

Committee on Regional Trade Agreements

EXAMINATION OF THE CUSTOMS UNION BETWEEN
THE EUROPEAN COMMUNITIES AND TURKEY

Note on the Meeting of 1 October 1997

Chairman: H.E. Mr. Miguel J. Berthet (Uruguay)

1. The Committee on Regional Trade Agreements resumed the examination of the European Communities-Turkey Customs Union under Agenda Item D-I of its Thirteenth Session, as found in WTO/AIR/684. The following topics were discussed:

- A. Status of the General Incidence Calculations for the EC-Turkey Customs Union
- B. General Statements
- C. Specific Comments or Questions

A. Status of the General Incidence Calculations for the EC-Turkey Customs Union

2. Before beginning debate, the Chairman informed the Committee of the status of calculations of weighted tariff averages for the EC-Turkey Customs Union. The Parties to the Agreement had been in contact with the Secretariat, and the data was nearly complete for the Secretariat to proceed with the calculations. Once all the information had been received and the calculations made, the Committee would allocate some time at a future meeting to discuss the results.

B. General Statements

3. The Chairman recalled that prior to the first round of examination of the EC-Turkey Customs Union at the Committee's Seventh Session, the Parties had submitted information on their Agreement according to the Standard Format for Information on Regional Trade Agreements. That information was circulated in document WT/REG22/5. Subsequent to that first round, two documents containing additional questions and replies had been circulated, appearing as documents WT/REG22/6 and WT/REG22/6/Add.1. The layout of those supplementary documents followed that of the Standard Format, for ease of reference. Those three documents were to form a basis for the Committee's discussion during the current round of examination.

4. The representative of Turkey said his delegation welcomed the opportunity to continue the examination of the EC-Turkey Customs Union. During the first round of examination, both Parties had stated that their Customs Union was entirely consistent with their obligations under the WTO. While many delegations had shared this view, others had maintained that the Agreement failed to meet the criteria of Article XXIV because trade in agricultural products was not immediately covered. The Parties had responded that those products were covered by the Customs Union and that their free circulation remained one of the essential objectives of their Association Agreement. The Parties had

also indicated that they expected these objectives to be reached gradually, as foreseen in a side agreement. During that first round of examination, the Parties had foreshadowed the forthcoming conclusion of negotiations between the two Parties, which would constitute an important step towards liberalization of trade in agricultural products. Those negotiations were concluded some months after that meeting, and they had indeed led to substantial liberalization in bilateral trade in agricultural products. Once the Agreement were fully implemented, about 90 per cent of reciprocal trade in agricultural products would benefit from preferential treatment, and about 70 per cent from duty-free access. Consequently, and bearing in mind that trade in agricultural products in any case accounted for less than seven per cent of total trade between the Parties, the Parties were of the view that any hesitations which some Members had had with respect to the consistency of the Customs Union with Article XXIV:8(a)(i) could be dispelled. Since the Committee began its examination of the EC-Turkey Customs Union, Turkey had continued in its efforts toward harmonizing its foreign trade policy with that of the European Union. As announced at meetings of the CRTA and the Council for Trade in Goods, in 1996 Turkey had concluded a Free Trade Agreement with Israel which had entered into force on 1 May 1997, after ratification by the appropriate authorities of both Parties. The required notification would be made to the WTO shortly, and the CRTA in due course would have the opportunity to examine that Agreement, as well. Similar agreements had been signed with Romania, Hungary, Estonia, and Lithuania; they were expected to enter into force shortly, after being duly ratified. Others had been initialled with Latvia and the Czech and Slovak Republics. Negotiations with a view to concluding free trade agreements had been initiated with Poland, Bulgaria and Slovenia. Initial contacts had been held with Tunisia, Morocco and Egypt, with a view to concluding such agreements with those countries, as well.

5. The representative of Turkey continued, saying that on the domestic front Turkey had continued its efforts at harmonizing its legislation, policies and practices with those of the EC in areas where this was required for the smooth functioning of a customs union. The most noteworthy development since the Committee had begun its examination of the Customs Union was the fact that the Turkish Competition Authority had become operational in March 1997. This authority had been entrusted with the implementation of Turkey's competition law, based on the relevant articles of the Treaty of Rome and its secondary legislation. His delegation believed that, as this authority would become fully functional, the resort by either Party to trade defense instruments such as anti-dumping measures would become redundant. Another important development in the area of harmonization had been the adoption by the Turkey-EU Association Council earlier this year of a Decision which listed the instruments whose incorporation into the Turkish legal order would permit the total removal of technical barriers to trade between the two parties. He also noted in this context that Turkey had made on 1 January 1997 the first alignment to the EC's Common External Tariff (CET) of products subject to a higher duty during a transitional period of five years, in accordance with Decision 2/95 of the Turkey-EU Association Council which had been notified to the WTO. This alignment which had taken the form of a 10 per cent reduction in duties would be followed by further annual reductions until such time as the margin between the duty levels of Turkey and those of the CET had completely disappeared for these products. It went without saying that the adoption by Turkey of the EC's CET, as well as of the EC's preferential trade policy, would be of great benefit to third countries. This was already the case. Overall imports rose by more than nine per cent in 1996, after the completion of the Customs Union. Figures for the first five months of 1997 indicated that third country imports were increasing faster than those from the EC. Imports from those countries had increased by 12.5 per cent during this period, whereas those from the EC had only risen by 5.3 per cent. This confirmed that the share of EC imports in Turkey's trade was falling to its traditional level after having risen somewhat following the completion of the Customs Union. The Parties believed that this situation demonstrated the validity of the argument that their Customs Union was perfectly consistent with Article XXIV:4 of GATT in that it had not raised barriers to trade from third countries, but had lowered them instead.

