegation, he suggested that the Group continued with the discussion. At last week's meeting, the Group had discussed the general question of the objectives of the negotiations and then had turned to the subject matter of such negotiations. Standstill and rollback and the treatment and contribution of developing and least-developed countries had been discussed. The latter topic had not been concluded. Therefore, he opened the floor for further statements on the subject of treatment and contribution of developing and least-developed countries, after which the Group should immediately turn to agriculture, safeguards, dispute settlement and textiles, continuing thus with further subjects contained in the Ministerial Declaration of 1982.

The representative of Brazil said that the notion that developing countries should be assured more favourable treatment in the formulation and in the application of GATT rules, had a long history developed gradually over the years. This slow and gradual process had started in GATT in the 1950s with an initial recognition of the concept of protection for infant industries in Article XVIII, had been followed in the 1960s with the incorporation of Part IV and the notion of non-reciprocity in Article XXXVI:8, had continued in the 1970s with the acceptance of the Generalized System of Preferences and had culminated in 1979 with the

adoption of the Enabling Clause. Developed countries had accepted reluctantly these exceptions to the MFN and the reciprocity principles, preferences, for instance, had been granted on a non-contractual basis, subject to escape clauses and with exclusion ab-initio of products of interest to developing countries. The GSP margins of preference had been substantially eroded as a result of the Tokyo Round. The same limited results were to be seen in the area of non-reciprocity. Developing countries had in practice been left out of the Kennedy Round as well as of the Tokyo Round which had been conducted essentially on the basis of reciprocity and mutual advantage and in the interest of the principle suppliers. Instead of special and differentiated treatment, developing countries had in fact been given a less favourable treatment facing restrictive and discriminatory measures in the industrialized markets. Through the resort by developed countries to grey area measures against developing country exports, restrictive arrangements in the textiles sector, etc., protectionism and discrimination had extracted a heavy toll on developing countries reducing their ability to grow and service the external debt through trade expansion. Developing countries would certainly have fared better in a more open trading environment. In the context of a deteriorated international economic framework characterized by low levels of demand in developed countries, high interest rates and reduced financial flows for the indebted developing countries, a return to GATT disciplines was very important. For developing countries the preservation of the multilateral trading system was a very important issue. In their joint statements (L/5744 and L/5818), developing countries had put emphasis on the implementation of engagements not to introduce new restrictive measures outside the GATT (standstill) and to phase out grey area measures adopted outside the GATT (rollback), and on the negotiation of a new discipline on safeguards. The first two as pre-requisites for the preparationss of the negotiations should be individual undertakings of the major trading partners; the latter should be the priority issue to be addressed in any multilateral trade negotiations to be eventually launched. The results of the seven previous GATT rounds were constantly threatened for lack of observance of the existing safeguard arrangements under Article XIX of the GATT. The strengthening of GATT in priority areas such as safeguard rules and the inclusion of trade in agriculture under effective GATT disciplines would warrant the consideration by those developing countries more vigorously engaged in trade, of the possibility of contemplating some contribution in terms of the liberalization of their import regimes for goods. Such a contribution would have to be consistent with their development, financial and trade needs, as foreseen in the Enabling Clause. The determination of the level of reciprocity to be offered by developing countries should not be a matter to be settled by each individual developing country in bilateral dealings with developed countries. In order to create confidence in the usefulness of the proposed new round of multilateral trade negotiations, contracting parties should agree beforehand, during the preparatory phase, on precise formulae to govern the determination of the level of reciprocity to be expected from developing countries. Such formulae should be drafted in a manner which would automatically ensure, in concrete situations, the effective application of the principle of special

and differentiated treatment in favour of developing countries. Differentiations could be established as regards trade coverage, type of concession, extent of reduction of trade barriers and the timing of implementation of concessions. The proposed new trade round would constitute an adequate opportunity for action. Delegations ought to leave aside the rhetorical approach, the unproductive debate on whether or not GATT rules were insufficient or excessive to accommodate the interests of developing countries. Delegations should instead concentrate on finding concrete ways and means of making the existing rules work. In the absence of criteria collectively agreed upon by all contracting parties this matter should not be left for the unilateral decision of developed countries. A clear demonstration that the GATT system could work also for the benefit of developing countries was required. This time it would not suffice to repeat, as in past trade rounds, that developing countries would be assured special and differentiated treatment and that their interests would receive special attention. The best way to ensure a dynamic interpretation of Part IV would be to guarantee its application in the proposed new round. Developing countries should be offered a real opportunity to use trade as an engine for growth and for evolving towards the goal of economic development and the achievement of the status of full partners in the world trading system.

The representative of Zaire said that in the framework of a future round of multilateral trade negotiations within GATT, Zaire expected that developed countries would undertake not to question the commitments contained in Part IV of the General Agreement. His delegation would like to know how the developed countries envisaged the implementation of the provisions relating to differential and more favourable treatment for developing countries. He renewed the proposal to establish within GATT a surveillance or monitoring body whose fundamental task would be to ensure the fulfilment of existing commitments and that the contracting parties respect the rules and principles of GATT. This requirement was the test which would demonstrate the true political will of contracting parties. A mechanism authorized to recall to contracting parties the need to respect their commitments should be set up as a result of the negotiations. Zaire, as a developing country, attached special interest to the questions of standstill and rollback, and tariff escalation. Within the framework of the future trade negotiations developed countries should establish a schedule to eliminate the progressivity of tariffs and to eliminate quantitative restrictions and other non-tariff measures which affected developing countries' exports. Several protectionist proposals were being considered by the United States Congress. This draft legislation which contemplated the enforced limitation of production at 1983 levels, surcharges, quantitative restrictions, etc. would affect in particular the export interests of Chile, Peru, Zaire and Zambia. Zaire hoped that the forthcoming trade negotiations would promote the role of developing countries in international trade. The rules laid down by GATT were violated by industrialized countries, and at present trade worth more than sixty billion dollars was subject to restrictive measures. The safeguard clause, Article XIX, of the GATT allowed a country whose industry was seriously injured by external competition to take emergency measures to

reduce or stop imports. However, instead of using emergency measures exceptionally, certain governments invoked these provisions regularly, or simply acted sometimes bilaterally and sometimes unilaterally outside the scope of the General Agreement. For this reason, an overall mandatory agreement on safeguards should be established within an agreed time-frame. Given the situation prevailing in developing countries, the burden of external indebtedness, the falling prices of commodities, etc., a future round of negotiations should not overlook the linkage between development, trade, money and finance. The contracting parties should acknowledge the evil effects for international trade of high interest rates and speculation in exchange rates. It was difficult for the economies of the developing countries to operate in an international atmosphere where instability in the monetary and financial fields prevailed. He was not requesting that GATT act in the place of the IMF, the World Bank or other international financial institutions. However, GATT was expected to study the effects of the present monetary and financial systems on international trade as a whole.

The representative of Yugoslavia said that a more effective application of the basic general rules in favour of the developing countries was of crucial importance for the multilateral trading system. The rules contained in Part IV of the General Agreement and in the Framework Agreement had become an integral part of the GATT system. Therefore they could not be a subject matter of the proposed negotiations, nor should they be questioned in any way. The Group should firmly agree on the full and effective application of the principle of differential and more favourable treatment and non-reciprocity for developing countries in all areas covered by negotiations. This would contribute to the full participation by developing countries in the negotiations, create the necessary conditions for their economic recovery and development and make possible their fuller participation in the GATT system and expansion of international trade. Liberalization of markets in the developing countries, which was also necessary and, in their own interest, could only be a phased process, attainable over time and compatible with their development, financial and trade needs. The general orientation of developing countries toward phased liberalization should result from the implementation of their development plans and be an autonomous contribution. Developed countries could facilitate this process by improving access to their markets for products of priority interest to developing countries. The inter-dependence between development, trade, money and finance could not be contested. The debt problem, high interest rates, volatility of exchange rates, and dwindling development financing opportunities affected negatively the development and trade position of developing countries, and in particular their import capacity from developed countries. Therefore, improved market access for developing countries' products was an acute necessity requiring priority international agreements which would pay heed to the need for differential and more favourable treatment for these countries within the GATT multilateral trading system. This situation did not diminish the need to simultaneously seek solutions in other sectors of the international economic system. Differential and more favourable treatment for developing countries also included special and more favourable treatment for the least-developed countries. Other developing countries would render their contribution especially through the realization of the global system of trade preferences among developing countries under preparation.

The representative of Austria said that in document L/5849 Austria had mentioned as one of the general objectives of a new round of trade negotiations the improvement of market access for products of both developed and developing countries. It was also said that particular consideration should be given to the special needs and export interests of developing countries, especially the least-developed amongst them. Austria had largely taken into account these special needs, especially in the General System of Preferences and through the advanced implementation of the Tokyo Round tariff reductions. The seventh stage scheduled for 1 January 1986 had been implemented one year earlier on 1 January 1985. The eighth and last stage would also be advanced and would take effect from 1 January 1986. Developed countries should take into account the specific situation of developing countries and should co-operate with them to reach a stage of economic development where a more integrated participation in GATT, on the basis of a balance of rights and obligations, would be possible. This was clearly expressed in the last sentence of paragraph 7 of the Enabling Clause which says: "Less-developed contracting parties expect that their capacity to make contributions or negotiated concessions or take other mutually-agreed action under the provisions and procedures of the General Agreement would improve with the progressive development of their economies and improvement in their trade situation and they would accordingly expect to participate more fully in the framework of rights and obligations under the General Agreement". His Government did in no way question the principles of Part IV and the Enabling Clause. However, these rules should not be seen as a permanent exception but as dynamic element for transition, which should be adapted in the light of the economic development of developing countries.

The Chairman said that if there were no further speakers on the subject of treatment and contribution of the developing countries, the Group should, as agreed, take up the subject of agriculture.

