

WORLD TRADE ORGANIZATION

RESTRICTED

G/C/M/27

8 December 1997

(97-5374)

Council for Trade in Goods
13 November 1997

Original: English

MINUTES OF THE MEETING

Held in the Centre William Rappard
on 13 November 1997

Chairperson: Mr. T. Johannessen (Norway)

1. The meeting was convened by Airgram WTO/AIR/699 to continue the discussion which began on 6 October 1997 (Item 5 of Airgram WTO/AIR/687) of the major review of the implementation of the Agreement on Textiles and Clothing (ATC) during the first stage of the integration process, pursuant to Article 8.11 of the ATC.
2. Opening the meeting, the Chairman noted that this was the fourth special meeting; the first three had focused on the key aspects of the implementation process while at this meeting, the examination would continue with any additional issues Members might wish to raise in this regard. He also proposed that the form and content of the outcome of the review should be discussed at the present meeting.
3. With this in mind, he proposed that the Council take up the work under three sub-topics: (i) discussion of any other aspects of the implementation of the ATC beyond the three main topics so far addressed; (ii) any summaries or overall comments Members might wish to make in the light of the discussions so far; and (iii) an exchange of views on how the Council might conclude its review. In this regard, he suggested that consideration should be given to the question of possible observations, conclusions or recommendations and what form they might take.
4. The representative of Colombia speaking on behalf of the WTO Members that are members of the ITCB referred to Article 1.2 of the ATC which provided that "Members agree to use the provisions of paragraph 18 of Article 2 and paragraph 6(b) of Article 6 in such a way as to permit meaningful increases in access possibilities for small suppliers ...". It was clear, therefore, that the implementation of Article 2.18 had to be seen in the light of the guiding principle in Article 1.2, that it should provide for "meaningful increases in access possibilities" for these Members. Article 2.18 had been implemented by three importing Members which maintained restrictions on imports from small suppliers on the basis of different methodologies. The European Community had implemented Article 2.18 by increasing the respective growth rates for individual small suppliers, first by 16 per cent and then by 25 per cent. Canada and the United States, however, had implemented the same provision by increasing the respective growth rates by 25 per cent only. The methodology chosen by Canada and the United States did not fulfil the requirements of Article 1.2 and did not result in greater access for small suppliers as could be seen by the following data. Under the ATC, for a quota with a growth rate under the former MFA of 6 per cent, the normal increase in growth rates in 1995, 1996 and 1997 would have been 6.96 per cent annually and the resulting increase from a base level of 100, would have been 106.96, 114.4 and 122.37 respectively. The growth rate allowed by Canada and the United States would be an annual 7.5 per cent which would produce levels of 107.5, 115.56 and 124.23. The total exports allowed by these two Members over the three years would amount to only 347.29 units as compared to 343.73 units under the ATC, thus resulting in an increase in access of only 0.52 per cent. It was,

therefore, clear that Canada and the United States had not fulfilled their obligation to provide meaningful increases in access within the meaning of Article 1.2 of the ATC. Members of the ITCB were concerned that the TMB had not found it so. He suggested that the Council recommend that these two Members rectify the situation.

5. Concerning the application of safeguard measures, he also noted that some of the United States' actions during the first stage had involved exports from Members considered to be small suppliers, and had not taken into account the specific requirement of providing differential treatment to these small suppliers as required under Article 6.6(b).

6. With respect to the least-developed country Members, he recalled that a footnote to Article 1.2 provided that "To the extent possible, exports from a least-developed country Member may also benefit from this provision.", i.e. that Article 2.18 should be implemented in such a way as to permit meaningful increases in access possibilities for them. This formulation had not been cast in the sense of a necessary obligation, nevertheless, it could not have been meant to be without any substance. According to the TMB report, in the cases of certain least-developed countries, both Canada and the United States had advanced the growth factors by one stage in the sense of Article 2.18. In the case of Bangladesh, however, the provision had been altogether ignored by the two Members. Besides being discriminatory as between different least-developed countries, this treatment was not consistent with the objectives of the ATC as specifically recognized in the Agreement as well as with other decisions under the WTO.

7. It was also noted that a number of administrative arrangements maintained to implement restrictions under Article 2 of the ATC had been found by the TMB not to be fully in conformity with its provisions. Some of these arrangements contained obligations going beyond what would be necessary to implement these restrictions. Both the European Community and the United States had recognized the inconsistencies and had assured the TMB that, where the provisions of the arrangements were inconsistent with the ATC, the provisions of the ATC would apply. It was of concern that the TMB had not pronounced itself clearly on such inconsistencies and had expressed only an expectation "that these arrangements would be implemented by the respective Members in conformity with the relevant provisions of the ATC". This was contrary to the mandate given to the TMB by the ATC to supervise the implementation of the Agreement and to examine the conformity of measures taken therewith.

8. He said that the ITCB members were also concerned that, when requested, the TMB had not confirmed that safeguard actions in respect of products already under group limits contravened the ATC. Likewise, the TMB had not clearly stated whether certain mutually agreed arrangements under Article 6.9 were justified under the ATC, especially after a dispute settlement panel had ruled that a safeguard action against the same product under similar circumstances had been found to be inconsistent with the United States' obligation under the ATC. In conclusion, the representative of Colombia considered that it had been established that the provisions of the ATC in favour of small suppliers and least-developed country Members had not been implemented consistently with the provisions and objectives of the ATC. Furthermore, other shortcomings in the implementation of the ATC had been brought to light such as in the area of administrative arrangements and full adherence to the provisions of the Agreement.

9. The representative of Hong Kong, China recalled the discussion on the integration process in the Council at its first special meeting when it was suggested that if there had been a problem with the integration process it might not be strictly a problem of implementation, but rather a question of the quality of the ATC itself. Another Member had suggested that the Council's task was simple and that it had only to determine whether the provisions of Articles 2.6 and 2.8 had been carried out. Now that the Council was considering special treatment for small suppliers and least-developed Members, it was again faced with the problem of an insignificant outcome, as described by Colombia. The question again arose as to whether this insignificant outcome had been the result of the quality of the ATC itself or whether

the obligations in Article 2.18 had not been properly fulfilled. Hong Kong, China was surprised that the TMB's report stated in paragraph 210 that Article 2.18 did not provide precise guidance as there could be only one interpretation of Article 2.18. The term "advancement by one stage" did not mean substitution of the growth enhancement factor in an earlier stage by the growth enhancement factor for a later stage. Stages had cumulative effect and it was incidental that the growth enhancement factors for later stages were higher than in earlier stages. If Article 2.18 had been applied to integration rather than to growth rates, would it have been seriously suggested that Stage 2 integration should be implemented without first implementing Stage 1 integration? The expression, "... advancement by one stage of the growth rates set out in paragraphs 13 and 14 ..." meant that annual growth rates should be enhanced during Stage 1 as they would have been during Stage 2 in the absence of advancement. Article 2.14(a) clearly stipulated that the Stage 2 growth enhancement factor was to be applied in addition to the Stage 1 growth enhancement factor. Otherwise, in Stage 3, growth rates for other suppliers would benefit from the cumulative application of three growth enhancement factors, that is, 16 per cent, 25 per cent and 27 per cent. By the end of Stage 2, the growth rates for small suppliers would have benefited only from two growth enhancement factors, 25 per cent and 27 per cent. There would be no further stage to advance. Special treatment for small suppliers in Stage 3 would be perverse, as any advantage they would have gained by higher quotas in Stages 1 and 2 would have unwound by the last year of Stage 3. It was noted that one Member carrying over MFA restrictions had properly implemented Article 2.18 with cumulative effect whereas two other Members carrying over MFA restrictions had not. Hong Kong, China considered that the Council should endorse the former Member's implementation and urge the other two Members to bring their implementation of Article 2.18 into conformity as soon as possible.

