

WORLD TRADE ORGANIZATION

WT/TPR/M/3
4 October 1995

(95-2910)

Trade Policy Review Body
24-25 July 1995

TRADE POLICY REVIEW

EUROPEAN UNION

MINUTES OF MEETING

Chairman: Mr. Nestor Osorio Londoño

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I. INTRODUCTORY REMARKS BY THE CHAIRMAN

1. The Chairman, introducing the third review of the European Union, welcomed the delegation of the European Union, the discussants (Ambassador Srinivasan Narayanan, India, and Ambassador Carmen Luz Guarda, Chile), and members of the Trade Policy Review Body (TPRB). The TPRB was to base its work on two reports, one submitted by the European Communities (WT/TPR/G/3) and the other by the WTO Secretariat (WT/TPR/S/3). A large number of delegations had submitted advance questions in writing.

2. Based on an ad hoc arrangement applying to meetings of the General Council, the TPRB decided to invite FAO, IMF, OECD, UNCTAD and the World Bank as observers to this and the following meeting.

II. OPENING STATEMENT BY REPRESENTATIVES OF THE EUROPEAN UNION

3. Ambassador Jean-Pierre Leng stressed the unique nature of the process of European integration, moving from a customs union towards full economic and monetary union. The underlying policy objectives had, however, remained unchanged; the EU was committed to open markets, enhanced transparency and strengthened multilateral rules and disciplines. He emphasized the importance attached by the EU to the multilateral trading system, as recently evidenced by its efforts to reach a multilateral agreement on the liberalization of financial services. The EU was fully aware of the value of Trade Policy Reviews, which provided a forum for collective policy assessment and evaluation.

4. Mr. Roderick Abbott from the European Commission noted that the EU was the first of the four major trading entities to be examined under WTO provisions, covering "new" areas such as services and trade-related aspects of intellectual property rights (TRIPS). In the first year of its existence, it was particularly important for the WTO to assert itself as the forum for trading partners to discuss common interests and solve divergencies under multilateral rules.

5. The report by the European Communities, complementing the report by the WTO Secretariat, presented policy elements which best characterized the rôle of the European Union as a trading entity. Numerous developments had taken place since the previous review in May 1993. The EU had moved ahead with the full implementation of the Single Market, the development of the Treaty on European Union (the "Maastricht Treaty") and the Agreement on the European Economic Area (EEA) with five EFTA countries. Economic integration both inside the EU and with EEA partners went far beyond the levels achieved under traditional trading arrangements.

6. Work had also continued on the establishment of a new European architecture, based on arrangements for trade and broader integration with countries in central and eastern Europe. In this context, Bulgaria, the Czech Republic, Hungary, Poland, Romania and the Slovak Republic benefitted from a so-called "pre-accession" strategy. Free trade agreements had also been concluded with the Baltic States. In addition, relations with other Republics of the former Soviet Union had been re-examined and re-established in the form of Partnership and Co-operation Agreements, and a new form of partnership was being developed with Mediterranean countries.

7. Other important changes were the implementation of the Uruguay Round results, including the first round of tariff cuts, and the accession of Austria, Finland and Sweden.

8. Three main "lignes de force" could be distinguished in these developments:

First, EU harmonization equated with liberalization. The completion and consolidation of the Single Market had confirmed the liberal thrust of the 1992 programme across virtually all manufacturing industries. Harmonization had run in parallel with liberalization to attain a uniform régime through reducing, and eventually dismantling, internal barriers. Internal reforms in areas such as pharmaceuticals or telecommunications not only benefitted EU suppliers, but opened the internal market to third country industries.