The representative of Argentina said that his country attached the highest priority to sustained and wide-ranging liberalization in the agricultural sector. As reflected in document L/5818, and in statements made at the Special Session of the CONTRACTING PARTIES and at the meetings of the Senior Officials Group, this viewpoint was shared by a large number of contracting parties. The main action to be undertaken should be to define clear limits to the external effects of national policies, in particular in respect of important producer exporting countries. This was an urgent task. Agriculture had been permanently sidelined or excluded from GATT rules and a series of rules, practices and exceptions had created total chaos in international trade in agricultural products. He supported the exercise being carried out in the Committee on Trade in Agriculture addressed at expanding options for access and the progressive elimination of subsidies and other unfair trade practices. As regards access, the rules of the General Agreement should receive greater respect, and criteria providing for minimum access for the totality of agricultural products should be established. The binding of import duties, and wide ranging tariff liberalization on the basis of an appropriate formula might be considered as the first steps towards the improvement of market access. Measures maintained outside the General Agreement should be eliminated, in particular

if such measures were the object of decisions taken by the CONTRACTING PARTIES as regards standstill and progressive rollback. Exceptional treatment and other privileges such as the United States waiver should also be eliminated. It was indispensable to apply discipline to the question of subsidies and to pursue a progressive reinforcement of the rules governing unfair competition. This applied to direct export subsidies, special credits and similar practices. Argentina advocated a clear and well-defined understanding on this matter aimed at a substantial reduction in these practices in a reasonably short period of time which should contribute to strengthening international prices for agricultural products. Lastly, with respect to trade in agricultural products, developing countries should receive special and differential treatment. In this connection appropriate suggestions had been made in the Committee on Trade in Agriculture.

The representative of Pakistan said that he broadly shared the views presented by Brazil and Uruguay on the subject of special and differential treatment for developing countries. On the question of agriculture, he made the following points. First, the major problem in agriculture was that the GATT rules did not apply. A truly multilateral framework for agriculture was needed. Thus the likelihood of major contracting parties seeking bilateral solutions to cover their own problems was worrisome to the smaller contracting parties. Second, because of both subsidies and export credits given by developed countries, the developing contracting parties were being displaced from their markets. Third, in any multilateral framework evolved for agriculture, the special problems of the developing countries should be borne in mind.

The representative of Canada said that his country regarded the agricultural component of the new multilateral trade negotiations as one of the essential elements that would lead to an expansion of international trade and to a strengthening of the multilateral trading system. Much of the credibility gap that had been undermining the efficiency of the GATT itself could be traced back to the absence of an effective set of disciplines, contractual rights and obligations, that would apply to all major producers and exporters of agricultural products. As indicated in document L/5834, Canada would be looking in the proposed new multilateral trade negotiations for progress in the following areas: enlarging market access to all major import markets conducive to a significant trade expansion; increasing the predictability and security of negotiated market access conditions; enhancing the fairness and effectiveness of trade rules applying to export subsidies, domestic support programmes and import regimes, including variable levies, quantitative restrictions and tariffs; bringing a greater sense of equity into the GATT trading system by ensuring that the rules of the game apply equally to all major importers and exporters. The efforts made by the Committee on Trade in Agriculture should be further pursued and concluded within the proposed new multilateral trade negotiations.

The representative of Colombia said that his country supported a new round, because it hoped to obtain some advantages in sectors of fundamental importance to its economy within the competence of the GATT. One of these sectors was agriculture where it was urgent to engage in a negotiation in order to improve access for the agricultural products of developing countries in the markets of developed countries. But it was also fundamental to comply with the 1982 Ministerial Declaration and examine all the measures that affected this trade which had been over the years an important factor of disruption of the world agricultural market. Subsidies had had devastating effects on the interests of developing countries because developed countries which traditionally used to be importers had changed into net exporters. These exporters had not only displaced developing countries but had also disrupted international markets by creating large surpluses with the corresponding negative effects on the prices of basic commodities important for developing countries. Any negotiation on agriculture should aim not only at improving access to the developed countries' markets for developing countries' products but also to try and organize this sector which had not been governed by the GATT. The aim should be to dismantle all the restrictive measures applied by all contracting parties and not to put into question the policies of individual contracting parties. All contracting parties should participate in this effort. The negotiations should also consider eliminating all waivers and derogations at present in force so that trade in agricultural products among all contracting parties would be fully subject to the rules of the General Agreement. In conclusion, the principle of differential and more favourable treatment for developing countries should be observed in the negotiations concerning agriculture.

The representative of Cuba said that she would not at this stage expand on this subject because when discussing objectives her delegation had covered agriculture. Cuba attached absolute priority to the sector of agriculture and considered that through the proposed negotiations full liberalization should be achieved in the field of agriculture. The barriers which affected this sector had been identified as a result of the work done in the Committee on Trade in Agriculture. This work should be pursued. The negotiations should be based on the 1982 Ministerial Declaration and in particular on item 1 of the section entitled Trade in agriculture. The negotiations should guarantee compliance with the rules of the General Agreement, especially with respect to subsidies, because these practices affected adversely the interests of many developing countries dependent on the export of agricultural products. The principle of differential and more favourable treatment for developing countries should be implemented in this sector with the aim of ensuring adequate conditions for access to the markets of developed countries.

The representative of Thailand said that although GATT had been designed to apply equally to trade in agriculture and trade in manufactures, the provisions in GATT relating to agriculture such as Articles XI and XVI had a weaker degree of obligation. Export subsidies, grey area measures, waivers from GATT rules, etc., were some measures with serious distorting effects to world trade. A major objective of the new round of multilateral

trade negotiations should be to bring trade in agriculture under the full discipline of improved GATT rules. The new round should aim at achieving the following objectives. First, a commitment to liberalize world trade through improved conditions for market access through the reduction and eventual elimination of quantitative restrictions and other non-tariff measures, and the elimination of grey area measures that did not conform with the fundamental principles of GATT. Secondly, to improve rules for subsidies and eliminate other measures which had trade-distorting effects. Thirdly, to strengthen Article XI on quantitative restrictions, especially regarding the provisions dealing with the concept of temporary surplus. Fourth, to secure a general commitment to abolish grandfather legislation which contradicted GATT rules. Finally, the principle of special and differential treatment for developing countries should apply fully in the sector of trade in agriculture.

The representative of New Zealand agreed with many of the points made by Argentina, Colombia, Canada, Cuba and Thailand. Agricultural trade was a sector where considerations of equity and growth dictated substantial and prompt action. Improvements in agricultural trade rules and access opportunities were overdue for reform. The longer a gross imbalance against agriculture in the international trading system remained the greater was the threat to the credibility of an international trading system committed to non-discrimination treatment and maximizing opportunities for trade. Agriculture was a sector of key interest for developed and developing countries alike. It had assumed the status of a touchstone of commitment to the new round proposal. Unless a new round made real progress on agriculture, it would not be a success. There were three factors which should be considered. First, improved access for agricultural trade mattered a great deal to both developed and developing countries alike. A competitively based agricultural sector in those economies, if it was permitted a greater chance to function, could improve growth performance, contribute significantly to the prospects for the expansion of international trade, and play a vital role in strengthening a number of developing countries' economies. Second, no one should need reminding that agriculture was an integrated part of national economies. Assistance measures in the agricultural sector distorted the economy's performance in other areas. Liberalization need not threaten basic agricultural policy objectives. It could assist governments to restore greater equity and more efficient resource allocation in domestic econmies. Third, the inequitable treatment afforded to agriculture generated effects which threatened the state of the international trading system. A major distortion in one sector of trade could affect the system as a whole. Contracting parties could no longer ignore that the burden of adjustment could not be externalized indefinitely without great cost to the international trading system. The trade tensions which had arisen underlined the need to tackle their root causes in a new round of negotiations.

The representative of Finland said that the Nordic countries had stated on several occasions, inter alia, in their communication dated 4 July 1985, that one of the tasks in a new round would be to find solutions to the problems in world agricultural trade. The negotiations on trade in agriculture should aim at finding lasting remedies to the problems in this field, and the emphasis should be on those phenomena that had caused these problems. The principal objectives in this exercise were to avoid global imbalances on trade in agricultural products, and to develop better disciplines governing this trade. Some important work in this field had already been carried out. Agriculture had been the sector in the Work Programme of 1982 where the progress had been most advanced. The Committee on Trade in Agriculture had conducted thorough exploratory discussions, as required by its mandate, on the problems in this field adding to the transparency in a significant way. The Committee had also started an examination of a number of possible approaches without prejudice to other approaches. Work on trade in agriculture within a new round of trade negotiations should be carried out on the basis of the 1982 Ministerial Declaration, and the recommendations accepted by the Fortieth Session of the CONTRACTING PARTIES, which provided a balanced and realistic point of departure for negotiations. The negotiations should focus on the elaboration of present GATT rules, rather than setting up new ones. Work towards a greater liberalization in this field should take full account of the specific characteristics and problems in agriculture as had been recognized by the Ministers in 1982. International trade in agriculture was an integral part of the GATT system. However, the specific characteristics and problems in production and trade within this sector had necessitated and would also in the future necessitate special considerations.

The representative of Japan said that his country was a very large importer and a negligible exporter of agricultural products. Nevertheless, his country was deeply concerned about the situation in the trading system. Agricultural trade was an element which was poisoning and straining the trading system as a whole, and also the environment of the trading system. Japan attached much importance to the work being carried out by the Committee on Trade in Agriculture and had been participating actively in it. The international rules covering all measures affecting agricultural trade, market access, competition and supply should be reformulated as soon as possible, with the objective of finding lasting solutions in relation to trade in this sector. At the same time, the specific characteristics inherent in agriculture and agricultural trade should be given due consideration. For example, imports of agricultural products were of such importance that more than half of the calorie intake of the Japanese population came from imported products. Thus, Japan was interested in preserving a minimum food security. These elements had been taken into account in the Committee on Trade in Agriculture and should be further considered in the possible new round of negotiations.

The representative of Romania said that trade in agricultural products was a major sector of the country's economy. Trade in agricultural goods should be one of the major themes in the proposed new round, and it should be dealt with as a priority item. The Committee on Trade in Agriculture, established under the 1982 Ministerial Decision, had succeeded in reaching substantial results. Agricultural negotiations in the new round ought to be

based, as a starting point, on the results of the work done by this Committee. In conclusion, he endorsed the views of previous speakers that future negotiations in the field of agriculture must take into account in an appropriate fashion the position and the interests of developing countries in this specific sector of international trade.