10. The representative of Peru associated himself with Colombia and agreed that in this comprehensive review the Council should take up not only the application of the special provisions in the ATC relating to growth factors, but also the question of treatment of special categories of Members such as small suppliers which was of particular interest to certain Members. Several Members, including Peru, derived an important component of their GNP from textiles, although their shares in the world market might not be highly significant in number in overall terms, for the time-being. For textile exporters from that group of developing countries, textiles was an important factor and made a considerable contribution to their national well being. It was essential that Members take into account the needs of small suppliers and the least-developed country Members, so that, as was said in Article 1.2, they would be permitted meaningful increases in access possibilities. He stressed the reference to a significant increase in access possibilities because this was the key factor of this particular provision and the Council, during the course of the review, would be called upon to determine whether, in accordance with Article 2.18 and in terms of Article 6.6(b), which required more favourable and differential treatment in the application of the transition safeguard provisions, Members had actually permitted meaningful increases in access possibilities for small suppliers. With respect to the first point, the use of growth enhancement factors, he emphasized that the report of the TMB, in paragraphs 210 and 212, had referred to the methods used by various importing Members under Article 2.18 and had concluded that the outcome in terms of market access during the first stage of the integration process would have been better if the other Members concerned had used the method chosen by the European Community to calculate the growth enhancement factors, which had included the first stage of growth enhancement. The conclusion of the TMB was sufficiently clear to enable the Council to include in its recommendations one to the effect that Article 2.18 should be implemented within the context and the general meaning of the Agreement which was the liberalization of textiles trade. The provisions of Article 1.2 were intended to permit significant increases in access to small suppliers, therefore contributing to their future development in the world market. He referred also to the question of differential and more favourable treatment in the safeguard provisions of Article 6.6(b). The TMB report, in paragraph 310, had stated that despite the lack of sufficient information to determine whether or not this particular provision had been complied with in certain safeguard actions, it also left open the possibility that this had not taken place. He, therefore, considered that the admission of this possibility

was sufficient enough for the Council to emphasize the need for Members to take due account of the provisions for more favourable treatment under Article 6.6(b) in implementing safeguard measures and that it also recommend that the TMB consider compliance with this particular provision when making recommendations in respect of safeguard actions.

11. The representative of Sri Lanka associated himself with Colombia concerning small suppliers. The guiding principle for special and differential treatment to small suppliers and least-developed country Members was contained in Article 1.2 of the ATC. According to the criteria of Article 2.18, Sri Lanka was a small supplier to the European Community and Canada, while it failed by a small amount in the United States, which was the most important market for textile and clothing exports for Sri Lanka, accounting for more than 60 per cent of total annual exports. For a low-income, small economy such as Sri Lanka, which was heavily dependent on textile and clothing exports in terms of both foreign exchange earnings and employment for more than half a million people, the special provisions laid down in the ATC for meaningful increases in access possibilities were indeed important. Whereas his delegation appreciated the efforts made so far, particularly by the European Community, to implement the special provisions for small suppliers, the same could not be said in respect of the other two Members.

12. A detailed examination of whether the special provisions for the treatment of small suppliers had been complied with in full by major importing Members had to be considered as a matter of principle as it covered the interests of a large group of countries for whom the textiles sector continued to occupy an important place in their economies. In this connection he noted that importing Members had applied different methodology in applying these provisions. For example, two markets had provided smaller increases in access possibilities as a result of the application of a 25 per cent growth factor at the entry into force of the Agreement, whereas another Member had applied 16 per cent initially followed by a further advancement of 25 per cent which was in keeping with both the letter and the spirit of the ATC. His delegation supported the views expressed by Hong Kong, China and Peru that the methodology used by some countries seemed arbitrary and did not lead to any meaningful increases to small suppliers when compared with other suppliers. In fact, as was noted by Colombia, there had not been much difference between the growth rates applied to the two categories of suppliers in question, despite the special provisions in the ATC for "meaningful increases in access possibilities for small suppliers". Sri Lanka considered that the Agreement should be looked at from a broader perspective if these special provisions for small suppliers were to receive any meaningful result. Therefore, he recommended that the Council, in its conclusion of this major review, highlight this serious shortcoming relating to the provisions of small suppliers and urge the major importing Members to provide more meaningful improvements in access possibilities for them as called for in the Agreement.

13. Another important aspect of interest to small suppliers and least-developed country Members cited by Sri Lanka related to the application of the transitional safeguard. Although it was encouraging that there had been a marked decline in the application of transitional safeguards both during 1996 and 1997, it was a fact that even small suppliers such as Sri Lanka had been subject to such actions, though they had been subsequently withdrawn. His delegation regretted that small suppliers with negligible exports were treated in the same manner as large suppliers, which was not in keeping with Article 6.6(b) of the ATC. He, therefore, asked the Council to take note of the special concerns of small suppliers including low-income small economies and least-developed countries and to make suitable recommendations so that they might be spared any injudicious actions by the importing Members which would disrupt the trade of these Members and inflict hardships on such economies.

14. The representative of India endorsed the statement made by Colombia and noted, with regard to the treatment of small suppliers and least-developed country Members, that Article 1.2 of the ATC provided for "meaningful increases in access possibilities" for small suppliers. The basic objective of this provision was to ensure that small suppliers were provided a significant increase in the annual

growth rates of quotas, which he felt had not been ensured by all importing Members. India felt that the TMB should have examined this issue in greater depth, rather than only observe that Article 2.18 did not provide precise guidance in this respect. The Council should, therefore, endorse the actions of the one Member which had properly implemented Article 2.18 and urge the other Members to rectify the situation and to do likewise.