Second, elements of a new European architecture had emerged with the application of the Single Market to an enlarged European Union, the European Economic Area, an expanded network of Europe Agreements, and the Euro-Mediterranean Partnership. This network of trading arrangements responded to fundamental issues such as stability of democracy, transition towards market economy, migration, and sustainable development. After a slow start, unprecedented

trade expansion had occurred between central and eastern European countries and the EU and the rest of the world. The Community's preferential and regional trade arrangements constituted an open form of regionalism, complementary to liberalization within the WTO. The GATT/WTO explicitly allowed for such regional schemes, and an increasing number of countries in other regions of the world were appreciating the ensuing trade effects. Any concern that the world might be splintering into trade blocs appeared devoid of empirical evidence; the share of intra-regional trade in total trade of the three main geographic trading zones had, with the exception of the Japan/Pacific zone, remained largely stable over time. Asia's experience demonstrated that regional integration agreements were not a precondition for increasing intra-regional trade.

Third, the European Union, as the world's largest trading entity, adhered strongly to the principle of multilateralism. It had genuinely global trade interests, reflected in its consistent support for an open multilateral system. The Union's rôle in the Uruguay Round had been geared to generating market opening, increasing geographical and sectoral coverage, and improving rule-based disciplines. Favours a more institutionalized trading system, the EU had repeatedly rejected unilateralism. Its new trade defence instrument - the Trade Barriers Regulation - was clearly subordinated to WTO dispute settlement mechanisms. The EU had also tried to be more responsive than others to concerns of developing countries related to issues such as the use of Article XVIII, TRIMs and cross-retaliation. Possibly due to its plurilateral nature, the EU had often been able to mediate between industrialized and developing countries.

9. The EU assumed that all WTO members had a clear interest in ensuring the effective implementation of the Uruguay Round results. These entailed not only tariff reductions and quota eliminations, but a whole set of commitments on rules and procedures. As growth in the services sector was outpacing that of merchandise trade, the conclusion of outstanding negotiations on basic telecommunications and maritime transport was in the urgent collective interest of all WTO members. Obvious priorities on the agenda for the Singapore Ministerial Conference were the links between trade and environment, and trade and investment. Given the mutually reinforcing nature of trade and foreign direct investment, the WTO was the best-suited forum to start discussions, and in due course negotiations, on world-wide investment rules.

10. The EU had received a large number of written questions, some of which were very detailed, before the review meeting. His answers would be general so as not to disturb the review exercise. Certain issues could be more appropriately pursued in other fora such as the Working Party on the enlargement of the Community or in the Committee on Agriculture.

III. STATEMENT BY THE FIRST DISCUSSANT

11. The first discussant (Ambassador S. Narayanan) pointed to the European Union's recent economic recovery, underpinned by increasing exports, strong productivity growth and more buoyant world markets. Unemployment remained a major concern, although wide differences existed among member States.

12. Trade liberalization by the EU had benefitted from commitments in the Uruguay Round and the elimination in the Single Market process of restrictions maintained by individual member States. He wondered, however, whether the Union's recent enlargement and its expanding network of preferential arrangements could be considered as liberalizing trade. A body of opinion held that these agreements and arrangements were trade diverting rather than trade creating. The present GATT/WTO mechanism for their examination and evaluation was not very satisfactory.

13. As a major trading entity with an influential rôle in the multilateral system, the EU should not maintain enclaves of industrial protection. Assistance to "sensitive" industries, such as textiles, steel and automobiles, should be phased-out. While the EU had an obligation to implement the Agreement on Textiles and Clothing strictly and fully, its first phase of integration was not very promising. Though conforming to the prescribed level of integration, the Union had included products generally not under restraint, thus missing an opportunity for industrial adjustment. The burden was accordingly shifted to subsequent integration stages. Noting that suppliers in certain central and eastern European countries would face no quotas by 1998, he suggested that the EU designed the second and third integration stages in a way that mitigated adverse effects on developing countries.

14. Services were becoming an increasingly important component of external trade. Current EU rules in areas such as banking, insurance and air transport contained reciprocity provisions which, although never invoked, might be incompatible with the basic m.f.n. principle enshrined in GATS. Harmonization and mutual recognition of services-related standards were particularly important to ensure the openness of the EU market. Differences in labour legislation among member States deserved particular attention as concrete and specific commitments were difficult to obtain in country schedules. In addition, economic needs tests, and their subjective interpretation, could act as impenetrable access barriers.