6. The representative of Turkey then said that the Parties had submitted to the Secretariat the data necessary for the calculation of the change in the general incidence of duties which had occurred

after the completion of the Customs Union. The required elaboration was presently being made by the Secretariat. The Parties believed that this calculation would confirm that, on the whole, the average Turkish tariff had fallen from 18 per cent to around 5 per cent. Thus, it would have been demonstrated that duties imposed after the completion of the Customs Union were not higher than those in force prior to its formation and that consequently the requirements of Article XXIV:5 had been fulfilled.

7. Turning to the future, the representative of Turkey then said he wished to draw attention to the "Communication on the further development of relations with Turkey", which the EU Commission had issued on 15 July 1997, at the request of the Council. While this document addressed a wide range of issues, some of those grouped under the heading "consolidation of the Customs Union" were particularly relevant to the examination being carried out by this Committee, in that they called for the continuation of "moves already made towards free movement of agricultural products" and the initiation of a process of negotiations aimed at "the progressive liberalization of services between the EU and Turkey". The objective of the negotiations would be to conclude a preferential agreement which would conform with Article V of the GATS. As indicated in the Communication, this would require such an agreement to include "substantially all sectors" and "cover all aspects of trade in services". While this communication had yet to be adopted by the Council of the Union, the Parties had noted the early demonstrations of political will in its favour and remained confident that it would be implemented in full. He then said that the brief explanation on the progress made by the Customs Union since its completion at the beginning of last year, as well as the prospects for its future development, confirmed the point which Turkey, the EC and other delegations had made when the Committee began the examination, namely that the Customs Union fully conformed with the spirit and letter of Article XXIV. It had led to the liberalization of trade among the Parties in all sectors, and it had brought a lowering of barriers between Turkey and third countries and a considerable increase in Turkey's trade volume with the outside world. In the light of the evidence submitted, the Parties expected that the Committee would conclude that their Customs Union satisfied the requirements of Article XXIV.

8. The representative of the European Communities said his delegation, too, welcomed the opportunity to continue the examination of the EC-Turkey Customs Union. Information had been circulated in response to questions submitted since the first round of examination, and the Secretariat was now in a position to proceed with the calculation of the general incidence of duties required under Article XXIV:5. While no regional integration agreement was ever simple or easy, this was a straightforward example of a customs union being implemented in accordance with the requirements and provisions of Article XXIV. He recalled the point made during the first round of examination that it was important to look at the various components of the Customs Union, including Decision 1/95, Decision 2/95 and the transitional free trade agreement in products covered by the European Coal and Steel Community Treaty, as a single package. As the Turkish delegation had noted in its introductory statement, progress had continued to be made in a number of fields, furthering the process of liberalization and further consolidating the establishment of the Customs Union. Reference had been made to the conclusion of an agreement for even further liberalization of bilateral trade in agricultural products. On agriculture, statistics were encouraging and positive. Once the agreement were fully implemented (and even in advance of the formal adoption of it, aspects of it were being implemented), and once the transitional arrangements provided for in Decision 2/95 and with respect to coal and steel products were completed, the Parties would be in a position where 96.5 per cent of overall trade would be duty free. So, once the transitional arrangements on industrial goods had been completed, the agreements that the Parties already had in place with respect to agriculture would contribute to a total duty-free figure of 96.5 per cent. That was a conservative estimate, since it did not take account of circumstances where exports from the EC to Turkey might benefit from Turkish MFN duties set at zero. Regarding the Turkish textiles restrictions discussed last round, his delegation was circulating a non-paper with detailed information. It was an important element of further transparency for the Committee to understand the full scope of what had been done

and the methodology which had been used. The starting point had been the arithmetic average of imports into Turkey from the third party concerned in the relevant category of product from 1992-94. However, another way to compute this was to base the figure on total EC imports from the relevant category, multiplied by the basket threshold contained in the bilateral textile agreement that had been in force between the third party and the EC in 1994, and then multiplied by the percentage share of the Turkish gross domestic product (GDP) in the GDP of the EC-15. The higher of these two figures (i.e. the arithmetic average of imports into Turkey from the Member concerned for the relevant category in the period 1992-94, or that second computation) was then complemented by the growth rates for 1994 and 1995 contained in the relevant bilateral agreement, to determine the new appropriate level. While that sounded complicated, one point should be borne in mind in interpreting the data: two options had been used methodologically, and third countries received the benefit of the higher number.