15. As one of the larger cotton-producing exporting Members, India had a particular interest in an analysis of whether or not the provisions of Article 1.4 of the ATC, which provided that the interests of cotton-producing exporting Members should be reflected in the implementation of the ATC, had been fulfilled. The TMB report summarized the responses given by the four importing Members. As could be seen from these responses, hardly anything concrete had been done to reflect the interests of cotton-producing exporting Members in the implementation of the ATC. India believed that even though a third of the implementation period has passed, there still was time to rectify the anomalies and shortcomings of the past. India would, therefore, urge that the importing Members hold meaningful consultations with the cotton-producing exporting Members pursuant to Article 1.4 so that their interests could appropriately and effectively be reflected in the implementation of the ATC in the remaining phases.

16. The representative of Thailand, speaking on behalf of ASEAN WTO Members, supported the statements made by Colombia and others. The issue of small suppliers and least-developed countries was important considering the number of such Members and their far-reaching interest in the textiles and clothing trade. Special and differential treatment for small suppliers, new entrants and least-developed country Members was mandatory under the ATC. Members had agreed to take a certain course of action to fulfil these obligations. Article 1.2, which provided for "meaningful increases in access possibilities for small suppliers and the development of commercially significant trading opportunities for new entrants", established the guiding principle in this respect. The obligation in relation to increased growth factors, contained in Article 2.18, and in the application of transitional safeguards contained in Article 6.6(b), were meant to be implemented to enable the achievement of these purposes. It was, therefore, appropriate that the Council examine whether the actual application of Articles 2.18 and 6.6(b) had been made by the importing Members in that light and whether such application had resulted in meaningful increases in access possibilities for these Members.

17. He further pointed out that the TMB, in considering this issue (paragraph 210 of its report), had noted that "the result in terms of market access in the first stage would have been improved if the methodology chosen for the advancement by one stage of the growth rates included the growth factor of the first stage, as done by one Member". In paragraph 213, the TMB "reiterated the importance of a faithful and credible implementation of the provisions of the ATC related to small suppliers and new entrants, including those described in Article 2.18". He recalled, in this respect, what had been declared by Ministers at the Ministerial Conference in Singapore and called upon restraining Members to fully implement the provisions of the ATC and those relating to small suppliers, new entrants and least-developed country Members, as well as those relating to cotton and wool-producing exporting Members so as to render meaningful increases in market access possibilities.

18. The representative of Norway shared the view of the TMB that several provisions of the ATC were designed to provide favourable treatment for various groups of exporting countries. In addition, there were other provisions which could be applied in such a way as to give particular weight to the interests of exporting developing Members. When Norway had reviewed its import restrictions with a view to the early elimination of the majority of the quotas, it attached particular importance to achieve liberalization which would benefit exporting developing Members and not only the developed economies.

19. Norway also stressed the importance of all WTO Members fulfilling their notification requirements. In general, notifications were important for transparency purposes, but there were also

elements of legal rights and obligations which were affected. One important question was the degree to which rights in respect of the transitional safeguard provisions of the ATC could be retained if Members did not fulfil their notification obligation in Article 6.1 as well as those relating to integration programmes. Norway fully agreed with the TMB that the Council should recall to Members the importance of strict compliance with the notification requirements of the ATC.

20. The representative of Egypt, endorsing the statement by Colombia, said that the data it had provided and those of a number of other speakers gave a solid background to establish that the provisions in favour of small suppliers and the least-developed Members had not been implemented consistently with the provisions and obligations of the ATC. He, therefore, appealed to the Council to take the necessary measures to adjust that situation.

21. The representative of Macau also shared the views of Colombia and others in regards to the provisions for small suppliers as Macau was in this category in both the European Community and Canada. Given its small economy, textile and clothing exports had long been of major importance to the economic development of Macau. She therefore, strongly urged the respective importing Members to implement the provisions of Articles 1.2 and 2.18 and to fully comply with their obligations as importing Members in order to provide a meaningful improvement in access for textile and clothing products from small suppliers.

22. The representative of Pakistan, emphasizing the importance of cotton production and trade for his country, said that it was deeply concerned over the fact that the provision of Article 1.4 had not been implemented.

23. The representative of the United States said that he would take a very different view with respect to all of the topics under discussion. With the exception of one issue, these subjects had not been raised with the United States as subjects of consultations during the life of the ATC. In fact, the United States had taken its obligations under the ATC seriously and believed that it had implemented the provisions of the ATC faithfully. If other Members took a different view, the United States was willing to conduct consultations in that respect. He also noted that, with the exception of one issue, these matters had also not been raised with the TMB. As had been the case with subjects raised in previous meetings, it appeared that Members wanted to "leapfrog" over the provisions and procedures that were laid out in the ATC to deal with these issues and to bring them straight to the Council. This would not appear to be the most constructive way to proceed, if there were genuine problems. With respect to the provisions for small suppliers, the United States did not agree that it had not implemented the provisions of the ATC with respect to these Members in the way that was intended by the Agreement. The question in respect of Article 2.18 of the ATC was whether advancement in the growth factors meant cumulation. He asked if the word "advancement" meant that a Member would accumulate both the first and second stages as a way of achieving what was intended by the negotiators. The United States would take the position that this was clearly not the intent of the language of the ATC. Advancement meant that instead of applying the growth rate that was provided for in the first stage, the considerably higher growth rate for the second stage was to be applied. As a consequence, small suppliers would receive a meaningful increase in their access to the United States' market, especially bearing in mind that this was a compound growth rate that was applied not just in the first three years of the ATC, but through all of the years of the ATC. Starting at the beginning of 1998, since the third stage growth rate would be applied in the second stage, with the third stage growth rate being higher than the second stage, there would be an extra increase in this access. There was, therefore, no question that by "front-loading" these considerably faster growth rates for small suppliers, a meaningful increase in access for them into the United States' market was achieved.

24. With respect to the treatment of least-developed country Members, such as the case of Bangladesh which had been cited, the United States would argue that this was also a provision that it

took seriously. In fact, the way in which it had chosen to implement this provision with respect to Bangladesh was through the considerably higher growth rates that were applied to Bangladesh's exports to the United States. Bangladesh had among the highest growth rates on the range of quotas that existed on its exports to the United States and also since the starting rates were higher, the accelerated growth provided in the ATC meant that its quota growth in the United States would be substantially faster than non-LDC suppliers to the United States. There was no question that Bangladesh enjoyed a meaningful increase in its access to the United States compared to non-LDC suppliers. On the question of administrative arrangements, it was the United States' contention that the administrative arrangements that had been notified to the TMB were consistent with the ATC. There was no question that there was a recognized inconsistency that the TMB should have noted. The administrative arrangements had been negotiated bilaterally with a broad range of countries prior to the implementation of the ATC and it had been agreed in these bilateral negotiations, before the entry into force of the WTO, that they would be notified to the TMB. If there had been a feeling that there were inconsistencies or problems, presumably they should have arisen at the time that these agreements were entered into, but since then there had been no indication from any of the Members involved that they had changed their positions and that they now considered that there were inconsistencies. To the extent that Members now perceived that this was the case, they should enter into consultations with the United States to reach a mutually satisfactory conclusion.