The representative of the European Communities recalled the rules of the game which governed the work of the Senior Officials' Group. This was not yet a negotiating exercise. Delegations were here to express their views so that at the end of the day the secretariat would be in a position to draft a summary, and if possible identify common platforms where feasible. In this spirit he would make their views known and would expand on these views concerning trade in agricultural products. This was a highly sensitive, delicate and complex sector, highly politicized and where each contracting party pursued internal policies, with internal domestic objectives, which necessarily had an impact on international trade. This was a hard fact of life. The Communities, at the time when the 1982 Ministerial Decision was adopted had made a formal reservation indicating that this was not a commitment to any new negotiation or obligation in relation to trade in agriculture. This reservation had not been withdrawn. However, the Communities were ready to explore the possibility of negotiations in the agricultural sector provided that this sector formed part of a well-balanced package of subjects to be negotiated. The European Communities also expected well balanced results from such negotiations. In order to better explain the European Communities' position, after having stated that they would be prepared to negotiate under certain conditions, he recalled the objectives of the Communities' agricultural policy as defined in Article 39 of the Treaty of Rome. These objectives were just as valid today as they were at the time the Treaty of Rome had been signed in 1957. Nothing had changed. The task of the Communities and their Member States was not to revise or re-interpret these objectives, but to ensure that the ways and means to attain these objectives were adequate in the face of the realities of today and tomorrow. The objectives of these policies were both economic and social. In the economic field the Communities had achieved substantial progress. The challenge posed to their authorities was to reconcile the success of the agricultural policy with the attainment of the social objectives of ensuring an equitable level of remuneration to the farming population. It was increasingly accepted in the Communities that an agriculture which did not produce for the market had no sound long-term prospects. The Communities would explore at an international level the means to find solutions to these problems. Over the past years there had been a tendency to difficulties and tensions, demonstrating the interdependence of agriculture in a number of areas in the world and, first and foremost, the increasing imbalance between supply and demand. The Communities intended to contribute to restore order and stability in this field, to avoid conflicts and confrontation in the international market and expected similar action from its partners. The Communities would seek through negotiations and on a contractual basis to elaborate the conditions under which substantially all measures affecting trade in agriculture would be brought under more operationally effective GATT rules and disciplines. The Communities expected that all contracting parties would work towards improvements within the existing framework of the rules and disciplines in

GATT covering all aspects of trade in agricultural products, both as to imports and as to exports, taking full account of the specific characteristics and problems in agriculture. He recalled that the EEC's Ministers had stated that the fundamental mechanisms, both internal and external of the CAP should not be placed in question. It would be inconceivable that the negotiations result in large-scale rural unemployment, impoverishment of small farmers, the abandonment of family enterprises or of the countryside. Agriculture in all its forms was at the heart of the European model of society, and the Community intended to defend it.

The representative of Uruguay said that this was a vital subject because the economy and external trade of his country had traditionally been based on agriculture. Uruguay's position vis-a-vis any possible future negotiating round within GATT would depend to a large extent on the manner in which the subject of agriculture was taken up. The 1982 Ministerial Declaration had established a programme of work for the Committee on Trade in Agriculture. He agreed with the spokesman for the Nordic countries that the Committee had worked at length in the analysis of the subject and the attempt to define possible solutions. In any new possible negotiating round substantial progress should be achieved in complying with the Ministerial Declaration in respect to standstill and rollback in the field of agricultural products. As a proof of good faith and as a contribution to the credibility of the new round, the many and well-known violations of the GATT would have to be done away with. It was indispensable that standstill and rollback covered measures affecting agriculture in the light of the history of agriculture in the Tokyo Round where many countries had not achieved major results. In any possible new negotiating round it would be necessary to examine national policies and their effect on international trade. Any round should examine and negotiate agriculture in all its dimensions, production, consumption, trade, as well as the policies of those countries which maintained restrictions and waivers in the sector. Subsidies for agricultural products had severe harmful effects on efficient exporters such as his country. It would not be possible to negotiate on agriculture without facing up to this problem, and without achieving a reasonable solution thereto. The question of sanitary and phytosanitary regulations should be considered in any new negotiating round in order to avoid their use as indirect means to restrict international trade. In the last analysis, he was calling for the application of the General Agreement to agriculture, the appropriate respect of the commitments assumed by all contracting parties within the General Agreement and the recognition that agriculture should not be the object of inferior or less satisfactory treatment than that accorded to any other sector negotiated in any new round.

The representative of Turkey said that his delegation hoped that the proposed new round would permit the gradual application of GATT rules to agriculture. For too long agriculture had been treated as a separate case and too many exemptions had been accepted as normal practice. Subsidization policies in the world's principal trading entities had reached such dimensions that small producers found it impossible to compete in third country markets, while at the same time import restrictions had become more

rigid. His country had been displaced from traditional markets by a combination of quantitative restrictions and subsidies. While aware of the specificity of agriculture and the sensitivity of the issue of liberalization in this field, he did not think that the present situation could be perpetuated. Within the limits identified in the Committee on Trade in Agriculture there was real potential for liberalization. The concept of differential and more favourable treatment for developing countries, which was enshrined in the General Agreement, should be applied in a convincing manner to trade in agricultural products by improving access conditions for developing countries in the markets of the industrialized countries. As notified to the Committee on Trade in Agriculture, Turkey had autonomously dismantled many of the import restrictions applied to agricultural products. It was hoped that their trading partners would respond in a like manner.

The representative of Yugoslavia said that his delegation believed that in the agriculture sector there was a need to strengthen the effectiveness of GATT rules and disciplines, improve the terms of access to markets and bring export competition under greater discipline. In order to achieve greater liberalization of trade in agriculture it would be necessary to deal with all measures affecting market access and supplies, including measures maintained under exceptions or derogations and conceived as temporary measures. As far as market access was concerned, there was a special need to eliminate the cumulation of various restrictive measures imposed by developed countries on the same agricultural product. High tariff rates, quantitative restrictions, variable levies, minimum import prices, etc., had the effect of a virtual prohibition of imports. Over the last few years there had been an escalation of subsidies in the developed countries with harmful effects on international trade and the interests of other trading partners. These developments demonstrated the need for strengthening GATT rules and disciplines in the area of subsidies on agricultural products. It would be advisable to regulate subsidies imposed by developed countries in agriculture in such a way as to permit the achievement of economic, social and other internal goals, and prevent the use of subsidies as a way of gaining special advantages in international markets, or as an instrument of indirect protection against imports. One of the priority goals should be to eliminate the damaging effects to the trade interests of developing countries of the export subsidies applied by developed countries. The development, financial and trade needs of developing countries should be fully taken into account in the negotiating process on agriculture, in order to materialize in concrete terms the principle of differential and more favourable treatment.

The representative of Brazil recalled that in drawing up the Work Programme and priorities for the 1980s, the Ministerial Declaration of 1982 had set up three objectives regarding agriculture: to bring agriculture more fully into the multilateral trading system by improving the effectiveness of GATT rules, provisions and disciplines; to seek to improve terms of access to markets; and to bring export competition under greater discipline. The inclusion of these three objectives in the Work Programme reflected the general view of contracting parties that the GATT had not succeeded in substantially liberalizing trade in agriculture despite major efforts in successive negotiations. Trade policy in agriculture in many instances had been conducted outside GATT rules and disciplines even in the

modified form that they applied to agriculture. In consequence, access had become increasingly restricted, conditions of competition had been distorted and the increasing direct and indirect costs of support and protection had become a major source of concern to all governments, mainly those of developing countries. All these circumstances had adversely affected the agricultural exports of developing countries, which in many cases were essential to their economies. Although the major trading countries had reiterated their intent to preserve and strengthen the multilateral trading system, no concrete action had been forthcoming in the trade of agricultural products. Thus, while new and more restrictive measures were applied to the exports of manufactured goods of developing countries, the exports of their traditional agricultural products faced an increasing discriminatory competition in international markets. Sugar was a clear case in point. Due to policies of heavy subsidization, the European Communities had evolved in a few years from a position of substantial importer to that of the main exporter in the free trade market and in so doing had precipitated a steep decline in sugar prices. Any new round of multilateral trade negotiations should take all these facts into account. During the last two years, the Committee on Trade in Agriculture had carried out work in identifying problems and difficulties in the agricultural sector as well as in prescribing practical solutions to them. The in-depth discussion of these solutions had, however, represented modest progress, for it had been held that progress could be possible only in the context of wider trade negotiations. It was cause for regret that, as a number of developing countries stated last June, "new themes alien to the jurisdictional competence of GATT are being systematically promoted at the expense of the central area of respo. ibility of the General Agreement". The agricultural sector, an area of vital importance for a great number of contracting parties, should be included in any proposed new round of trade negotiations. The set of recommendations prepared by the Committee on Trade in Agriculture and approved by the CONTRACTING PARTIES in November 1984 could be seen as a broad and comprehensive basis for negotiations. Any trade negotiations would have to deal with the problem of subsidies, taking into account the difference between the impact of subsidy policies applied by developed countries and the effects of export assistance applied by developing countries. In some developed countries, a number of Government-financed programmes such as support programmes and schemes in the agricultural sector were, in fact, a disguised form of subsidization. With regard to export subsidies, the difference between the objectives of the developed countries and those of developing countries in applying those subsidies should be considered. The ineffectiveness of the rules on subsidies seemed to have acted to encourage the use of subsidies by an increasing number of countries. In many instances developing countries had been compelled to resort to subsidies in order not to be excluded from markets by heavily subsidized exports from competing developed countries. Having this in mind, the proposal for a broadly-based prohibition, with limited and well-defined exceptions, on direct export subsidies and other forms of export-related assistance deserved careful consideration. The question of market access was closely linked to the establishment of firm credible commitments by all contracting parties on standstill and rollback measures. The strengthening of the disciplines of the General Agreement as applied to agriculture should contribute to enlarge market access for agricultural products inasmuch as all quantitative restrictions and other related measures would be brought

under effective GATT surveillance and discipline. Although allegedly justified by the specificity of the agricultural sector, all exceptional measures such as those maintained under waivers, protocols of accession and pre-existing legislation should be the object of examination in a possible new round of trade negotiations. On different occasions views had been expressed that exceptional circumstances led the CONTRACTING PARTIES to grant a waiver to the United States on its Agricultural Adjustment Act in 1955. It had also been stressed that the conditions under which the waiver was granted no longer existed. In this context it would seem appropriate and desirable that the United States Government indicate its determination to accept a phasing-out of import controls in the agricultural sector adopted within the context of the waiver granted by the CONTRACTING PARTIES in 1955. A willingness on the part of the United States to move on this question would undoubtedly be a relevant element in wider efforts to obtain greater discipline in agricultural trade and would be a positive contribution for the creation of a proper climate for any negotiation to be started in that area.