9. The representative of the European Communities continued, expressing the hope of the Parties that the day's examination would provide a final opportunity for factual issues to be raised and addressed. The Parties welcomed the opportunity for the Committee to establish and settle any outstanding points which needed to be cleared up, and they hoped the Committee would be able to finish the factual part of the examination.

10. The representative of Canada apologized for his delegation's lack of active participation at the last round of examination of this Agreement. Customs unions were subject to important obligations under Article XXIV, in particular in paragraphs 5(a) and 8(a), as well as in the Understanding on the Interpretation of Article XXIV of GATT 1994 (the Understanding). When the Committee looked at the Agreement in light of these particular tests, it seemed less straightforward than it had been portrayed. The record from the first round of examination indicated that several issues were troublesome in terms of compliance with the various WTO provisions. First, regarding the introduction of the CET, it might be that in general the CET had led to some improvement or liberalization on an MFN basis, but there had been movements in the opposite direction for some tariff lines and renegotiations for these tariff lines were required under Article XXIV:6. Notification of the Agreement had been made subsequent to its entry into force, while it was clear under the Understanding that the notification and the submission of information should have taken place, and negotiations should have started, before the Agreement's entry into force. Also, there had been some changes in applied rates that might be detrimental to third-country trade. Another point heavily documented in the minutes of the first round of examination concerned the issue of selective liberalization. It had been said that the exclusion of a certain important sector or a segment of that sector was not a proper way of entering into a preferential trade agreement under Article XXIV, since this could exacerbate the degree of protection that was now granted to these non-liberalized sectors. Another well-documented point was the question of selective harmonization of measures governing trade from third countries, which was also troublesome in terms of compliance with Article XXIV. In general, his delegation found that this Agreement, like many others concluded by the EC, fell short of the standards that Members should aim for in terms of compliance with Article XXIV. That being said, his delegation supported the liberalization efforts that Turkey had undertaken, which represented a positive step. His delegation hoped that the other initiatives taken recently by Turkey for continuing the process of liberalization at the regional level would not be to the detriment of MFN liberalization.

11. The representative of Hong Kong, China recalled that during the first round of examination of the Agreement, her delegation had asked about Turkey's automatic extension of EC quantitative restrictions on textiles. Her delegation noted that additional information had been put forth today, but the reply given so far was not satisfying, and her delegation had strong reservations over the coherence of such extension with WTO provisions, in particular Article XXIV. Her delegation had been persuaded, however, to agree to see the matter treated in the systemic context. However, almost one year after this matter had first been raised, her delegation saw no sign of substantive deliberations. This concern was reinforced by the realization during the Committee's discussions earlier this Session

that there was also a lack of will even to attend to reporting obligations. Therefore her delegation wished to make it clear at this stage that its concerns remained to be addressed, either as part of the examination process or as a systemic issue. Her delegation certainly wished to support the Committee's work and had always taken positive positions to that end; but the Committee's work could only be successful if progress were achieved on all fronts, in a balanced manner.

12. The representative of the United States said that the discussion during the first round of examination of this Agreement had been thorough and that concerns were well reflected in the minutes. He asked the Parties to explain the changes that had taken place in the Agreement itself since the first round of examination. In particular, his delegation would appreciate information regarding the following questions: Had provisions been substantially changed? Had liberalization commitments been changed? Had firm liberalization commitments/time-lines been agreed for sectors that had not yet been fully liberalized? What plans did the Parties have to present a single schedule of concessions in the WTO? How had the Parties treated their agricultural, budgetary and access commitments? Reading through the minutes of the last round, his delegation had found numerous comments by the EC delegation to the effect that Article XXIV required it to have a single market, thus justifying the introduction or adoption of certain restrictive, discriminatory measures, be they textile quotas, safeguards or other parts of EC law, by the new customs union partner. In other statements in those same minutes, the EC delegation had asserted the opposite argument, that a single market was not really required for everything, and that thus a particular measure or practice did not have to be assumed by the new customs union partner. This appeared to be a case of the EC's "having its cake and eating it, too", where the EC was asserting that there needed to be a single market, but that common policies needed to be introduced only with respect to those measures that were easiest to apply in that market. The Parties had seemingly applied this rationale only in those cases where it benefited them and disadvantaged third parties, and they had chosen not to apply the rationale when it was not convenient or advantageous. Finally, with reference to paragraph 28 of WT/REG22/M/1, he said that a period of twenty-two years to reach a still incomplete customs union did seem to be a long time.