25. With respect to cotton-producing, exporting Members, the United States had held consultations with all of them before or after the entry into force of the ATC. In a number of cases it had had multiple consultations on various issues. This question, to his knowledge, had never been raised in any of those consultations as a specific agenda matter to be dealt with, but it certainly provided a background under which these consultations had been conducted. This was a provision that the United States also took seriously and that it felt had been faithfully implemented. If any Member felt that this was not the case, they should enter into consultations with the view to reaching some sort of conclusion. One issue that was raised by Colombia related to the question of whether the TMB had or had not confirmed that safeguard actions taken with respect to group limits were consistent or not with the ATC. He was willing to discuss this matter further, however, he recalled that the TMB had pronounced itself on this question in relation to a safeguard action that the United States had proposed with Hong Kong, China on products in United States' category 440. The TMB had clearly indicated that, due to the fact that that category had been subject to a group limit, the United States was not in a position to take a safeguard action on that product. It was true that the United States had also made a request for consultations with Thailand with respect to a category that had also been subject to a group limit. Having received the decision from the TMB with respect to the Hong Kong, China case, the United States had withdrawn the request for consultations with Thailand. To the best of his knowledge, there was not an open question on this matter.

26. The representative of Canada shared the concern of the United States about what appeared to be a desire by a number of Members to "leapfrog" the specific procedures set out in the Agreement with regards to textile and clothing matters. Indeed, on the issues which had been raised at the current meeting, he had no recollection of any Member approaching Canada to seek consultations on these matters. With regards to the question of the treatment of small suppliers, Canada had implemented the provisions of Article 2.18 in a matter that was consistent with that provision. Canada had also gone one step further, not limiting itself to looking at which Members qualified in 1991; it had also looked at which Members might also have qualified based on the data in 1994. As a result, six more Members had qualified for that provision. He noted that the small suppliers in Canada had among the highest growth rates and they had been advanced by 25 per cent in the first phase and would increase further in the second phase. With regards to the question of the least-developed Members, or more specifically to the question of Bangladesh, this Member did not, in Canada's calculations, benefit as a small supplier. However, it did have among the highest growth rates on its products subject to quotas in Canada, ranging from 6.9 per cent to 8.7 per cent and going up another 25 per cent on 1 January 1998. Further, Canada

had just de-restrained Bangladesh's most valuable export category, that is, tailor-collared shirts. This provided meaningful access to the Canadian market for one of its most important exports. Bangladesh, in less than ten years, had grown to become Canada's fifth largest supplier and fourth largest low-cost supplier. On the question of cotton-producing exporting Members, none had raised this issue directly with Canada. This might be due to the fact that the structure of Canada's restraint category system was that, with the exception of some fabrics, it did not differentiate products by fibre type. In this regard Canada allowed the exporting Members a wide latitude to diversify their exports according to the needs of the market. Nevertheless, Canada would welcome a request for consultation by any Member that was interested in discussing this issue.

27. The spokesman for the European Community considered that in the areas currently under discussion, as in others previously considered, it had fulfilled its obligations under the Agreement. With respect to Article 2.18, he confirmed that the manner of application was as Members had earlier described and they had been applied to two restraints in respect of one Member and four restraints in respect of the other Member, with growth rates in the first case of 5 and 7 per cent and in the second case of 7 or 8 per cent. With respect to least-developed Members, the European Community did not maintain, either currently or at the entry into force of the Agreement, any restraints. As a result of various provisions, in particular the generalized system of preferences, exports from those Members to the European Community normally benefited from a zero duty rate. As regards administrative arrangements, the Community did not wholly share the view which had been put forward in the paper presented by Colombia. The European Community had always considered that the administrative arrangements in question were not consistent with the provisions of the ATC. The TMB had taken the view that on a potentially narrow construction of Article 2.17, certain matters could extend beyond its provisions, but it was also noted that there had been no intention that the administrative arrangements would constitute a derogation from the provisions of the ATC. The European Community saw neither an inconsistency, nor any problems. He also noted that the majority of the administrative arrangements which had been notified were made by way of joint notifications by the Community and the relevant Members as being the arrangements which they intended and considered as appropriate under the relevant Article of the ATC. No matters arising out of the administrative arrangements had been referred to the TMB for its consideration. As far as cotton-producing exporting Members were concerned, the European Community considered that it had held consultations with them in the context of which no specific requests had been made.

28. The representative of Thailand, speaking on behalf of the ASEAN WTO Members, referred to the statements made by the United States and the European Community with regard to the administrative arrangements. It was clear in this matter what was consistent and what was not consistent with the ATC. In the report of the TMB there had been mention that Article 5 contained no reference to the possibility of the importing Member imposing triple charges on quotas while recognizing what had been concluded in the administrative arrangements. It was necessary to understand the position of exporting Members three years ago and to recognize that when two parties negotiated it was not always on an equal bargaining status; that was a fact in world trade. This Council was able to recognize what was in conformity with the ATC and what was not. To say that everything was in conformity could not be accepted; even the TMB had not found that all elements in the administrative arrangements were fully in conformity with the provisions of the ATC. He recalled paragraph 221 of the TMB report, which read: "The TMB recalled that (one Member) had stated that when provisions of the administrative arrangements were inconsistent with the ATC the provisions of the ATC would apply." He hoped that that statement would be duly respected and honoured when that time arrived.

29. The representative of Pakistan considered the statements that the administrative arrangements were consistent with the ATC was not in agreement with the findings of the TMB report. In this regard he referred to paragraph 220 of the report which stated: "In reviewing these arrangements pursuant to

Article 2.21, the TMB observed that in several instances the consistency of some provisions of the administrative arrangements with the ATC could be questioned".

30. The representative of Hong Kong, China responded to comments made in respect to growth rates for small suppliers and the application of the provision of Article 2.17. Concerning the views of the United States and Canada that they had properly applied the provisions of Article 2.18 to small suppliers, he noted that there had been different interpretations by different importers of what was meant by "meaningful" in terms of Article 1.2. He considered that Article 1.2 obliged Members to apply Articles 2.18 and 6.6(b) in "such a way to permit meaningful increases in access possibilities". Article 1.2 did not provide for the application of the provisions in a number of ways or in different ways. A broader consideration was the fact that better growth rates were provided to a smaller number of exporters, while less favourable growth rates were applied to a larger number of exporters. He questioned how this could be compatible with the ATC's objective of further liberalizing trade. With reference to the discussion on Article 2.17, he invited Members' attention to Article 2.21 which provides, "The TMB shall keep under review the implementation of this Article". In this regard he would have hoped that the TMB's report could have given greater evidence of this provision being complied with. The TMB had the possibility and the responsibility to give meaning to this provision.