15. The Secretariat had noted, that the new EU regulations for anti-dumping, countervailing and safeguard measures incorporated the relevant WTO provisions with some additions and modifications. Safeguard actions remained subject to qualified majority approval by member States. By contrast, the threshold for anti-dumping and countervailing duties had been reduced to simple majority voting, with potential implications for the frequency of application. In the light of the improved WTO dispute settlement mechanisms, he questioned the need for the EU to introduce its Trade Barriers Regulation outside the multilateral framework.

16. The proliferation in the EU of trade measures for environmental purposes - including eco-labelling, packaging, production and processing standards - involved a host of problems for trading partners. While frequently voluntary, these measures could adversely affect market access, particularly of developing country exports such as textiles, clothing, footwear and chemicals. All such initiatives should be based on transparent, scientific, objective and equitable criteria.

17. In conclusion, he reiterated the EU's responsibility for upholding the basic principles of the multilateral trading system. The WTO Agreements, which allowed the Union to protect its own

commercial rights, should be strictly adhered to; any additional mechanisms were both unnecessary and undesirable. The EU should allow for an external assessment of its complicated and often discriminatory network of preferential arrangements; further extensions or enlargements should take into account the rights and interests of all trading partners.

18. The EU should examine its system of non-tariff measures and administrative arrangements, including licensing requirements, with a view to eliminating trade barriers and simplifying complicated procedures. In the area of trade and environment, the EU was called upon to strive for multilateral disciplines and refrain from trade measures which could adversely affect market access of developing countries. While the Union had contributed actively in the Uruguay Round to liberalizing trade and strengthening the multilateral system, it should continue to play this rôle in present and future trade negotiations.

IV. STATEMENT BY THE SECOND DISCUSSANT

19. The second discussant (Ambassador C. L. Guarda) noted that the EU maintained three different levels of integration or trade liberalization: the Single Market with a common commercial policy and free circulation of production factors, recently extended to EEA participants; association agreements with countries in central and eastern Europe as well as reciprocal free trade agreements with some Mediterranean countries; and non-reciprocal trade agreements with countries in north Africa and Asia, the Caribbean and the Pacific (ACP).

20. The Single Market had positive effects for third country exporters now facing a large market with harmonized customs procedures and technical, sanitary and phytosanitary rules. Empirical studies for the EC customs union showed that, in the industrial sphere, trade creation had outweighed trade diverting effects. Market forces had contributed to higher growth as improved resource allocation had resulted in efficiency and productivity gains and m.f.n. tariffs had been reduced as a result of successive multilateral trade negotiations.

21. Due to the Common Agricultural Policy (CAP), however, intra-Community trade in agricultural products had not been accompanied by similar growth in external trade. The expansion of Community production had substantially reduced the need to import. Multilateral negotiations to liberalize agriculture had proceeded only slowly.

22. Associated countries benefitted to a large extent from the Single Market, although some activities, mostly linked to agriculture, were covered by more restrictive sectoral agreements. While not participating in the "*acquis communautaire*", these countries could nevertheless reach a market of 370 million people. Non-beneficiaries of these schemes, in particular developing countries exporting agricultural products and textiles, had the option to seek forms of association, further integration among themselves, or promote multilateral trade liberalization within the WTO.

23. She stressed the importance of GATT Article XXIV and GATS Article V for verifying the compliance of customs unions and free trade agreements with WTO rules and, thus, minimize discriminatory and restrictive trade effects. Overall, the European Union had given valuable support to a strengthened multilateral trading system.

24. Recent changes to the Union's GSP scheme were of general concern to developing countries. The new specialization and development indices could lead to discrimination between developing countries competing for the same market; the indices would favour producers of raw materials and low-processed goods while penalizing more advanced suppliers. She hoped that criteria for selecting countries deserving 'special treatment' would not proliferate in the WTO. She also felt that according special incentives on social and environmental grounds could have ambiguous effects; non-complying countries would be unable to finance required investment via export expansion. It was also important to ensure that the application of rules of origin did not nullify or impair preferences.