13. The representative of Japan said his delegation was encouraged by the statement by the EC delegation regarding the increase of trade with third countries and would appreciate receiving that statement, along with the relevant statistics, in written form. It also fully supported the statement by the delegation of Canada and agreed with most of what had been said by the delegation of Hong Kong, China. It would thus welcome a report regarding any modifications or changes.

14. The representative of India said his delegation, too, shared the concern raised by the delegation of Hong Kong, China regarding the automatic extension of EC quantitative restrictions on textiles by Turkey. Notwithstanding the Parties' intention to harmonize their legislation in the future, his delegation was of the view that the imposition of quantitative restrictions by Turkey was not consistent with the provisions of Article XXIV, particularly since this measure led to a more trade restrictive regime. While the transparency of the non-paper which had been circulated was welcome, the content was disconcerting. In relation to the use of the higher figure obtained through the two methods of calculation, his delegation wished to point out that even the higher of the figures would have to be seen in the context of the situation existing earlier; if there had been no quantitative restrictions in place earlier, then even the higher of the figures would need to be re-examined.

15. The representative of the European Communities thanked delegations for making precise points. Regarding the point by the Canadian delegation, he agreed that customs unions needed to meet the requirements of Article XXIV:5(a) and 8(a). The test in paragraph 5(a) particularly related to the general incidence of duties, which was the calculation already mentioned and which by its nature could be treated factually once the results were available. The Parties were of the view that their Agreement fully met the requirements set out in Article XXIV:8(a). Criticism at this stage needed to be precise, as implementation of the Customs Union was far advanced. As he had said in

his opening intervention, questions of transition and of further liberalization taken were increasingly at the margin. Regarding the point by the Canadian delegation on Article XXIV:6 and the late notification, this problem had been encountered with EC Enlargement, as well, and it reflected the fact that, contrary to the expectations of the drafters of Article XXIV, the adoption of a CET by the Parties to this Customs Union as well as by the Parties to the new EC Customs Union in the context of Enlargement had taken place in large measure without a transition period; the fact that the CET had been put in place quickly had raised problems of getting all of the events in the right order. It was difficult to accept criticism for having a transition period that was too long on the one hand and too short on the other; there was an almost systemic difficulty which arose when the CET was implemented quickly. The question of applied rates was also a matter discussed in other examinations, and the views of all Members were well known; this, too, should be considered in the wider systemic debate. The argument on selective liberalization and the exclusion of segments of particular sectors needed to be seen in the context of the explanation provided during this meeting, regarding further liberalization being put in place, for example in the agricultural sector. This did not seem to amount to a significant criticism from the point of view of the obligations of the Parties to the Customs Union under Article XXIV. Even now, without taking into account the Parties' commitments to further liberalization, the arrangements in place under this Customs Union compared well with agreements entered into by other WTO Members. There was little reason to be concerned over the Parties' commitment to continuing the process of liberalization. Again, the Parties contended that the Agreement already fully met the test under Article XXIV:8(a). The wider arguments which the delegations of India and Hong Kong, China had raised on textiles had led to the proper inclusion of this issue on the list of systemic issues. It seemed that the discussion which the Committee had had earlier this Session on the reporting obligation was not relevant to the fundamental question of rights and obligations at issue in this examination; the EC delegation had not demonstrated any lack of will to attend to reporting obligations. The delegate of India had said the transparency with respect to textiles was disconcerting; this also needed to be put in a practical context, as none of the quotas had been filled. This seemed to validate the methodological point that third countries had fundamentally benefited from the exercise. As the Hong Kong, China delegation had noted, the question of how this fit into the rights and obligations was a question to be taken up in the systemic debate. But in the meantime, the Parties could assert that in practical terms no harm had been done. He would respond to points raised by the United States delegation later.

16. The representative of Hungary said it did not seem appropriate to continue discussions on systemic issues at this meeting, at the expense of the Parties to the Agreement under examination. This Agreement did not warrant different treatment from other agreements examined in the Committee. His delegation was of the view that the Customs Union was in conformity with the requirements of Article XXIV.

17. The representative of Turkey replied to the point by the Indian delegate regarding the degree of restrictiveness of Turkey's trade policy with respect to textiles, noting that the system which prevailed in Turkey with respect to the import of textiles and clothing products prior to the completion of the Customs Union had not been less restrictive than the country's current system. The protection rate for products in HS Chapters 50-63 had been roughly 35 per cent prior to the completion of the Customs Union. Since then, Turkey had been applying a much lower tariff, that of the CET. Therefore, protection had fallen to about one third of what it had been before the completion of the Customs Union. Restrictions that had been imposed as a consequence of the Customs Union, regarding which the Parties had circulated information during the meeting, had not led to a limitation of access to Turkey's market. On the contrary, the opposite had happened. As the EC delegate had explained, these quotas had not been filled, and imports of textiles and clothing products from third countries had increased since the conclusion of the Customs Union. This was another sign that the system being applied now was more liberal than the system that had been in effect before.