31. The representative of the United States responded to some of the issues that had been raised with respect to the issue of administrative arrangements. He did not believe that Members could read either the TMB report or the text of the ATC to come to a conclusion that the administrative arrangements that had been notified by the United States were inconsistent with the provisions of the ATC. As the TMB report indicated, the provisions of Article 5 of the ATC were a very broad grant of authority to the parties involved to reach a mutually satisfactory conclusion to deal with the issue before them. Although it was true that the question of triple charging was not specifically mentioned in the ATC, or more specifically within the provisions of Article 5, that did not detract from the broad grant of authority contained in Article 5 for the parties to reach mutually satisfactory solutions.

32. The representative of Thailand, speaking on behalf of ASEAN WTO Members, referring to the question of how the implementation process had so far contributed to the liberalization of textiles and clothing trade, summarized the developments during the first three years of the integration process. He considered that there had been a lack of progress towards effective transition as the integration programmes for the two stages had not contributed to any meaningful liberalization of trade in the sector. The proportions of restrained products included in the integration programmes had been minimal; even after seven years of implementation, over 96 per cent of restrained products would remain to be integrated. This testified to the fact that the process of integration was far from being progressive in character, as envisioned in the Agreement. Further, the enhanced growth rates would result in only a small increase in access to the markets of the restraining Members.

33. It was also noted that the use of transitional safeguards had not been sparing. Additional restrictions, imposed through the transitional safeguards, had severely hindered the progress towards any effective implementation of the integration process. Most importantly, one particular Member, as observed by the TMB, had failed to comply with important obligations arising from Article 6.

34. The representative of Thailand also observed that the application of policies relating to GATT rules and disciplines had not been respected by restraining Members. Actions such as systematic use of anti-dumping investigations, unilateral changes in customs rules and procedures, and maintenance of unnecessary administrative formalities had all resulted in increased barriers to trade and impeded access to the markets of the restraining Members. Moreover, new GATT-inconsistent restrictions on textiles and clothing had been introduced, as a result raising barriers to trade against various exporting countries. The unconditional most-favoured-nation treatment was not being respected by some importing Members, particularly where customs rules and procedures were being applied. Such

negligence was tantamount to violating the principle of non-discrimination and undermined the integrity of multilateralism to which all Members were committed. Such acts impaired the balance of rights and obligations embodied in the WTO Agreements.

35. He could not help but feel uncertain about the seriousness of some Members' commitment to full and faithful implementation of the provisions of the ATC, a goal that the Ministers at Singapore had reaffirmed, and which all Members should never lose sight of. Furthermore, Ministers had stressed the importance of integrating textiles trade into GATT's strengthened rules and disciplines because of its systemic significance for the rule-based, non-discriminatory trading system and its contribution to the increase in export earnings of developing countries.

36. He recalled that, at the Singapore Conference, Ministers had reaffirmed, among other things, that they attached importance to the implementation of the ATC to ensure an effective transition to GATT by way of progressive integration. They had stated that transitional safeguard provision should be used as sparingly as possible, reaffirmed that all Members shall take action to abide by GATT rules and disciplines and emphasized the responsibility of the Council in overseeing the functioning of the ATC. Accordingly, he considered that the Council should duly take note that the MFA-restraining Members had given assurances that they were fully committed to full integration of this sector into WTO rules by 1 January 2005 and they did not foresee nor anticipate any transitional difficulties in reaching that objective. He welcomed these assurances which gave a sense of confidence. He also considered that the Council should take note that, considering the fact that only a few restrained textile products were to be eliminated as a result of integration during Stages 1 and 2, and recognizing the serious preoccupation of the TMB (paragraph 74 and 77 of its report) with the lack of information as to how the implementation of the integration provisions would ensure a steady progress in terms of structural adjustment, the Council needed more information before it could assess how the implementation-monitoring mechanism as provided for by Article 1.5 was being undertaken. He hoped that the Council would come to an appreciation of the need to encourage continuous adjustment. It would be for the benefit of everyone to support the continuation of this process. The restrained Members should benefit from it, otherwise they may risk losses in their textiles export sector when trade was fully liberalized.

37. It was also recommended that the Council take a decision to invite the WTO Secretariat to prepare a study in the context of the implementation of Article 1.5 of the ATC. Upon completion, the study would be considered by the Council sometime next year, as an extension of this major review exercise. In the light of the lack of progress during Stage 1 and the widespread concerns that the balance of rights and obligations embodied in this Agreement was being impaired as a result of continuing actions and policies undertaken by some Members, the Council should take a decision to keep the situation under review without waiting until the next major review in four years. Such interim review should be conducted under the same terms as the major reviews provided for in Article 8.11 of the ATC.

38. Thailand also recommended that the Council formally take note of all specific proposals that had been made so far by Members in the previous sessions and that the Council offer adequate opportunity for these proposals to be further deliberated and discussed in order that the Council could arrive at appropriate conclusions and take any further necessary decisions.

39. The representative of Pakistan said that it was time for the Council to reflect on the facts and figures provided in the course of the major review. In his view, based on the facts and empirical evidence presented in the course of various meetings, he was led to the conclusion that the implementation of the ATC in the first three years had deviated in many respects from the path chartered by the authors of this Agreement. This was a matter of deep regret and grave concern for many who had seen the ATC as the beginning of the end of the protectionist culture which, in the past, had characterized textiles and clothing trade. The ATC implementation had not lived up to its ideal balance of rights and

obligations as embodied in the Agreement. In his view, there was still a fair chance for the situation to be retrieved and it was with this spirit in mind that Pakistan was making some recommendations for consideration by the Council. Firstly, while recognizing the fact that the integration programmes as notified by the four MFA restraining Members had contributed little to any commercially meaningful liberalization of textiles trade, the Council should recommend that the MFA restraining Members review their second stage integration programmes with a view to including more products previously under restraint. The second recommendation was that the Council should encourage the MFA restraining Members to take positive measures in the shape of advanced integration of restrained products as was done by Canada and Norway, which was appreciated. Third, the Council should impress upon the major textile importing Members to avoid, as far as possible, recourse to safeguard measures and other similar market access limiting trade policy instruments such as anti-dumping, visa arrangements and administrative regulations. Fourth, the Council should recommend that provisions in favour of small suppliers, least-developed country Members, and cotton-producing exporting Members should be implemented in keeping with the provisions and objectives of the ATC. Finally, the Council should take a decision to continue overseeing the implementation of the ATC on a regular basis.