The representative of Austria said that he agreed with the representative of Finland that the problems of trade in agricultural products needed a comprehensive solution. The starting points were the Ministerial Declaration of 1982 and the Decision adopted by the CONTRACTING PARTIES at the Fortieth Session. He recalled, however, that Austria had also made a reservation at the Ministerial session in 1982. He stressed once more that the specific characteristics and problems in agriculture mentioned in paragraph 2 of the Ministerial Declaration on Trade in agriculture and already explained in different GATT fora had to be taken into account. The agricultural sector was much more than production, trade and consumption. Social, regional and other problems, even environmental problems, of the industrialized countries which were of high priority to the governments and population of the industrialized countries had to be taken into account.

The representative of Spain emphasized the importance attached to the inclusion of agricultural products in the new negotiation. All contracting parties should participate in the negotiations on agriculture which should cover all agricultural products. This was a subject where work had been carried out since 1982 in the Committee on Trade in Agriculture. All throughout this work his delegation had expressed the opinion that this was not a simple problem by virtue of the special characteristics of agriculture as compared with other sectors of the economy, and because of a great variety of phenomena peculiar to agriculture itself. In this sector there were large and small producers, countries with extensive and intensive agriculture, specialized products and markets, etc. There was also a great disparity in national policies and the resulting trading systems. Spain's agricultural policy was conditioned by a number of structural, climatological and social factors as well as by certain fundamental objectives such as ensuring adequate food supply to the population and a reasonable standard of living to the farmers. In this sector it was necessary to have as large a negotiation as possible which should be approached with good will, maximum understanding and a spirit of compromise.

The representative of Hungary said that in connection with the objectives of a proposed new round of multilateral trade negotiations, his delegation had stated that one of the aims should be to bring sectors which escaped GATT disciplines at present under effective multilateral rules. One of the sectors in question was agriculture. To bring agriculture fully into the GATT system implied establishing new, fair, effective and predictable rules on measures such as quantitative restrictions, variable levies, voluntary export restraints, etc., affecting access to markets. These rules should result in a greater liberalization in trade of agricultural products. Similarly, improved rules and strengthened disciplines were needed in the field of subsidies. Improved terms of access to markets and fair competition in agricultural trade would put an end to the present imbalance of rights and obligations under the General Agreement which was detrimental to the efficient producers. These producers, many of them small countries, were denied their main comparative advantage. In implementing the tasks laid down in the Work Programme of 1982, and in the Decision by the CONTRACTING PARTIES at the Fortieth Session, the Committee on Trade in Agriculture had established a solid framework for negotiations.

The representative of Egypt recalled that agriculture had been one of the prominent subjects in the Tokyo Round, though the results had not been positive. The 1982 Ministerial Declaration had established the Committee on Trade in Agriculture which had carried out some useful and positive work. It was hoped that the proposed new round would find certain acceptable solutions for problems of agriculture. As an exporter of certain agricultural products, trade liberalization and access to markets were of particular interest to Egypt with regard to the products exported. On the other hand, there was the food security aspect which had been mentioned by the representative of Japan. Egypt was also a developing country importer of agricultural products necessary to the nutrition of the population.This aspect had deep social implications. He was hopeful that any future discussion on the proposed new round, besides the interests of the exporters, would also take into account the interests of developing countries importers of agricultural products. This would be an equitable approach to any further discussion of this subject.

The representative of Chile said that agriculture was the arena in which the success or defeat of free trade would be determined. Something very odd had happened on this topic where those delegations which had been in favour of a new round did not seem to be disposed to extirpate protectionism where it constituted the greatest threat - namely, agriculture. A new round could not be successful if the privileged countries did not renounce their waivers, terminated their subsidies and protectionism, and modified their administrative and phytosanitary requirements. Many inconsistencies in the positions of delegations had become apparent from the discussions on agriculture. Chile considered that any new round must take into consideration certain basic principles. First, the agricultural sector must be fully incorporated in the GATT rules and disciplines. Thus it would be necessary to supplement existing provisions on the basis of the GATT principles in order to restore the balance of rights and obligations. Second, the work of the Committee on Trade in Agriculture offered a sound framework for negotiations to which options must be brought on export subsidies, quantitative restrictions, domestic

subsidies, variable levies, voluntary export restraints, market access, competitive conditions, subsidies on primary products incorporated in processed agricultural products, sanitary and phytosanitary regulations. Document AG/W/9/Rev.1 seemed to be an acceptable basis for negotiation. Nevertheless that document would have to include the ideas proposed by Chile in the Committee on Trade in Agriculture as recorded in the document which he had made available to other contracting parties. In addition he said that the negotiations should consider the following principles: special treatment for developing countries; renunciation of existing waivers; elimination of quantitative restrictions and other measures with equivalent effect; strengthening of obligations in regard to minimum access commitments; restrictive policies could not be justified by arguments such as the "specificity of agriculture" or "regional development" or "food security"; greater transparency in notifications, which should be made regularly; provision would have to be made for negotiations to reduce and bind tariffs applied in replacement of the restrictions eliminated; elimination of voluntary restraint agreements; and systems to solve the sanitary and phytosanitary barriers and other technical obstacles. He added that it would be necesary to elaborate transitional stages from the existing disciplines to the future rules. Any future rule or discipline must make provision for eliminating any permanent exception from the GATT rules, including exceptions deriving from the application of the GATT provisions or resulting from accession negotiations. Liberalization of agricultural trade would be beneficial not only to exporting countries but also to the consumers in those countries which applied restrictive policies.

The representative of Australia noted that most of which we had cared to say had already been said by other speakers, particularly from those delegations representing agricultural exporting countries. He would like to make a particular point, however, and that was that in these discussions there was no question of pre-conditions. His delegation had said all the way along the line that everybody should be able to go into a trade round with all positions open. If he had had the chance for pre-conditions there were two that he would have considered. One was that his delegation would not go into any discussions unless they were able to talk about liberalization of agricultural trade, and the second would have been to ban the word "specificity". There were three basic reasons for including agricultural trade and why agricultural trade should be a higher priority in the new round. The first was to correct the injustice which had been done to the principles of the GATT almost from the time that the rules were established. That injustice was two-fold. First, agriculture had been effectively excluded and secondly, the rules that existed had been distorted and corrupted over time. The provisions under Article XI on quantitative restrictions, and Article XVI on export subsidies, had been twisted out of recognition over time and had no effect. The second reason why agriculture should be fixed in the new round was that proper opportunities should be given for the market mechanisms to work. This was the fundamental premise of the open trading system on which the GATT was supposed to be based. It was time to recognize that GATT needed to open and liberalize trade in agriculture as had been done in industrial trade two or three decades ago. Any reference to agricultural trade and protection was related to domestic measures. The argument that it was necessary to protect the agricultural workforce was not new, it was used by everybody to justify having a barrier

against competing products. In agriculture, the mechanisms were the same, the costs were as much incurred by other agricultural exporters as by the protector. All countries which had barriers to agricultural trade were exacting an immensely high price in the employment in other sectors of their own economies and in the employment in the sectors of other countries. The third reason why agricultural trade should be liberalized concerned particularly the developing countries. Developing countries who were also exporters knew what had happened to their industries with the depression of the international regime on prices. A depressed international regime of market prices for agricultural products also had a severe inhibiting effect on the capacity of those other developing countries who regard themselves as food importers to develop their own self-sufficient food regimes. There was no incentive for the agricultural sector to develop and grow with products on the market produced at highly subsidized prices. This organization was not all about development and welfare, it was about organizing rules of free trade for the economic benefit of all countries. The appropriate consideration of agricultural trade in the next round would bring prospects of striking at the roots of the problems of poor international distribution of food, and insufficient food production in many countries. Liberalization should be the basic objective of any discussions on agriculture in the new trade round . The new round should not legitimize distorting mechanisms such as voluntary restraint arrangements, orderly marketing arrangements, waivers and others which had served to twist and distort international trade in agriculture.

The representative of Switzerland said that he represented an importing country which was one of the main importers of agricultural products per capita. His delegation was fully aware of the existence of problems in the field of trade in agricultural products, and as a result fully appreciated the importance of this trade in any proposed new round of negotiations. The objectives of these negotiations would of course be intimately linked with modalities. Switzerland would go along with those who would like the rules of the GATT on access to agricultural markets and on competition in this field to be more stable and more broadly applied across the board. This was an important objective for the operation of the international trading system as a whole. For his delegation the point was not to scuttle their agriculture. Delegations had to have in mind two major elements. First, that agriculture in various countries worked and produced in very different conditions. In some countries these conditions could be very hard. Another equally important element was that each country had a legitimate domestic national policy inspired by such concerns as security of supply, demographic balance, the quality of the soil, desertification, etc. With these two elements in mind the negotiations might consider whether the future rules should be the existing rules, or adapted rules, or other new rules. It was premature to go into a detailed discussion of this question because much would depend on the progress achieved in negotiations parallel to agriculture in other very important sectors, such as safeguards, subsidies, quantitative restrictions, technical regulations to trade, etc.

The representative of the United States said that the description of the United States position in document Spec(85)45 was an accurate reflection of the United States attitude with respect to negotiations on agricultural products. His delegation shared many of the objectives in this area

expressed by other delegations. Like the European Communities and a number of other delegations, in agriculture the United States faced a number of conflicting domestic political pressures which would have to be reconciled if the process of negotiations was to succeed. Agriculture was another area where there was a lack of symmetry in the trading rules and in the degree of liberalization. The United States was in favour of bringing practices in agriculture under disciplines that were similar to those governing trade in other products, particularly in the area of export subsidies. The Committee on Trade in Agriculture had established a solid basis that could serve as a framework for negotiations in this area, and which could in fact be completed only by means of such negotiations. He could certainly subscribe to the comment that problems of agricultural trade must be resolved for the new round to be considered a success.

The representative of Poland said that a more liberal trade regime in agriculture would be one of his Government's objectives in the new round. GATT disciplines for market access covering all domestic markets should be improved without disregarding the realities of the sector, and especially the food security aspect, the importance of which had been demonstrated by a negative experience of his country in recent years.

The representative of India said that his delegation fully supported the objective of liberalization of trade in agriculture along the lines of the Ministerial Decision of 1982. Some progress had been made in the Committee on Trade in Agriculture, as reflected in the recommendations adopted by the CONTRACTING PARTIES last November. But this work was in danger of losing momentum. He stressed the importance of differential and more favourable treatment for developing countries in all aspects of trade in agriculture, especially on the issues of access and subsidies, as had been recognized in the chapeau of the recommendations adopted by the CONTRACTING PARTIES. Trade in agriculture was an area which had long awaited resolution, and which had long evaded the disciplines of GATT and the multilateral trading system. This was one of the central areas of multilateral trade which had failed to make any headway, while issues of peripheral importance, and even alien to GATT were being systematically promoted. He supported the view that all waivers, exceptions contained in protocols of accession, and the pre-existing legislation should be brought under scrutiny in any consideration of this issue.