C. Specific Comments or Questions

18. The representative of Australia referred to the replies to questions on import restrictions in WT/REG22/6/Add.1. The answer to question 1 said: "There is no intention on Turkey's part to modify or withdraw the tariff concessions specified in Schedule XXXVII, except some which need to be harmonized with the Common Customs Tariff of the European Union as a result of its Agreement with the EU." This was an interesting reply, given that his delegation had asked at the previous round of examination for information on any of Turkey's tariff lines which would be subject to higher rates of customs duties as a result of the application of Article 13 of the Agreement. Today the Turkish delegate had said there would be no increases, but the written response indicated that there could be some increases. Also, the reply to question 2, which referred to any adjustments to EC tariff quota arrangements, said that there would be no adjustments to tariff quota arrangements that would affect third parties. Had there been any adjustments at all to EC tariff quotas to take account of Turkish imports? He perhaps was talking about the same thing, but clarification would be helpful. It would also be useful to have information on which tariff items were previously subject to a tariff but would now be imported under tariff quotas.

19. The representative of Canada wished to pick up on some of the points made by the representative of Australia. In that same document, the reply to question 1 stated that the Parties could "confirm that Turkey reduced most its applied tariff rates..." Could the Parties provide detailed information on tariff lines that had increased following the entry into force of the CET, in particular whether the tariff increase had been made for tariff lines for which there was no immediate introduction of the CET but rather a transition period to move to the CET? His delegation had faced a particular instance where the applied tariff had been increased on an MFN basis, thereby increasing the margin of preference for the Parties to the Agreement, and where at the same time that particular tariff line had been excluded from the application of the CET on the day of entry into force and instead was subject to a transition period. This seemed to suggest that there had been a conscious modulation of the entry into force of the CET in that particular instance to grant preferential treatment to suppliers of the EC during a transition period. This was a source of concern. His delegation was also eager to learn what would happen when the CET would be implemented by Turkey on these particular tariff lines; if there were tariff rate quotas currently applied by the EC, would there be any adjustment in the size to account for imports coming into Turkey? This was in line with question 2 in that document, but his delegation's concerns related to areas beyond agriculture. In other words, was the reply to question 2 applicable to non-agricultural products?

20. The representative of Japan said that quantitative restrictions were basically inconsistent with the object of the WTO, though there was some latitude for having them. The delegate of Turkey had said that quotas had not yet been filled; it remained true, however, that new quantitative restrictions had been introduced. In the last round of examination, the EC had said that as long as the Parties did not on the whole raise barriers, they could raise barriers in specific areas. This seemed inconsistent with Article XXIV:5, and indeed inconsistent with the aim and object of the WTO. His delegation would like to associate itself with the point made by the Hong Kong, China delegation regarding the automatic extension of anti-dumping duties, safeguard measures and countervailing duties. Could the Parties confirm that in the future they would not automatically extend these measures without individual investigations, and that they would apply these measures only in accordance with specific WTO Agreements, for example the Agreement on the Implementation of Article VI of GATT 1994?

21. The representative of Ecuador wished to refer to a point analyzed by the delegations of Australia and Canada. He had gone through the documentation in search of additional information on agricultural trade, in particular with regard to Section V, Articles 17-23 of the Parties' Agreement. It was not clear what the scope or intentions behind these provisions were. In particular, Article 20, paragraph 1 stated that both Turkey as well as the EC could apply agricultural components; was the application of agricultural components aimed at trade with third parties, or was it aimed only at trade

between the two Parties? His delegation requested further explanation with regard to Article 18 on agricultural components. The documentation did not clearly indicate how the mechanism of an agricultural component was compatible with WTO provisions.

22. The representative of Australia said he had a similar question. During the last round of examination, there had been interesting discussion on the agricultural component of the Agreement. A careful reading of the Articles dealing with the agricultural component indicated that this applied only to products originating in non-preferential third countries; it would be helpful to have a listing of those preferential third countries that were exempt from this arrangement. Section V referred to various annexes which outlined how the agricultural component would be calculated; had these been made available to the Secretariat? Moving beyond the agricultural component, he said that his delegation continued to have concerns about the exclusion of agricultural products from the Customs Union arrangement. His delegation had been pleased to learn that day that the negotiations on agriculture which had been due to finish last year had ended, and it was pleased to hear the assurances by the Parties that the amount of agricultural trade that would eventually be duty free was going to increase. It would be useful to have an indication of the time-frame of when the results of these negotiations would be implemented; this was a crucial issue in the Committee's consideration of the Agreement's conformity with Article XXIV. As was often said in examinations, liberalization did not necessarily mean the removal of barriers to trade. It would be helpful if the Parties would provide information on those measures of the EC's Common Agricultural Policy (CAP) that would be adopted by Turkey, and an indication of when. Article 25 of Decision 1/95 required Turkey to adopt some measures of the CAP. The Committee had had some discussion of this during the first examination round; but it still was not clear which particular features of the CAP Turkey had adopted so far or would adopt in the near future to allow the free movement of agricultural goods. It would be useful to have some clarification of how Turkey's existing domestic support and export subsidy commitments would relate to its (presumed) eventual adoption of the CAP. How would Turkey treat a product in a situation where that product was excluded from the coverage of the Customs Union while Turkey had product-specific domestic support and export subsidies on it? Finally, if the CAP covered assistance to a product excluded from the Customs Union, would Turkey implement the CAP on that product? He was aware that, depending on the answer to the question on the time-frame for the implementation of the agricultural agreement between Turkey and the EC, some of the questions might be hypothetical.