40. The representative of Hong Kong, China considered that the outcome of the major review of the implementation in Stage 1 could be summed up in four points. First, virtually no restrictions carried over from the MFA had been lifted. Second, enhanced growth rates had resulted in only a very small increase in access to the markets of the Members carrying over MFA restrictions. Third, additional restrictions had been imposed through invocation of transitional safeguards. Fourth, other actions such as anti-dumping and changes in administrative arrangements had increased protection and impeded access to the markets of the Members carrying over MFA restrictions. As such, the very small increase in market access arising from enhanced growth rates had been offset by increased barriers to trade so that there had been a net reduction in access to the markets of the four Members carrying over MFA restrictions, taken in aggregate. This ran contrary to the objective of the ATC, which was liberalization of trade that should be progressive in character. Thus, the ATC had not made any progress in overall terms towards achieving this objective. This called into question whether the balance of rights and obligations embodied in the ATC was being impaired. Hong Kong, China, asked the Council to provide an answer to the question of balance. Such answer should be instrumental in arriving at clear conclusions and appropriate decisions which were earnestly and legitimately expected of the Council so that the mandate given to it under Articles 8.11 and 8.12 of the ATC would be fulfilled.

41. The representative of Colombia, also speaking on behalf of the Members of the WTO that are members of the ITCB commented that each Member would have his or her own analysis, reading and interpretation of the way in which the obligations were being complied with under the ATC. One of the fundamental objectives of this exercise was precisely to compare interpretations and, if necessary, to confront the different viewpoints with a view to reaching some conclusions. One way of interpreting that full compliance with the Agreement had been achieved would be to consider that there had been no complaints with respect to implementation and no consultation sought, however, in as much as there had been no consultations that should not necessarily imply that everything was being fully and correctly complied with. Precisely one of the functions of this review was to establish whether or not there had been any inconsistencies or shortcomings in implementing the ATC. He also recalled the importance of the analysis and understanding of the ATC for the general review and said that the ITCB had tried to provide an analysis which was as technical as possible and demonstrated the problems encountered in the areas in which the developing countries felt that there had been shortcomings in compliance with the Agreement. He emphasized the lack of progress in effective integration of the textiles sector into GATT and the shortcomings with virtually no integration of restrained products in the first and second phases along with marginal effects of the increase in growth as had been pointed out. There were also other areas of concern such as the use of the transitional safeguard provisions and anti-dumping actions. This had been demonstrated clearly and their effects on the exporting Members had been noted. It would seem that this was not in keeping with the rules of the Agreement. Further, in the treatment of small

suppliers and the least-developed countries, the special and differential treatment in the Agreement did not seem to have been complied with. In the conclusions of the Council on the implementation of the Agreement, all of these aspects, which are also referred to in the documents circulated, should be borne in mind and taken into account. Members should also take into account the terms of reference of the ATC when deciding whether or not the balance of rights and obligations had been observed and, according to the conclusion reached, formulate the recommendations that were deemed appropriate.

42. The representative of India reiterated the importance attached to this ongoing review of the implementation of the ATC, *inter alia*, as it would set a precedent for future reviews. He agreed with others that it was important that the Council should carry out the review with a view to analysing the quality of the implementation of the ATC. He emphasized the importance attached to the Council coming to specific conclusions and making specific recommendations based on the discussions held and the opinions expressed in the review meetings. In the absence of such recommendations, the review exercise would be reduced to one of futility. India had made detailed statements in the previous three meetings of the Council in which it had expressed both concerns and observations on the implementation of the ATC. While these views, and those of other Members were a matter of record, he fully supported and endorsed the conclusions drawn by a number of others, which should be appropriately reflected in the Council's report on the major review. In particular, he stated that India strongly supported the suggestion that the Council should continue to review the ATC until such time that it was able to exhaustively conclude upon all the issues which had been raised during these meetings.

43. The representative of Canada recalled that the overall objective of the ATC was the full integration by all WTO Members of this sector into GATT rules no later than 2005. The ATC also set out specific obligations with regards to its implementation during the transition period from 1995 to 2005. Many Members had concentrated their discussions over the four meetings on the implementation by four particular Members. The ATC, however, made it clear that the obligations with regards to the implementation of the ATC applied to all Members. Furthermore, the review must be based on the specific provisions of the ATC and any conclusions could only be based on those provisions. The first specific obligation regarding implementation during the transition period was integration and the process for such integration was clearly set out. It specifically required that any Member who wished to retain the right to use the safeguard in Article 6 had to carry out the integration. Canada had fully met these obligations with regards to the thresholds for both stages which had not been questioned by any Member. The ATC was also clear that each Member was free to choose the products to be integrated at each stage as long as the required thresholds were met.

44. Canada had also included in the first two stages of integration three products that were previously under restraint, including a clothing item, tailor-collared shirts, which was a product of particular importance to least-developed and smaller exporters. Indeed, while not required under the ATC, Canada had actually lifted the restraints six months in advance of Stage 2. At an earlier meeting, another Member had said that there had been no contribution to liberalization as a result of integration; however, these restraints had been lifted. Some Members would discount the importance of integrating at least 33 per cent of the products covered by the ATC in the first two stages; however, it should be recalled that once a product was integrated, it was subject to the full range of normal GATT rules and disciplines. In particular, a Member could not use the safeguard in Article 6 of the ATC. One importing Member which had recently removed most of its restrictions had been criticized for not integrating these products, so there must have been some value in integration. The integration obligations also included a requirement that the products come from four product categories: tops and yarns, fabrics, made-up textile products and clothing. Canada had met this requirement in both stages of integration. A number of Members had raised concerns that the pattern of product selection under the integration programmes of the four importing Members had shown a concentration in tops and yarns and fabrics. Canada observed, based on the notifications of the integration programmes of all Members, that most had

followed a similar pattern of product selection in their integration programmes. It had been pointed out that Canada's percentage, with regard to clothing in Stage 2, was 1.65 per cent. The percentage of tops and yarns in Canada's second stage was even lower at 0.65 per cent and the percentage of fabrics was not much higher at 2.1 per cent. However, the reason for the low percentages for these three categories was the high percentage of textile made-ups. In the case of the second stage integration, textile made-ups for Canada were 14.2 per cent or three-quarters of the volume of the products integrated. For both stages, textile made-ups were half of the products integrated by Canada. There has also been a debate on the growth-on-growth provisions. However, these growth rates would increase over time. The growth in the Canadian market was increasing at a slower rate than the growth rates of the restraints themselves. In the case of clothing, for example, the growth rates under Canada's restraint programmes were higher and would become even greater than the actual growth rate of the Canadian clothing market. Canada's market was growing at around 1 per cent annually at present. On average, the growth rates of the restraints held by Canada were 4.6 per cent. Therefore, there was increased access to the market in terms of market share.