The Chairman said that he had come to the end of the list of speakers on the subject of Agriculture. He proposed that the Group take up Safeguards as the next item.

The representative of the European Communities stated that the difficult nature of the problem of safeguards could be seen from the fact that no progress on this issue had been made during and since the Tokyo Round. He felt that perhaps the approach adopted by the CONTRACTING PARTIES was not the best or most appropriate although the European Communities remained committed to the Decision taken by Ministers in November 1982. However, in order for progress to be achieved and in order for the Ministerial Decision to result in an agreement on safeguards, it would be necessary for those participating in the negotiations to avoid too dogmatic or theoretical an approach and take into account the realities of the situation. The Ministerial Decision of 1982 was still a good basis for the

continuance of negotiations. The European Communities were interested in finding a solution to the problem of safeguards, because without an appropriate safeguards system adapted to present day as well as future requirements it would be difficult, if not impossible, to ensure inter alia the return of international trade in textiles to the normal rules and disciplines of the General Agreement. He said that these matters had a certain relationship which should, however, neither be exaggerated nor underestimated.

The representative of Chile stated that the application of Article XIX needed to be spelt out in greater detail so as to avoid abuse of the provisions and discourage grey-area measures. He expressed agreement with the content of document MDF/26 which contained the statement made by the Chairman of the Council on 17 July 1985. He considered that, together with the proposal made by Brazil, it represented a good basis for further negotiation. Contracting parties could no longer put off an agreement on safeguards, because any achievement in respect of trade liberalization was in danger of being wiped out by arbitrarily applied safeguard measures. The subject had to be freed from the straightjacket in which it found itself at present. It should be discussed at length in order that full transparency was achieved. The concept of injury or prejudice should be defined and to this end an analysis should be made of the material brought out by UNCTAD on these questions. There was need to regulate retaliation and compensation and to ensure that safeguard rules had the legal quality of immediate application. In other words, once they were agreed upon the rules should be included in domestic legislation. The solution to this question should be a global one, so that all contracting parties were governed by identical rules and the present anarchy was brought to an end. The most-favoured-nation principle and globally applied rules and principles were non-negotiable. Preference should be given to the use of compensation in regard to safeguard measures; this should be compulsory when the products affected were mainly those of export interest to the developing countries as these countries were not normally able to retaliate.

The representative of Brazil stressed that progress on the issue of safeguards was most urgently needed. Under present circumstances, the absence of effective, universally applied disciplines for emergency action in the GATT, lay at the root of the proliferation of market-sharing, discriminatory arrangements that undermined the multilateral trading system and compromised liberalization efforts. A comprehensive arrangement on safeguards should therefore be seen as the objective to which the greatest priority needed to be attributed in any possible round of negotiations. As stated in document L/5818, such an agreement was fundamental to the preservation of the multilateral trading system and for securing the results of any further liberalization efforts. A special time-table would be required for ensuring that results on the issues of safeguards were arrived at expeditiously. Firm and credible commitments not to introduce new restrictive trade measures inconsistent with the GATT, and the elimination forthwith of measures not based on the General Agreement were part of the process leading to an effective handling of the safeguard issue. However, beyond dealing with the problem posed by so-called grey area measures, it was also necessary to establish at the outset that there could be no agreement on safeguards outside the strict observance of the

most-favoured-nation principle, which a very wide segment of contracting parties considered as being non-negotiable. An effective agreement on safeguards had also to be impervious to pressures from industries facing adjustment problems. There should be no relaxation of the present rules as this would make it easier for governments to yield to internal pressures. Adjustment had to proceed independently. Safeguards, which were emergency measures designed to offset, during a short prescribed period serious injury resulting from a sudden unforeseen rise in imports, could not be used to meet the longer term problem of adjustment unrelated to such sudden unforeseen rises in imports which characterize sectors such as steel, textiles and footwear in developed countries. Contracting parties could not be allowed to postpone the solution of these problems by transferring the adjustment burden to more efficient exporters. He stated that while it was up to each country to choose whether it preferred to promote adjustment through the free operation of market forces or through programmes designed to reallocate production factors, it was clear from present practices that those who defended the free operation of market forces, did not hesitate to resort to every weapon at their disposal to interfere in the free market through the introduction of measures, both within and outside GATT - a posture which, at best, might be described as contradictory. In such a context the representative of Brazil stressed that it should be agreed among all contracting parties that for new negotiations to be viable, adjustment problems in sectors which had shown a marked vulnerability to foreign competition would not be transferred abroad, either through safeguards or any other measures, particularly at the expense of the weaker economies of the developing countries. He emphasized that the less-developed countries could not, on their part, afford to seriously contemplate trade liberalization in the absence of an understanding on safeguards. The representative of Brazil observed that a special time-table would be necessary to accelerate work in this area and to ensure that a solution to the safeguard problem was reached at an early stage in any new round of negotiations. In summing-up Brazil's position, he proposed the contracting parties should agree, before the launching of the proposed new round of multilateral trade negotiations, that (a) the question of safeguards would be the first priority area to be a matter for agreement in the context of the proposed trade round; (b) the agreement on safeguards would be based on the most-favoured-nation clause; (c) the agreement on safeguards would be comprehensive, as foreseen in the Ministerial Declaration of 1982; and (d) the agreement on safeguards had to clarify and reinforce the disciplines of Article XIX and should become an integral part of the General Agreement.

The representative of Pakistan expressed support for the position set out by the representative of Brazil. He also believed that the problem of safeguards was of central importance to the GATT and that unless it was resolved any talk of strengthening the GATT or restoring the credibility of the GATT system would remain meaningless. It was also important to ensure the so-called integration of developing countries into the GATT system. He recalled that in 1982 the Ministers had identified the issue of safeguards as a major priority area, and stressed that it should continue to be so in the proposed new round. He further recalled that in 1982 the Ministers had given clear instructions in regard to drawing up a comprehensive understanding on safeguards. He felt sure that when the Ministers met again they would like to know what progress had been made in this direction. He was of the view that Article XIX had been basically devised in the context

when trade was, by and large, regulated through tariffs. After the passage of that phase and with the increasing trend of using quantitative restrictions and other non-tariff measures as protective devices, there had emerged a need to address the issue of safeguards in a broader context so that various problems, including the problem of grey area measures and the problem of textiles could be tackled in a definitive and fruitful manner. It had also to be remembered that over the years whatever disciplines did exist in Article XIX were either systematically sidetracked or misused, resulting in the evasion of the most-favoured-nation principle which was the centre-piece of the GATT. The representative stressed that the time had come to address the problem in a comprehensive manner as such an approach would also lead to solutions to existing sectoral problems, the problem of quantitative restrictions and other problems which had bedevilled the GATT. He further suggested that in addressing this issue in the proposed new round, contracting parties should take into account the level of agreement they had reached since 1982.

The representative of Canada considered the problem of safeguards as being central to the challenges facing the international trading community. He felt that the question related directly to how countries should adjust to rapidly changing conditions in the international economy, and also to how they would deal with the difficulties created by these changes in a fair and balanced manner. A comprehensive understanding on safeguards was central also to the kind of framework that would be required to govern a mutual trading relationship if the GATT were to respond adequately to the trade problems of the 1980s and the 1990s. The representative of Canada stressed that safeguards should be a major priority area for the proposed new round. In Canada's view, an integrated, international understanding on safeguards, providing secure and predictable access to markets was necessary to maintain a reasonable degree of confidence in the business community in order to justify major new investments in international markets. Canada was prepared to join other participants in any new round of negotiations in approaching the question of safeguards with a sense of shared responsibility and common interest in developing rules that would be practical, effective and equitable. Contracting parties needed something that would work and to which all contracting parties could be fully and equally committed. Canada believed that efforts in this area must reflect the extensive degree of integration of the international marketplace and the interdependence of the economies of contracting parties. As pointed out in Canada's submission, L/5834, and summarized in Spec(85)45, the elements identified in the GATT discussion needed to be dealt with, and Canada was prepared to join others in taking a fresh look at the fundamental issues involved.

The representative of Sweden, speaking on behalf of the Nordic countries, believed that all contracting parties were agreed that the issue of safeguards was central to the GATT. In the Nordic view, the question of safeguards had to be a priority area in efforts to strengthen the multilateral trading system and to restore faith in the GATT itself. Despite arduous work, not much progress had been accomplished. A comprehensive understanding in accordance with the 1982 Ministerial Declaration was still far away. In the absence of any solution, contracting parties tended to solve their trading problems by making agreements or arrangements outside the GATT system, with all the regrettable consequences

for the credibility of GATT. It had become increasingly evident that progress in this area was only possible within the framework of negotiations, and the proposed new round provided the proper context for such progress. Contracting parties were aware how difficult it was to find a solution, but one of the primary objectives of the proposed new round should be to come to grips with this elusive issue with the aim of restoring to GATT its central role in regard to regulating different forms of safeguard measures. The representative stressed that the incentives to act outside the GATT would have to be curtailed and a first step should be to improve the multilateral discipline in the area of safeguards. Elements like transparency, surveillance, time-limit and degressivity would have to be addressed. The GATT machinery would have to be strengthened in regard to surveillance, follow up and examination of safeguard measures taken by different countries. All forms of such measures should be examined including orderly market arrangements and the so-called voluntary export restraint undertakings. The representative acknowledged that the problems in this area were very complex and it was important to embark upon this work in a pragmatic way.

The representative of Spain recalled that the question of safeguards had been under consideration in GATT for many years and that even though the subject was one of great importance, a solution during the Tokyo Round was not possible owing to an absence of consensus among contracting parties. Work had continued to date, but it was still not possible to see the end of the road. Spain considered that safeguards should be a substantive issue of negotiations and that negotiations in this area should be carefully prepared and the problem dealt with realistically. At times it was possible to have doubts as to whether or not trading nations had a real will to make meaningful progress. It was time to shake off negativism and think positively in the context of the proposed new round. In the view of the Spanish representative, the new round of negotiations may well prove to be the last opportunity to reach an agreement in this area.