23. The representative of the European Communities began by responding to concerns expressed by the delegations of the United States and Japan. He said the provisions of the Customs Union had not been substantially changed since the first round of examination, which meant also that the provisions in 1/95 with respect to anti-dumping had not been changed. As to whether the Parties were prepared to make an undertaking with regard to future arrangements on anti-dumping or anti-dumping investigations, he said this was not open to the Parties to do right now. The Parties operated this arrangement and their individual arrangements in conformity with WTO obligations. Regarding whether liberalization commitments had been changed, he reiterated that some negotiations on agriculture to extend further the scope and depth of liberalization had been concluded, and this had led to firm liberalization commitments which would enter into force on 1 January 1998. As to the Parties' plans to present a single schedule of concessions in the WTO, he said the Parties had no such plans. In terms of agricultural budgetary and access commitments, there was no change to the schedule of either Party. The United States had cast doubt on arguments by the Parties regarding the operation of the wider compass of economic integration between the EC and Turkey within and under the framework of the Customs Union in its final stage; the Parties saw themselves as conforming with Article XXIV. The arrangements and agreements entered into by the Parties under the framework of Decision 1/95 included commitments on harmonization of legislation and of wider economic arrangements in fields such as state aids, standards, competition policy and intellectual property, all of which added an important qualitative dimension to the Customs Union, which underpinned its objectives, ambitions and effects; these did not substitute for the statistical picture, which stood on its

merits in any case. It should be noted that Article XXIV was silent on these particular points. Also, the retrospective economic effects did not form part of the Article XXIV test, but it was important to look at the full compass of economic integration arrangements brought about through Decision 1/95 and the wider ambition of the EC-Turkey mutual bilateral economic relationship, to provide a qualitative dimension to the examination. The discussion on anti-dumping and safeguard questions needed to be put in that context. The process of wider economic integration and harmonization proceeded at a pace which varied depending on the particular issue, the particular exercise, the particular legislative framework and the particular economic significance of the measures being considered. It was natural that harmonization proceeded faster in some areas than in others, so the ambitions the two Parties had with respect to their mutual economic relationship could not be brought to fruition in a single step. This point also related to the question by the United States delegation on the implementation of measures that were easiest to put into the market.

24. The representative of the European Communities continued, saying the questions posed by the delegation of Canada related to the responses in WT/REG22/6/Add.1. His delegation considered these responses to be adequate. Decision 2/95 was self-explanatory, and, as the delegate of Turkey had said, Turkey's tariff reduction commitments contained in that Decision were already being implemented. The factual answers to questions about applied tariff rates could be found in the material provided to the Secretariat; in consulting that material, the relevant tariff-line information could be obtained. The Japanese delegation had raised a question which was essentially of a systemic nature, concerning the aims and objectives of the WTO Agreements in relation, in particular, to quantitative restrictions. Discussion on this should take place in the systemic context. His delegation's approach was that shared by the delegation of Hong Kong, as reflected in its statement earlier. Taking up the questions raised by the delegation of Australia, he responded to the question relating to a time-frame for achieving free movement of agricultural products, repeating that the results of the recently concluded negotiations would enter into force on 1 January 1998, and that some aspects of that agreement were already being implemented by the Parties on an autonomous basis. As to which of Turkey's tariff lines would be subject to higher rates of duty as a result of the application of Article 13 of Decision 1/95, the answer could be found in the detailed tariff information which the Secretariat now had. The delegation of Australia had also asked if there had been adjustments in EC tariff quotas to take account of Turkish imports and, if so, what had been the basis on which tariff quota volumes had been set; to this the EC representative responded that there had been no such adjustments. Regarding the question on which tariff items had previously been subject to a tariff but would now be imported under tariff quotas on a line-by-line basis with quotas for each line, he said his delegation had understood this question to refer to quotas in respect of third countries; as he had indicated, there had been no change in the EC quota, and the schedule for Turkey also remained unchanged, with the only arrangements in force being of a surveillance nature, in any case. The Parties would respond in writing to questions raised by the delegations of Australia and Ecuador regarding the agriculture component outlined in Articles 18-22 of Section V of Decision 1/95. Copies of Annexes 2, 3, 4 and 5 to Decision 1/95 outlining the calculation of the agricultural component would be available through the Secretariat. In response to the four questions regarding the CAP, he said the provisions of Decision 1/95 requiring Turkey to adopt measures of the CAP remained a fundamental objective of the Agreement; the Turkish authorities were preparing to take some preliminary steps regarding this shared obligation. His delegation did not at this stage have the detailed information requested, though this was not relevant to the tests in Article XXIV. Finally, documentation showing protection rates in 1993-96 should now be available through the Secretariat. The Parties had taken note of the views expressed by the Australian delegation on preferential liberalization.