45. Canada had not requested consultations under the Article 6 safeguards provision; however this remained an important provision for Canada, because it provided an atmosphere of greater confidence in the integration process. Canada's confidence in the integration process and its ability to manage this process had been increased significantly by the clarifications provided by the TMB and the DSB. This was important, since this improved clarity allowed all Members to better understand when consultations on safeguards could be requested. He also noted that a number of Members had raised concerns with regards to changes in the rules of origin. Canada had done so with the United States in the Committee on Rules of Origin and had held consultations in that regard. Canada was actively engaged in work of the Committee on Rules of Origin on harmonizing non-preferential rules of origin, and would encourage all Members also to actively participate in this harmonization programme. Concerning anti-dumping measures, Canada had not introduced any new anti-dumping duties during the last year and of the three measures in place 12 months ago, one had since been rescinded. He offered no comment on the fact the two remaining anti-dumping measures were applied against the United States. However, Canada, like any Member, had the right to use anti-dumping measures whenever circumstances called for it; that is, after an investigation had concluded that there had been both dumping and injury or threat thereof. He recognized the importance all Members attached to the ATC and its implementation. He again assured Members that Canada remained committed to implementing its obligations and to fully integrating the textiles and clothing sector by 2005.

46. The representative of the United States commented, as an overall evaluation, that the implementation of the ATC in the first stage had been quite smooth and consistent with the expectations of the drafters of the ATC. As regards a possible evaluation of whether the balance of rights and obligations within the ATC had been upset, it might be more appropriate and useful to look at individual elements and decide whether or not consistency with the ATC had been maintained. With respect to the concerns which had been raised on the integration programmes, he maintained that all obligations had been fully met by the integration programme that the United States had put forward. It had also been entirely consistent with the expectations of the drafters of the ATC. On the question of the application of the safeguard mechanism, he suggested that Members bear in mind that if a comparison were to be made between the first three years of the ATC and the last three years of the MFA, one would see that fewer restraints had been imposed in the first three years of the ATC. While the United States had reserved the right to take action in cases where there was serious damage or a threat thereof, the fact of the matter remained that there had been far fewer new safeguard actions taken within the first three years of the ATC compared to a similar period of the last three years of the MFA. With respect to many of the other issues that had been raised as sources of concern, it was appropriate for Members with such concerns to inform the United States and to seek consultations. If the results were not satisfactory, there were remedies that existed within the Agreement. It would not be appropriate for the Council to inject itself into these issues, when preliminary steps had not been taken.

47. With respect to the question of what recommendations or observations the Council might make with respect to the issues that had been discussed in the review, one direction that the United States could follow would be to reaffirm all of the provisions of the ATC. It was clear that the Agreement was an integrated whole and that it was not appropriate to choose individual elements of the Agreement for additional emphasis that did not exist in the ATC. There had been a number of recommendations proposed that the United States would have difficulty accepting. These could be grouped in three areas: first, a finding by the Council that aspects of the ATC had not been implemented properly, particularly with respect to questions involving integration, safeguards, rules of origin and so forth. The United States did not consider this to be the case, and it would not be willing to accept recommendations reaching these conclusions. The second area related to the question of the Agreement being deficient even if the rules had been implemented properly or within the letter of the ATC and that additional liberalization was required. This would be a reopening of the text that would not gain the United States' support. Third, there had been proposals for a greater role for the Council in textile issues in the future. However, Members already had the right to raise textile issues in the Council at any point considered necessary. A structural innovation establishing a new relationship between the Council and textile issues or between the Council and the TMB in particular, would not be something that the United States would support.

48. The spokesman for the European Community commented in summary that there had been in the debate what could be characterized as differences of perception, perhaps of expectation and certainly differences of concentration on various parts of the Agreement, but also on various provisions not part of the Agreement. He recalled that the words "progressive in character" in the Preamble to the ATC were followed almost immediately by the words "agree as follows" and were followed by the provisions of the Agreement which set the parameters under which the Council would effect this major review. The European Community considered that it had complied with those provisions and, in the context of being the world's largest importer and an open market, it had done so with a very high import penetration rate and with no non-tariff barriers. In these circumstances, he would see a difficulty in following an argument of impairment of rights and obligations. He took the opportunity to update the statistics given earlier concerning anti-dumping and countervailing duty measures taken by the European Community. For 1996, the figure for trade in the textiles sector affected in terms of value was 0.32 per cent. With respect to the ongoing work of the Council, he urged Members to be cautious concerning the respective roles of the Council and the TMB. The Agreement set out certain provisions in Articles 8.1 and 8.11 which must be respected. So far as the concrete proposals in respect of specific work in relation to continuous autonomous adjustment, he recalled that the European Community had provided details in this regard to the TMB to allow it to include these matters in its report.

49. The representative of Turkey disagreed with a statement made by Thailand categorizing new quantitative restrictions applied by Turkey on textiles and clothing products as being GATT-inconsistent. He explained that the restrictions on the importation of textiles and clothing products were being applied under the Turkey-European Community Customs Union, which was fully in conformity with Article XXIV of GATT 1994. Moreover, the Customs Union between Turkey and the European Community was currently under examination in the Committee on Regional Trade Agreements. So far, two meetings had been held for the examination of this customs union. This was an ongoing process with the last meeting being held as recently as 1 October 1997. Some concepts of Article XXIV of GATT were also under examination at the CRTA which was taking up the systemic issues in general. They, therefore, believed that any discussion of this issue in the current review would not only be premature, but it would also prejudice the ongoing work at the CRTA.

50. The representative of Norway stated that it understood the concern of exporting Members in respect of the first and second stages of integration, but he felt consideration should also be given to some positive aspects that might have been overshadowed. The elimination of restrictions should be seen in conjunction with the overall integration programmes wherein some restraints had been lifted and,

most importantly, there was full commitment to completing integration by the year 2005. Another positive matter was the functioning of the TMB, to which Norway attached great importance. Norway recognized that the obligations of the TMB had been both difficult and burdensome, but overall it should be complimented for its work even though it had had a difficult start in defining its working procedures and developing the procedure for scrutiny of measures which was essential for the review of the various notifications and disputes. The TMB, maintaining the present standard, would help to facilitate the full integration of the textiles and clothing sector into GATT.

51. The representative of Hong Kong, China put forward some proposals for conclusions or decisions by the Council. It was suggested that the Council should take note that the Members carrying over MFA restrictions had given categorical assurances that they were fully committed to complete the integration of the textiles and clothing sector into GATT by the year 2005 and had not anticipated any transitional difficulties. Second, the Council should also note that it appeared that only a few restrictions carried over from the MFA would be lifted under the Stage 2 integration programmes and it needed more information before it could make an assessment as to whether the provisions of Article 1.5 were being fulfilled, without which the major review would not be complete. Third, Hong Kong, China considered it would be useful if the WTO Secretariat could prepare a study on the implementation of Article 1.5, taking into account the interaction with the provisions in Articles 2.6, 2.8, 2.13 and 2.14. This study could be considered by the Council during 1998 as an extension of this major review. In the light of the lack of progress during the Stage 1 integration period, it was considered that the Council would need to keep the situation under review without waiting until the next major review which, according to the timetable established in the ATC, was not due for another four years. One possibility would be to conduct a mid-term review halfway through the four-year period.