25. While accounting for less than 3 per cent of GDP in the EU, agriculture had proved a continuous source of discontent among non-member countries. Criticism had not only been voiced at the slow pace of reforms but, increasingly, the adverse environmental impact of the CAP. The 1992 reforms, essentially covering cereals, oilseeds and bovine meat, marked the first step from price-based support to direct payments to producers.

26. Uruguay Round commitments capped subsidy payments and reduced the scope for border protection. Stocks had fallen considerably in sectors under reform. While acknowledging the importance of set-aside schemes, she enquired whether the relevant area targets had been met and whether there had been modifications. Pointing to relatively successful reforms in the bovine meat sector, she wondered whether similar measures were planned for other meat categories to comply with Uruguay Round commitments. Liberalization of the dairy sector was particularly needed as the existing system of rigid production quotas implied high costs.

27. Sugar had not been included in the CAP reforms, perhaps because of the 'self-financing' nature of the market organization. However, the system implied major transfers from EU consumers to producers, while high m.f.n. tariffs, coupled with preferential quotas, generated distortions in world markets. The new market organization for horticultural products, applicable from 1 July 1995, was based on relatively low m.f.n. tariffs, but supplemented by standardized minimum import prices. She urged the EU to ensure the consistency of its import régime with WTO rules, including the provisions for customs valuation in cases where actual transaction values were dismissed or doubted.

28. The Common Fisheries Policy would encompass Spain and Portugal from 1996. High tariffs and tariff escalation persisted; safeguard actions and quotas on canned sardines and tuna illustrated the sensitivity of the sector. Noting that the EU was harmonizing sanitary controls, she queried about the timetable and the envisaged level of standardization. Some countries were concerned that the EU's bilateral fisheries agreements contained preferential tariff provisions inconsistent with the WTO.

29. While competition policies were not formally covered by the WTO Agreements, recent trade disputes had highlighted the need to examine their impact within the WTO. In the European Union, competition policy served to ensure that trade liberalization among member States would not be negated by restrictive business practices or mergers. Provisions limiting such abusive practices were particularly important in services areas characterised by the presence of dominant operators. However, the Commission appeared to tolerate restrictive arrangements in sectors facing significant technological, structural or regulatory changes. In addition, the Common Agricultural Policy was exempt from the general rules.

30. The co-existence of Community rules and national legislation in competition policy pointed to a need for harmonization. Additional problems could result from the division of competence between the Commission and member States. She further enquired whether the completion of the Common Market had stimulated industrial concentration.

V. STATEMENTS BY MEMBERS

31. The representative of Argentina expressed concern about the declining share of extra-EU in total trade. The accession of Austria, Finland and Sweden and the prospect of future enlargements raised questions about the treatment under WTO provisions. In the implementation of Uruguay Round commitments, the EU's use of standard minimum import prices for cereals, fruit and vegetables appeared inconsistent with agreed rules and commitments contained in the Community's Uruguay Round Schedule. He stressed that the Blair House agreement between the EU and the United States had been multilateralized; in this context, Argentina could share in the tariff quota on maize.

32. He wondered how agricultural products could circulate freely in the Single Market when subject to specific national controls, and noted that the EU had notified the Committee on Sanitary and Phytosanitary Measures of enquiry points to be maintained by the Commission and each member State. Noting that small farms were exempt from land set-aside, he asked about their share in total EU crop production. Additional written questions had been submitted prior to the meeting.

33. The representative of the Czech Republic complimented the EU for its continuous commitment to an open and stable trade régime as well as the leadership shown in the final phase of the Uruguay Round and recent negotiations on financial services. He also welcomed the EU's prompt notification of the implementation of Uruguay Round obligations and invited the EU delegation to comment on assumptions that the Agreement on Agriculture had only limited impact on future agricultural production.