The representative of the United States stated that during and since the Ministerial Meeting of 1982, his delegation had sought to bridge the gap that separated the different views on the issue of safeguards. The initiatives that the United States took at the time of the Ministerial Meeting and later in advocating an approach based on a series of building blocks did not unfortunately succeed in building a consensus to resolve this issue. Like others, the United States believed that an agreement on safeguards was an essential underpinning of the GATT system. For contracting parties a willingness to adhere to agreed rules for emergency action was necessary if negotiated trade concessions were to have any meaning. Moreover, without clear rules that were adhered to by all, the necessary structural adjustment of the national economies of contracting parties would be impeded. As generally acknowledged either explicitly or implicitly, there was a relationship between a discussion on standstill and roll-back and the resolution of the safeguards issue. The submission of the United States in document L/5846 recognized this link and suggested that a broad approach to this matter based on the principles of transparency, surveillance, limited duration and degressivity offered a practical way for moving forward.

The representative of Japan regarded the question of safeguards as being the key element for preserving the multilateral trading system. Japan attached great importance to finding a solution to the question and hoped that within the framework of the proposed new round of negotiations a comprehensive understanding on safeguards would be achieved along the lines suggested in the Ministerial Work Programme of 1982. The Japanese representative stated that in the meantime it would be worthwhile to work towards a transitional or interim agreement based on some relatively less controversial elements such as a temporary nature, degressivity, transparency and surveillance while simultaneously accumulating information on these questions as they related to existing practices in the safeguards area. It should be understood that measures which were not in conformity with the General Agreement would not be provided a legal cover under such an interim agreement.

The representative of Argentina considered the subject of safeguards as being a major priority area which required urgently tackling by the contracting parties for the strengthening of the multilateral trading system. He supported the statement made on this subject by Brazil. He further stressed that safeguard measures should be of an emergency nature and that the provisions of Article XIX should not lose their general character. He considered that there already existed important elements to enable a definitive handling of this subject, for example the conclusions of the Chairman in respect of consultations held by the CONTRACTING PARTIES during 1984 and the suggestions advanced by certain developing countries and submitted by them in writing during the consultations in 1985. Argentina supported the concepts contained in document L/5818. Argentina also considered that the most-favoured-nation principle was not negotiable in respect of the application of Article XIX. It was also necessary to define realistic parameters for the establishment of injury, to ensure the degressive nature of safeguard measures as well as to ensure their short-term non-renewable character. Any action in the field of safeguards should start with the elimination of measures which were not in conformity with the General Agreement. Any understanding on Article XIX would have to be binding on all contracting parties and could not be assumed as an obligation to which only a limited number of countries were subject.

The representative of Korea stressed the importance of the question of safeguards inter alia in the background of proliferating grey area measures and other actions taken outside the framework of GATT. He stated that the issue of safeguards should be examined not only in the context of Article XIX but also in the broader context of the upsurge of protectionism in recent years. The representative also felt that it was not so much a question of tightening or loosening the rules for the application of safeguard measures as the need to ensure dynamism and flexibility to ensure that the requirements of the market were met realistically so that safeguard measures were not invoked to suffocate or terminate or suspend the liberalization process which contracting parties hoped to set in motion through the proposed new round. The most important element requiring examination was degressivity. The representative stressed in this context that an important goal of the proposed new round was to stimulate and accelerate growth in the economies of developing countries. It followed from this that the special needs of the developing countries should be kept in view in the application of safeguard measures. The representative of

Korea was optimistic that a satisfactory arrangement on safeguards could be worked out in the context of existing GATT provisions like the most-favoured nation principle and the Enabling Clause which would also serve to accommodate the need of the developing countries for sustained economic development and growth.

The representative of the United Kingdom speaking on behalf of Hong Kong expressed support for the positions set out by the representatives of Brazil and Pakistan. The question of safeguards lay at the core of many of the problems which were now apparent in the world trading system. A solution in safeguards would probably cause many of the problems which were outstanding to fall into place. The need for an understanding or agreement on safeguards had long been recognised and work had been proceeding towards that end for quite a number of years. The representative felt that the question must now be addressed as a priority item, preferably ahead of other negotiations since there could be no linkages or trade-offs between this subject and the other subjects for negotiation. Any agreement on safeguards could only be based on the most-favoured-nation principle which had rightly been seen by many delegations as being non-negotiable as it was the fundamental basis of the GATT system and could not be compromised. Moreover, any understanding on safeguards would have to be on a comprehensive basis relating to the reinforcement of Article XIX and the elimination of the so-called grey area measures. It should apply without discrimination among contracting parties. The individual elements which would be necessary in a comprehensive arrangement had been suggested in the annex to the report on safeguards made by the Chairman of the Council to the fortieth session of the CONTRACTING PARTIES (MDF/4). An agreement on safeguards applicable only to a limited number of contracting parties would not be satisfactory. To ensure general application it would be preferable to proceed along the lines suggested by Brazil by means of a formal amendment to the General Agreement.

The representative of Yugoslavia considered that the question of safeguards was a priority subject to be addressed in the proposed new round of negotiations. The solution of the longstanding safeguard problem would be the fundamental contribution to attempts by the contracting parties to preserve, strengthen and improve the multilateral trading system. A proper safeguard system was also essential for the preservation of the results of previous trade liberalization as well as the expected results of the proposed new round. Yugoslavia was therefore convinced that the contracting parties should devote every effort to achieve a comprehensive understanding on safeguards as set out in the Ministerial Declaration of 1982. The informal consultations on safeguards over the last three years have shown that there was a convergence of views on some relatively less controversial aspects such as transparency, surveillance, temporary nature and degressivity. The representative considered that in this field the contracting parties should not limit themselves to partial solutions and that a comprehensive agreement, based on the principles of the General Agreement, was needed covering all aspects of the problem. In the context of safeguards attention should be given to the identification of objective criteria for emergency action. Of special concern in the connection was the criterion of injury. There was also need to reconsider recourse to safeguard measures in the context of a threat of injury. Safeguard measures should not be used in order to solve longer term problems. They should

facilitate rather than hinder the adjustment to changes in the structure of international trade in the context of a relative comparative advantage. Bearing in mind that the issue of safeguards was of essential importance for the future of the multilateral trading system, a comprehensive agreement on safeguards should be made applicable to all contracting parties. In this respect consideration should be given to possible legal solutions.

The representative of Australia agreed that the 1982 Ministerial Declaration provided a good starting point for developing a comprehensive understanding on safeguards. He also felt that a comprehensive understanding on the use of safeguard measures was the foundation stone for building and maintaining an open trading system. Only if there was a return to the principles of Article XIX would bound tariffs and exhortations to bind tariffs make any practical sense. The representative of Australia agreed with the delegation of Brazil that a comprehensive agreement must be based on the most-favoured-nation principle and that any understanding on safeguards must be uniformally applicable to all contracting parties. He believed that a comprehensive understanding was the only practical way to ensure that importing countries did not avoid structural adjustment. The avoidance of structural adjustment would place a major obstacle in the path of the multilateral trading system and introduce a major impediment to the operation of competitive forces in world trade.

The representative of India recalled and expressed support for the earlier interventions made by the delegates of Brazil, Hong Kong, Argentina, Pakistan. He felt that the points made by these delegations merited repetition particularly in view of the fact that contracting parties had not yet achieved their objective over the last ten years. The unfinished business of safeguards should be the central issue of utmost priority in any new round. It was necessary to realize that apart from the obvious reasons such as the need to have a clear understanding and discipline in regard to safeguards to preserve the multilateral trading system and to secure the liberalization that has been attempted in the past, the way the disciplines of Article XIX had been applied and the discriminatory manner in which safeguard measures had been introduced had caused the concept of special and differential treatment for developing countries to stand on its head. This made it all the more important to ensure that the application of safeguards was on the basis of the most-favoured-nation principle. Only this would enable the elimination of the basic deficiency and inequity which has characterized the application of safeguard measures in the past. The other reason for giving priority attention to this area was that the process of liberalization in a vital sector such as trade in textiles and clothing was being delayed because of the absence of effort and will on behalf of the contracting parties to come to a clear comprehensive understanding in regard to safeguards. Because of the critical nature of the problem and because of its widely recognized importance, it was necessary to handle the issue in a comprehensive and complete manner. Any approach based on attempting the easy aspects first and leaving the more central and crucial aspects for a later stage would not work because contracting parties would then only be beguiling themselves. The aim should be a complete, concrete and comprehensive solution to include the principle of non-discriminatory application and the temporary nature of these measures. There should also be a plan to phase out all measures that have accumulated over the years and gradually diminished the functioning of the multilateral system, and which

have progressively reduced the area of world trade which is open and based on free competition.

The representative of Switzerland reiterated the position of his government that the operation of the safeguard clause in an equitable and appropriate manner was a priority element for updating and strengthening the international trading system which was the objective of the proposed negotiations. Recalling that little or no progress had been achieved over the last decade or so, the representative of Switzerland wondered whether [illegible]ies should ask themselves the reasons for failure and [illegible]d not been caused by the fact that the question had not [illegible]ressed. Recent years had witnessed the adoption of [illegible] which ran counter or were alien to the General Agreement. [illegible] because such measures became necessary in situations which [illegible]ered for by the provisions of the General Agreement, in [illegible]icular Article XIX thereof. This was not to advance any argument for the legitimization of illegal measures or the institutionalization of measures hitherto not covered by the General Agreement but to point to the necessity of reestablishing truly functional rules in the area of safeguards. Negotiations would have to take account of situations which arise in the real world. They should aim at covering such situations appropriately so as to ensure that the reaction of contracting parties in those situations would be to apply generally agreed disciplines. It is only then that concepts like transparency, surveillance and degressivity would take on real meaning. Surveillance without rules, without criteria, without agreed yardsticks for assessment was meaningless. If the behaviour of governments was to become more uniform and predictable, it was also necessary to have acceptable rules to govern surveillance. The question of safeguards was a priority matter and the time had come to take it up in a fundamentally different manner.

The representative of Czechoslovakia stated that the position of his authorities on the subject of safeguards had been clearly expressed at the Special Session of the CONTRACTING PARTIES. He went on to underline that for Czechoslovakia the question was a key issue for the proposed new multilateral trade negotiations. The benefits of any trade liberalization would be undermined in the absence of a comprehensive international understanding on the use of all forms of safeguard measures. The first stage should be the elimination of all discriminatory grey area measures as these represented a major departure from the most-favoured-nation principle of GATT. He supported the return to the principles of GATT Article XIX in the exercise of safeguard measures with due recognition to the application of the most-favoured-nation principle, non-discrimination, transparency, injury, compensation and retaliation.