25. The Chairman clarified that the written responses would be circulated to all delegations in document form.

26. The representative of the United States said his delegation had a follow-up question on the recently concluded negotiations on agriculture. The EC explanation seemed to indicate that the Parties would begin implementing parts of the agreement on 1 January 1998; but the question regarding time-lines also was meant to ask when full liberalization would occur for agriculture, i.e. was there an end date involved?

27. The representative of Australia associated his delegation with the question put forth by the United States representative. Also, in response to the question on which of Turkey's tariff lines would be subject to higher rates of customs duty, the EC delegate had said this information was already available; where, more specifically, could this information be found? The Parties had said that there would be no upwards adjustments of Turkey's tariff lines except for some instances of harmonization; his delegation would appreciate it if the Parties would be more precise. He also requested further clarification regarding tariff rate quotas; the EC response seemed to indicate that none of Turkey's tariff items would be subject to tariff rate quota arrangements, and he wished to know if this was indeed the case. He understood what the EC delegate had said about there being no obligation to provide information on Turkey's gradual adoption of the CAP, but in the spirit of transparency, it would be helpful if the Parties provided some information, perhaps in writing; if the Parties did not have any particular plans in this respect, that itself would be of interest to Members.

28. The representative of Ecuador thanked the Parties for indicating that they would supply written information responding to questions. The information should address his question regarding the consistency of the agricultural component mechanism with WTO provisions.

29. The representative of Canada said the reply given had not been addressed to his question. Behind his question lay concern for newsprint products. After the entry into force of the Customs Union, the applied tariff on that product had gone up in Turkey, while at the same time there had been a transition period pertaining to that product for moving to the CET; that product was also subject to a duty-free tariff rate quota within the EC, so there was an obvious issue here where the implementation of the Customs Union had meant that the EC suppliers of newsprint in the Turkish market maintained the same access, whereas for MFN suppliers there had been an increase in the applied rate and no recourse possible because of the transition period embodied in the implementation of the CET. This also raised an issue of the size of the EC duty-free tariff rate quota pertaining to newsprint; if the Parties were to move to a CET on the first day of implementation, to maintain the same degree of access, the size of the tariff rate quota would have had to be adjusted to take into account the new participant to the Customs Union. This had been done, so this was a case where barriers to imports from third countries had been increased, contrary to what was envisaged under Article XXIV:4. This merited further attention. He would be happy to pursue the matter bilaterally, but the point of principle should also be made that through the implementation of a CET there might be some increase in applied rates which negatively affected the trade of third parties.

30. The representative of the European Communities thanked the Canadian representative for specifying the product and the issue. Because this was a complicated issue, his delegation would take up the matter bilaterally with the Canadian delegation to clarify the situation they were referring to and to look at an appropriate way to respond. He requested the question in written form. Regarding the time-frames point, he noted that the latest agreement within the context of the Customs Union on further agricultural liberalization, which would enter into force on 1 January 1998, was neither the beginning nor the end of that exercise, but rather was an important step. As his delegation had said during the last round of examination, there had already been substantial liberalization of agricultural trade between the two Parties. A further step had been taken, which the Parties believed was significant and materially improved the Customs Union from an Article XXIV point of view, taking into account the fact that it already met the requirements. It was not the end, because it did not amount to the point where there would be full free trade in agricultural products; in any event, his delegation did not consider this to be part of the Article XXIV test. Both sides were committed to

taking this liberalization forward. The answer he had provided to the Australian delegation on the CAP question, in which he had said that the adoption by Turkey of some measures of the CAP remained a fundamental objective of both Parties and their Agreement, was an indication of the wider context within which this particular stage in agricultural liberalization needed to be put. His delegation would respond in writing to the request for clarification regarding data on applied tariffs which had been increased, as well as to the additional questions regarding the CAP.

31. In response to the questions posed by the representative of Ecuador, the representative of Turkey said that the agricultural component used in the calculation of protection for processed agricultural products did not exceed the commitments Turkey had made in the WTO. Regarding trade data and statistics, document WT/REG22/3 spelled out the pre-Customs Union tariff rates; this data had been submitted more than a year ago, and since then the Parties had received no further inquiries.