52. The representative of Thailand speaking for the ASEAN WTO Members agreed with the foregoing proposals and recalled, first, the assurances given by a number of Members that they were fully committed to integration of this sector by 1 January 2005 and did not foresee any transitional difficulties in reaching full integration and, second, that only a few restrained products were to be eliminated as a result of integration during Stages 1 and 2. Also noting the preoccupation of the TMB with the lack of information on how the integration process would ensure a steady progress in terms of structural adjustment, he considered that the Council needed more information before it could make an assessment of how the implementation monitoring mechanism in terms of Article 1.5 could be undertaken. Therefore, the Council should take a decision to request the WTO Secretariat to prepare a study in the context of the implementation of Article 1.5 of the ATC, plus other elements which were mentioned earlier by the delegation of Hong Kong, China. The Council should also decide to keep the implementation under review without waiting until the next major review which was still four years away. Such an interim review should be conducted under the same terms as the major reviews provided for in Article 8.11 of the ATC. He also considered that the Council should formally take note of all the specific proposals that had been made and accord adequate opportunities for these proposals to be further discussed in order to arrive at appropriate conclusions and recommendations.

53. The representative of Canada commented with respect to possible recommendations or conclusions by the Council that Canada had met its obligations under the ATC and had gone further than what was called for in the ATC. Therefore, any conclusion, recommendation or observation that suggested otherwise could not be accepted. As regards the concept of an ongoing review, he was not sure what purpose would be served. In the current review, it was a question of whether or not Members had implemented each provision of the ATC. If not, Members could ask for consultations but to have an ongoing review in a revised formal structure under the CTG would be difficult to envisage. Canada was undertaking to fulfil the request by the TMB to provide information regarding the adjustment process in Canada, and it was undertaking to fulfil that request.

54. The representative of Pakistan urged Members not to become polarized but to make sure that the Council acted as an overseeing body and made an assessment whether the Agreement was implemented as it should be. While there were different perceptions, the Council should look at matters in a collective unbiased and factual way. It was not a question of exporters or importers but of one membership aiming to reach consensus.

55. The representative of Colombia speaking on behalf of the WTO Members that are members of the ITCB observed that the Council was approaching the stage of arriving at conclusions and, if possible, of making specific recommendations. Three years after the entry into force of this transitional Agreement and with the experience of these discussions as well as those in preparation for the Singapore Ministerial Conference, one could see the high degree of frustration on the part of the exporting Members. It was considered by developing Members that the transition from the Multifibre Arrangement, which was replete with restrictions, conditions and limitations, to the ATC with its very clear indications of progressiveness and a gradual phasing out of all these restrictions, was something which should be clearly visible in the various stages provided for in the Agreement. The entire WTO system governing the use of measures such as safeguard provisions, anti-dumping actions, etc. was something that was going to be more economical, more prudent and more moderate. What had happened was that matters had not transpired in this way and he noted, regarding anti-dumping measures, that the textiles sector had been the one affected most. He also saw that an important number of safeguard measures had been taken. If Members were to look at these developments they could have a feeling of frustration because the negotiations, held with the intention that if major concessions had been made in this area as well as in other areas could actually be reached. The possibility of major importing Members accepting conclusions of a body such as this one, thus complying with their obligations, would be difficult to achieve, but the Council should focus its discussion on the search for recommendations, and reflect the intentions that have been outlined by the various negotiators. He was sure that no Member had put into question the aims and intent of the Agreement and at various times they had stated that the decision and the policies went hand-in-hand with the legal commitments. However, if the result, after seven years and two integration stages, would be that a minimum percentage with a very slight trade component would cover two-thirds of the transitional period, then Members would understand that a discussion such as this one in a period of four years was going to be much more bitter and frustrating. The recommendations and conclusions proposed by some Members pointed to the guidelines and orientation which could be developed in this area. All Members were interested in having a system that was strengthened because if this review were to fail, this would be adverse for the entire system.

56. The representative of India concurred with the views of Colombia and said that the whole purpose of having two reviews before the end of the ATC was so that Members could reflect upon the period which had passed so that they could have pointers and guidelines for the future. The large amount of time and effort that Members had spent would be used in a constructive fashion if the Council could come to an analysis of steps that both the importing and exporting Members should be taking in the future phases.

57. The representative of the United States said that he was willing to discuss any proposal that was put forward. The problem was that there existed a gap of perception as to what needed to be done. On the one hand, from an importing Member's standpoint, it was clear that there were legal obligations that existed in the ATC and the United States worked from the assumption that if those legal obligations had not been met, it would have faced a more formal approach under the rules of the ATC and perhaps even moving on to a panel process if satisfaction had not been given there. Members had not hesitated when they perceived that their rights had been violated in other areas, both in the ATC and elsewhere. The fact that the preliminary steps for asserting a Member's legal rights had not been taken, left it difficult to then conclude that now the Council had discovered something that should have been remedied some time in the past and the only way to repair the situation was for the Council to act. Starting from the premise that these failures to assume one's obligations under the ATC were not present because these preliminary

steps had not been taken led to the conclusion that the real problem was that the exporting Members were not satisfied with the Agreement as it was written, that the phase-out was too long and that the possibility of taking Article 6 actions was a threat to exporters. However, any attempt to change the provisions of the ATC as they currently existed or to exclude them from the ATC entirely would be difficult for the United States to accept. The Agreement had been reached with great difficulty and was a carefully balanced Agreement in itself and with respect to other Uruguay Round agreements.

58. The spokesman for the European Community considered as a preliminary reaction that any observations and conclusions should derive from the provisions of the Agreement, and that conclusions which did not flow from the Agreement but from extraneous actions would cause considerable difficulty. The Agreement was one which would run until 1 January 2005 and it was clear that not all the benefits from the Agreement would be achieved either at once or at any particular stage of integration.

59. The representative of Norway was prepared to discuss a plausible and feasible format for concluding the review, one based on the Agreement. This should contribute to creating a focus and a positive atmosphere, avoiding polarization. The WTO was about rights and obligations but in a cohesive and a constructive atmosphere, and on this basis, the Council should try to reach conclusions.

60. In concluding the meeting, the Chairman said that the Council was not in a position at that meeting to come to a final decision on how to conclude the major review. In these circumstances, he informed Members that he would go into consultations bilaterally or in small groups to see if there was sufficient or adequate common ground for arriving at a mutually acceptable format for a conclusion of the review. He asked for the cooperation and understanding of Members as the consultations would be arranged at short notice. He stressed that any proposals and ideas which could help in this process would be most welcome. He also emphasized that there was little time to complete the exercise. The next formal meeting of the Council was scheduled for 19 November. His aim was to search for broad agreement by that date.

61. The Council took note of the statements made.