The representative of Austria attached great importance to a generally acceptable solution in the field of safeguards. The growing number of safeguard measures was of special concern for smaller countries like Austria who depended substantially on foreign trade. Despite the difficulties still prevailing in finding an improved and efficient safeguard system, every effort should be made to come to a comprehensive understanding as envisaged by the Ministerial Declaration 1982. Such a solution was imperative in view of the fact that negotiations had continued for several years without success. Austria believed that a global solution had a better chance of

being achieved in the broader framework of the proposed new round of negotiations. In this context, the special problem of the so-called grey area measures needed urgent attention.

The representative of Uruguay expressed support for the position of a number of developing countries on safeguards set out in L/5818. He agreed with the view that the most-favoured-nation principle was not negotiable. Undue use of safeguard measures had seriously weakened the General Agreement. The question of safeguards was therefore a matter of priority attention in any new negotiation. Circumstances demanded the establishment of a satisfactory mechanism to ensure that safeguard measures were applied on a temporary basis and in a fair equitable and transparent manner. Protectionist measures which had been permitted due to a lack of clarity in this area had caused prejudice to the trade of developing countries, Uruguay included. It was therefore necessary to have an agreement on safeguards which was based on Article XIX of the General Agreement and which would enable contracting parties to eliminate once and for all the so-called grey area measures which were a common concern. The 1982 Ministerial Declaration contained a self-contained programme of action and this should be the starting point of the exercise in the proposed new round.

The representative of Singapore, speaking on behalf of the ASEAN countries, stated that the importance of the issue of safeguards could not be overemphasised. It was perhaps the main priority issue to be addressed and resolved in any new round of negotiations if the trading system was to be strengthened. The importance of safeguards permeated to all sectors of trade especially those of interest to developing countries. Since the Tokyo Round the ASEAN group of countries have insisted that the solution of safeguards should be based on the most-favoured-nation principle. No deviation from this most basic principle of GATT could be accepted even in the proposed new round. The ASEAN countries favoured a comprehensive agreement on safeguards as a solution to the problem. While partial and piece-meal solutions appeared attractive and more feasible, they should be avoided as they increased the danger of weakening the most-favoured-nation principle. They also ran the risk of providing a legal cover to the large number of existing measures which were not in conformity with the General Agreement.

The delegation of Peru stated that the subject of safeguards was of common concern to all contracting parties. It was necessary to come to an agreement, especially at a stage when contracting parties were discussing a possible new round of negotiations. Any agreement on safeguards had to be based on the most-favoured-nation principle of the General Agreement which was not negotiable. The agreement should be a global one, applicable to all contracting parties. The 1982 Ministerial Declaration contained the basic elements. There should be a clear definition of the concepts of prejudice and injury. The concept of threat of injury should not feature in any agreement on safeguards as it was likely to lead to distortions and become a pretext for the application of protectionist measures. There should be a return to a proper balance of the rights and obligations of Article XIX. As pointed out in document L/5818, any agreement on safeguards must contain the elements of transparency and degressivity.

The representative of Egypt endorsed the statements of Brazil and other developing countries. He recalled that the subject of safeguards had been

considered in the Tokyo Round although no solution acceptable to the contracting parties had been possible. The same fundamental differences of opinion that existed among contracting parties had also prevented an agreement on a comprehensive understanding. He expressed support for need to reach a comprehensive agreement based on the provisions of the General Agreement that would ensure full protection for the rights and interests of the developing countries and the elimination of all selective and discriminatory measures adversely affecting their trade interests. In the areas of compensation and retaliation the special position of the developing countries position deserved to be recognized and given due regard.

The delegation of Hungary stated that disciplines pertaining to safeguards were a major support to the international trading system. In the absence of disciplines in this area any effort aimed at strengthening the multilateral trading system or liberalizing trade was bound to fail. If contracting parties recognized that the common purpose was to maintain and strengthen the open trading system based on the GATT, the basic principles of which were the most-favoured-nation clause and the principle of non-discrimination, it was obvious that any safeguards machinery could only be based on these same principles. The so-called "building blocks" approach or any other negotiating method made it essential for contracting parties to have the unequivocal prior agreement on these principles and their validity for the application of all kinds of safeguard measures. Once these principles were accepted by all contracting parties, an attempt could be made to reach consensus on the various individual elements of a comprehensive agreement such as duration, degressivity, transparency and surveillance. Once discipline had been restored it should be understood that no measure should be adopted outside the General Agreement. The so-called grey area measures should be abolished gradually, in accordance with a mutually agreed and reasonably brief time-table.

The representative of Zaire supported the position of Brazil on safeguards. He felt that special attention should be given to the problem and that in the framework of future negotiations contracting parties should seek a comprehensive and global solution, binding on all contracting parties. He stated that a code on safeguards would not be acceptable to Zaire. The abuse of safeguards measures had hampered Zaire's trade in the past. Liberalization of trade was not feasible unless contracting parties found an acceptable solution in the area of safeguards.

The representative of Malaysia saw a definite and distinct correlation between the failure of contracting parties to adhere properly to the safeguards clause in the General Agreement and the phenomenon of increasing protectionism either within the GATT or outside its ambit. It was relatively simple to discern contracting parties taking certain measures in the context of GATT were within their rights under the General Agreement. However, even in such cases, there could be cases where measures taken, for instance, to protect so-called domestic industries continued much longer than warranted. This went against the very grain of the principle of temporary assistance. The guidelines contained in the General Agreement for the continuance of such measures were too ambiguous and left too much room for arbitrary interpretation. This pointed to the need for a clearer understanding of the circumstances which would permit countries to initiate safeguard action. As for measures taken outside of GATT, contracting

parties who were partners in voluntary export restraint arrangements or orderly market arrangements could argue that they were acting between themselves and were not bound by any GATT obligations and further that the rights of other contracting parties were not affected as the General Agreement did not apply in these cases. However, in actual fact, this only accentuated the problem as it gave the stronger trading partners the freedom to pursue such undertakings at will without taking into consideration the position of the weaker partners. This, unlike the General Agreement, was the law of the jungle in operation. All this had an important bearing on the question of safeguards. It was in this context that Malaysia attached importance to the evolution of a comprehensive agreement on safeguards based on the principles of transparency, coverage, objective criteria, temporary nature, compensation and notification. Malaysia believed that as a first step towards the attainment of a comprehensive understanding, a standstill on all new measures outside Article XIX should be initiated and existing measures should, where necessary, be replaced by tariffs in order to bring about increased transparency. Countries affected should undertake necessary structural adjustment and measures taken outside the GATT should ultimately be phased out in accordance with a predetermined time frame. Malaysia firmly believed that any measures of a safeguard nature should be taken on a most-favoured-nation basis.

The representative of Argentina referred to the exchange of views that had taken place and said that his impression was that there had been no major objection to the views voiced by most developing countries on the necessity to have any safeguard agreement based on the most-favoured-nation principle. He hoped that his impression was correct and would be duly reflected in the records of the meeting.

The representative of Switzerland could agree that this seemed to be an impression which was widely shared in the Group but he expected that the records will faithfully reflect the views as they had been actually put forward.

The representative of Cuba stated that establishment of a safeguard system should be based on the non-discriminatory principles of the m.f.n. clause and on the elements and basic principles of the General Agreement. Cuba also considered that an agreement on safeguards should take into account the principle of special and more favourable treatment for the developing countries.

The Chairman invited statements on dispute settlement.

The representative of the European Communities recalled that their position was well known and had been set out in Spec(85)45. He noted that the GATT dispute settlement system had been very often, if not always, misused and he doubted whether it was possible to strengthen the GATT through strengthening the dispute settlement mechanism.

He noted that dispute settlement was originally conceived to conciliate but never to clear up ambiguities and certainly not to try to solve problems caused essentially by diverging interpretations. He considered that the use of the dispute settlement mechanism to settle basic divergences of interpretation was condemned to failure unless the GATT developed into a

tribunal. The dispute settlement mechanism should not be used to solve problems which the CONTRACTING PARTIES were themselves incapable of solving. He noted that the question of interpretation of certain GATT provisions such as Article XVI or Article XXIV, should not be solved through the dispute settlement mechanism but rather, ultimately, through negotiations.

He said that the Community was, nonetheless, quite willing and prepared to explore any manner in which the dispute settlement system of GATT could be improved.

The representative of Hong Kong said that dispute settlement was an important subject which ought to be addressed as a major element in the process of restoring confidence in the operation of the multilateral trading system. He noted that among the problems which had arisen from time to time in the operation of the GATT dispute settlement mechanism one should mention delay at various stages of the procedure, difficulties with the adoption by the Council of panel findings and occasionally even lack of compliance with Council recommendations. He agreed that procedures could always be improved and that no effort should be spared to do so, but more importantly he saw the need for a higher level of commitment on the part of contracting parties to abide by the results of the dispute settlement procedure. He said that some contracting parties seemed to adhere to the belief that conciliation should be the prime objective while others would prefer a more legalistic, certain and binding procedure. He said that in any event, the basic aim of any dispute settlement mechanism must be to settle disputes, and in order to improve the existing mechanism's success rate at settling disputes, a number of ideas that had alreaady been identified would need to be implemented, namely, measures designed to reduce delay, increase surveillance and prevent obstruction in the process. There was also the need to ensure that smaller and weaker parties could invoke the dispute settlement mechanism in the confidence that an equitable solution was obtainable even against much larger and more powerful parties.

The representative of Romania said that the statement appearing in the Ministerial Declaration of 1982 on dispute settlements still applied. It said that the memorandum of understanding on notifications, consultations and dispute settlement and surveillance which was negotiated during the Tokyo Round defined the framework of procedures for settlement of disputes among contracting parties and that no major changes were required. In his opinion, the point was not how to reinforce existing rules, but rather how to apply them effectively. Therefore, the proposed new round in this particular field should first and foremost try and arrive at an undertaking by all CONTRACTING PARTIES to respect the existing rules and to abide by the provisions of the General Agreement in this field. He also said that the proposed new round should try to improve the existing mechanism of dispute settlement.

The representative of Norway, speaking on behalf of the Nordic countries, said that an efficient application of GATT rules was of particular interest to contracting parties having limited individual bargaining power and that on this background the Nordic countries attached great importance to the functioning of the dispute settlement mechanism in GATT. He noted that this mechanism played a decisive r_le in obtaining compliance with GATT obligations by securing reciprocity and a balance of rights and obligations between contracting parties.