32. The representative of Japan requested that questions and replies that were exchanged bilaterally be included in the documentation for the examination. His delegation was especially interested in the Canadian point regarding the raising of the CET.

33. The representative of Ecuador said he had listened carefully to the response by the representative of Turkey, and it seemed that the facts indicated that the agricultural component did contribute to a modification of the tariff which the Parties might impose on an agricultural product coming from a third country; this was why he had questioned whether this agricultural component was in line with the Parties obligations under the WTO. The calculation of the agricultural component represented a hike in the tariff for third parties, and it seemed this was the intent. His delegation would appreciate more detailed information as to the compatibility of this agricultural component with the WTO.

34. The representative of the European Communities said his delegation would provide a detailed, written response to questions from the delegation of Ecuador. He asserted that the Agreement was entirely consistent with the Parties' WTO obligations, and that the actual position of third countries trading with the Customs Union was not affected.

35. The representative of Australia said that the situation with regard to agriculture remained unclear. He understood the response that the recently concluded negotiations between the EC and Turkey for the liberalization of agricultural trade were not the end of the process; but what he did not understand was whether there was a clear commitment that there would be free trade in agriculture between the Parties. Article 25 of the Agreement said that "Turkey shall adjust its policy in such a way as to adopt the common agricultural policy measures required to establish freedom of movement of agricultural products." That seemed clear enough, but Article 26 said that "the Community and Turkey shall progressively improve on a mutually advantageous basis the preferential arrangements which they grant each other for their trade in agricultural products." Article 27 then said: "The Association Council shall adopt the provisions necessary to achieve the free movement of agricultural products between the Community and Turkey once it has established that Turkey has adopted the common agricultural policy measures referred to in Article 25(1)." It seemed this went around in a circle, where it said that there would be freedom of movement of agricultural products when the relevant provisions of the CAP had been adopted, and then that the relevant provisions of the CAP would be adopted to achieve free movement of agricultural products. Was there a commitment in this Customs Union Agreement to free trade in agricultural products? Was there a clear commitment that Turkey would adopt the CAP? He was not arguing that to do so was part of the test of Article XXIV, but rather he was simply asking about the extent to which the Customs Union would result in free trade in a particular sector.

36. The representative of Turkey said that Article 24, paragraph 1 was clear. It reiterated the long-standing, fundamental objective of the Parties' association, i.e. the free movement of agricultural

products. Meanwhile, Turkey would proceed to adopt gradually the CAP, with implementation of the relevant measures of the CAP being one of the conditions of the achievement of free movement of these products. Until such a situation was reached, Turkey and the EC would progressively improve market access in these products. This was what was being done. As explained by the EC representative, the nature of the agreement which would enter into force on 1 January 1998 was to provide improved and preferential access for a number of agricultural products in the two Parties' respective markets. This was an interim step on the way towards achieving the free movement of agricultural products.

37. The representative of the European Communities said the matter was simpler than it appeared. He had said in response to the first question by the United States delegation that the provisions of Decision 1/95 had not been changed substantially, and the relevant chapter had not been changed at all. As his Turkish colleague had said, the language was straightforward: an objective, as well as certain important steps which Turkey had to take, were established. The Association Council would then assess progress in this respect. Article 26 provided for steps to be taken along the way to take advantage of developments on both sides to push liberalization as far as the Parties could in the circumstances prevailing. The chapter was self-explanatory as a statement of both sides' objective and as the means by which they intended to achieve it.

38. The representative of Ecuador said he noted with other delegates that the question of trade in agriculture required further study. The information that delegations would be receiving from the Parties would be very helpful and would need careful analysis. He wanted to be sure that, in the agricultural field, Members were not going to be adopting at any stage something that would constitute a sort of authorization for one of the Parties to move to new tariff levels held by the other Party to the detriment of third-party interests. Such a raising of tariff levels by a Party through the mechanism set forth in Section V of the Agreement was a major concern of delegations. Because this issue, along with the management of tariff rate quotas, repeatedly had given rise to concerns, his delegation would appreciate further information on these subjects.

39. The Chairman said the Committee had scrutinized issues. The Secretariat would prepare a document gathering all the questions and replies, and this document would be distributed to all delegations as an addendum to the document under study during the day's examination. The Committee had made an exhaustive examination of the information found in the relevant documents and of the information provided orally by the Parties. All delegations had had the opportunity to submit written questions throughout the course of the examination. The remaining information to be gathered was the general incidence calculations, as noted at the start of the day's meeting; the Secretariat was working on this matter, and once its calculations were complete, the results would be circulated to Members. The Committee could then set aside part of a future formal meeting to discuss the documentation and to have any necessary points reflected in the summary records. He proposed that the Committee request the Secretariat to begin drafting the conclusions so that relevant consultations could commence at the appropriate time.

40. The Committee took note of the comments made.