In his view, there was still room for improvement in existing dispute settlement procedures in GATT, even though they had served their purpose fairly well. In disputes where this had not been the case the fundamental problem had not so much been related to the procedures as such but rather to a lack of will on the part of the contracting party or parties concerned to follow the procedures and/or to accept and implement recommendations or rulings adopted by the Council. He considered that no procedural changes could fully compensate a lack of will to make proper use of GATT's dispute settlement mechanisms. However, the Nordic countries still believed that it would be of value to seek further improvements of existing procedures in order to make them as efficient as possible. In this regard, he welcomed the decision to establish a roster of non-governmental panelists and to introduce more precise deadlines to help secure speedy formation of panels and an early completion of their work. He also said that the proposals to insert a regular but speedy conciliation phase before panels were established deserved further reflection. He recalled that in cases were less-developed countries were concerned there already existed a decision by the CONTRACTING PARTIES from 1966 which foresaw the procedure whereby the Director-General, acting in ex-officio capacity, might use his good offices with a view to facilitating a solution to the dispute.

He concluded that the Nordic countries were ready to explore any well-founded proposal as to how the GATT dispute settlement mechanisms could be strengthened and made more efficient.

The representative of Nicaragua said that the dispute settlement system in GATT had been operating defectively owing to the fact that when disputes arose between a developing and a developed contracting party the developed contracting party did not comply nor had it the political will to comply with GATT recommendations. He said that it was necessary to have machinery for dispute settlement which would be able to protect the rights of all contracting parties equally and to ensure greater equity. He also noted that there was a proposal forthcoming from Nicaragua to improve the dispute settlement system in GATT.

The representative of New Zealand said that the proliferation of trade disputes in recent years had put a considerable strain on the General Agreement's dispute settlement process and recognized a need for the GATT to deal with a fundamental problem of non-implementation by contracting parties of panel findings adopted by the Council. While recognizing that the GATT lacked an effective instrument of enforcement similar to that at the disposal of the IMF, he agreed that the proliferation of disputes could not itself be ascribed simply to a failure of the dispute settlement procedures process. Rather it pointed to an unwillingness of parties to abide by GATT principles. He said that any technical improvements should be generated in the context of a more fundamental recommitment to GATT principles emerging out of a new round of negotiations.

The representative of Uruguay said that the dispute settlement procedure had been badly used and that undue delay had been observed in connection with the dispute settlement as well as non-compliance with its findings. He noted that the developing countries requested the introduction of improvements in dispute settlement procedures in order to attain greater equity thus ensuring better protection of their rights. He said that there

was a marked imbalance between the content of the General Agreement, the obligations deriving therefrom and the machinery which existed with a view to ensuring compliance with these obligations.

The representative of Chile said that a system of defined rights was more important for weaker countries than for stronger ones. An acquired right enabled a country to require another country to give, do or not do something. He said that the counterpart of a right was an obligation, that is, the necessity for a country to give, do or not do something in respect of another country. He said that the key element for rights and obligations to exist was eligibility to claim. For example, if one said that he was the owner of something, in other words that he had a property right in something, but was not in a postion to require the fulfillment and recovery of that thing, then in reality a right did not exist in the legal sense. Accordingly, he considered that GATT provisions, and the rights and obligations that they represented, were a dead letter unless there existed an appropriate mechanism for redress. There must, therefore, be a mechansim allowing contracting parties to require a correct and effective application of the General Agreement. Disputes requiring settlement should ultimately come before a body which safeguarded affected rights and obliged a non-complying contracting party to abide by a decision. He said that the dispute settlement mechansim should be global, and be used to resolve all issues raised in GATT. This implied some adaptation of existing mechanisms. He added that a defining feature of the European Communities, legally speaking, was the existence of legal entity which interpreted treaty provisions in a uniform manner, and which was respected by the member states. He said that his government supported any effort to improve the GATT's dispute settlement system.

The representative of Pakistan said that an improvement in the dispute settlement system would be of interest to a larger number of contracting parties if: (a) sectors of trade of interest to these contracting parties were covered by GATT rules and provisions; (b) elaborate and comprehensive rules were framed where these were not presently existent as was the case with the safeguards; (c) the dispute settlement system ensured fulfilment of the rights of the weaker contracting parties; and (d) the dispute settlement system would not lead to excessive litigation particularly against the developing countries. He said that he was aware of the two well-known approaches, the adjudicational and conciliatory approaches, and he was in favour of a fair balance between these. He suggested that where the rules were clear and where the panel verdicts were clear the adjudicational approach should apply and the law should be respected and enforced. Where the rules were not clear and the panel reports did not find any one of the party to the dispute in fault a conciliatory approach would be more appropriate provided it was not used as a pretext for delaying the resolution of the dispute. He also said that where issues were fundamental and were not a matter merely of interpretation of rules, the contracting parties would have to devise an institutional mechanism to address such problems.

The representative of Brazil said that possible shortcomings of the dispute settlement system arose more from the divergent understanding of the system's nature than from specific deficiencies of the rules for the settlement of disputes. In Brazil's view, the following basic points seemed

to warrant special consideration by contracting parties: (a) the dispute settlement procedures should be seen as a way to ensure the effective application of existing substantive GATT rules to specific cases where controversy about interpretation might arise between contracting parties; (b) the dispute settlement procedures should be used primarily as a conciliation mechanism whose final stage, if conciliation failed, should be of an arbitration rather than of a judicial nature; (c) the dispute settlement procedures should not thus be used to create, by constructive interpretation, obligations which were not clearly established in the text of the General Agreement; (d) the dispute settlement procedures should not be used as a supra-national jurisdiction, as a means to prematurely internationalize conflicts of a private nature the solution of which should be first sought within the domestic jurisdiction of contracting parties.

In the view of the Brazilian delegation, the special and more favourable treatment to which least-developed countries were entitled could best be assured by the observance of the substantive rules of the General Agreement rather than by the reinforcement of the procedural norms of the dispute settlement arrangements.

The representative of the United States said that he did not entirely agree with the statement that the sole role of the dispute settlement process was conciliation and not the interpretation of the General Agreement. He recognized that conciliation was an important aspect of the process but also noted that there should be an impartial mechanism that would interpret the obligations under the General Agreement. He said that the failure of the GATT system to expeditiously resolve disputes involving the United States had been a major factor in the decline of domestic support in the United States for the GATT and noted that there was a need for an agreement on a system which would work rapidly and effectively. He said that his Government attached the highest priority to negotiations leading to a revitalized dispute settlement system. But he also recognized that unless there was the willingness of contracting parties to abide by a revitalized dispute settlement procedure no amount of tinkering with individual elements of it would be of more than marginal improvement.

The representative of Australia said that effective dispute settlement along with a comprehensive understanding on safeguards was one of the principal guarantees that a contracting party should have to ensure the protection of its rights under the General Agreement and noted that the current dispute settlement procedures were not operating effectively. He supported the adoption of more effective dispute settlement procedures in relation to such aspects as the time taken to form panels and hear cases, the need for clear recommendations for corrective action and the effective enforcement of procedures and findings. He refused to accept that one element of effective dispute settlement procedures should be the right to renegotiate existing rules when an adverse finding on the interpretation and application of rights and obligations was brought down by a panel.

The representative of Switzerland noted that the dispute settlement should remain a means to reinforce the authority of the law and to ensure its effectiveness rather than an instrument to question this law. He said that the improvements should go way beyond the mere problem of procedure. He noted that the whole purpose of the dispute settlement mechanism was the

application of the law and that this should take place by means of negotiation and not through a judicial approach. He also said that it was necessary to improve the follow-up to the dispute settlement and stressed that the follow-up posed the problem of the balance between rights and obligations.

The representative of Canada said that the dispute settlement mechanism within the GATT system provided the basis for preserving the balance of rights and obligations under the multilateral framework and the integrity and credibility of GATT ultimately depended upon their effective operation. Because the GATT was the principal instrument available to Canada to preserve Canada's market access and to manage Canada's trade relations with most other countries, his Government attached importance to efforts to strengthen the dispute settlement procedures. He said that a new round should include a full and serious review of the dispute settlement process in both its conciliatory and adjudicative aspects. He noted that it was necessary to strengthen the panel process generally and to ensure a more effective implementation of panel reports. He also stressed that a greater clarification to existing rules of the GATT would itself contribute to a facilitation of the dispute settlement process.

The representative of Japan said that the conciliatory process should perhaps have some precedence over the adjudication aspect of the dispute settlement procedure in GATT. He said that the contracting parties had to explore the ways to improve the dispute settlement procedure. Since this was not a judicial process, a very strong political will was needed to respect the recommendations or findings which were arising from the dispute settlement procedures.

The representative of Korea said that there was a need for simplified and speedy procedures for dispute settlement and that the compliance with Council decisions should be improved. He also noted that many developing countries were very hesitant to resort to dispute settlement in GATT because it was a lengthy and costly process and the compliance with its results was not assured. He suggested that panels involved in the dispute settlement process should be given a new name to better reflect their importance and the nature of their recommendations.

The representative of Hungary said that his country, like many other small trading nations, was particularly interested in the good functioning of the multilateral dispute settlement mechanism and for this reason supported proposals aimed at strengthening the rule of law in the General Agreement. He stressed, however, that improving procedures would be a waste of time if lack of political will continued to obstruct the making and implementation of panel recommendations.

The representative of Jamaica referred to the informal paper circulated by his delegation and recalled that no amount of tinkering with the procedures regarding composition of panels would lead to lasting solutions. The solution could only be found when contracting parties recognized that protective measures not in accord with the General Agreement were inimical to their own best interests and that they consequently respected the rules and the disciplines of GATT. He said that while making improvements to the

dispute settlement procedures the CONTRACTING PARTIES should consider the utilization of third party complaints along the lines in the Report commissioned by the Director-General.

The representative of the European Communities said that the various delegations had drawn up a fairly theoretical picture of the dispute settlement system and thereby a highly unrealistic one. The modification of what had, in the beginning, been unwritten rules, had not led to improved operation. He noted, however, that delegations were struck by those aspects of the system that did not operate properly and tended to forget the cases that had been satisfactorily settled. He suggested that the dispute settlement panels should not be asked to resolve through adjudication, problems which ought to be a matter for negotiation. He said that the system of dispute settlement gave the impression of not operating properly because it had been misused, warning against exaggerating the importance of this system as an indicator of the credibility of the GATT.

The representative of Chile recalled his Government's view that dispute settlement was one of the most important subjects to be dealt with in a new round and hoped that this would be equally valid for the Communities.