34. The EU continued to be one of the most frequent users of anti-dumping procedures. Given that their mere initiation could have adverse effects on trade, he advised a more restrictive policy approach; anti-dumping actions initiated shortly before the expiry of other trade restrictions were particularly troublesome. He asked the EU representative to comment on allegations that foreign companies or governments had moderated exports of sensitive products to ensure harmonious trade relations and avert defence actions, and wondered how any such practices squared with the principles of open and non-managed trade.

35. Over the past two years, the EU had been a major stabilizing factor in the reorientation and liberalization of trade in countries with Europe Agreements. However, the EU enjoyed a trade surplus. He requested more details on initiatives to harmonize rules of origin and allow for pan-European cumulation, to share know-how in export promotion, and to encourage the adoption of EU norms and standards. The preparation of the associated countries for accession to the EU was fully compatible with the spirit of the WTO.

36. The representative of Hong Kong felt that the EU's current economic recovery would benefit the world at large. Hong Kong was anxious to see that the external trade effects of deeper and broader European integration - including recent accessions, the EEA and many bilateral agreements - were consistent with the relevant WTO obligations. While some recent developments gave the impression that the EU was preoccupied with own problems and priorities, it was imperative that the Union remained outward-looking, open to trade and sensitive to economic developments in other regions. He recognized its important rôle in the implementation of Uruguay Round results.

37. Despite adjustment pressures in so-called sensitive industries, including textiles, the Union was running a trade surplus with Hong Kong in domestically produced manufactures. The product list notified by the EU for the first integration stage under the Agreement on Textiles and Clothing was disappointing.

38. The representative of Australia complimented the EU for its unambiguous contribution to the Uruguay Round, including recent proposals in the area of financial services. He expressed concern, however, about the Union's handling of the 1995 accessions and suggested the reorganization of negotiations under GATT Article XXIV; trade compensation issues should be addressed in advance of accession or interim arrangements which, in turn, should apply until permanent solutions were found.

39. In implementing the WTO Agreement on Agriculture, the EU had chosen not to include certain export subsidies in the initial reductions; and new import arrangements on wheat and rice appeared to be inconsistent with its undertakings. The reform of the Common Agriculture Policy (CAP) had so far fallen short of the expected impact on commodities of interest to Australia. The EU might be unable to abide by its WTO obligations, notably to reduce export subsidies, without further changes to the CAP, possibly including increased set-aside and reforms of production arrangements in areas such as meat, dairy, sugar, fruit and vegetables. He invited the EU to explain plans to reduce trade barriers and dismantle subsidies in the coal sector, and outline its objectives for the Singapore Ministerial Conference. Early replies to Australia's advance questions in writing would be highly appreciated.

40. The representative of Hungary felt that regional and multilateral trade integration could be mutually supportive. European integration and harmonization in many areas had facilitated the EU's participation in the Uruguay Round which, in turn, had been a catalyst to further internal reform. She rejected views that the Union's expanding preferential links could have discriminatory effects; recent arrangements had rather strengthened the associated countries' ability to contribute to multilateral trade liberalization.

41. While the Europe Agreements had benefitted exports of the associated countries, EU exports to Hungary had grown much faster than flows in the opposite direction. Delayed liberalization in areas of particular export interest to Hungary, including agriculture, had contributed to increasing her country's bilateral deficit. The relevant provisions of the Europe Agreement thus needed to be reviewed in the light of recent accessions and the new agricultural régime under the WTO. The economic recovery in the EU, coupled with the impetus of the Single Market and new multilateral commitments, might further stimulate Hungary's exports. Referring to indications that the EU would encourage the formation of a Central European Free Trade Area, she stressed that any such initiatives should not result in new organizational structures which might delay the accession process; EU membership was a priority for her Government.

42. The representative of Malaysia, speaking on behalf of the ASEAN countries, referred to the completion of the Internal Market programme, the conclusion of the Uruguay Round, the recent EU enlargement, and the Union's expanding network of free trade and preferential arrangements; they all had far reaching implications on third countries and the EU's rôle in the WTO. The maintenance of certain trade restrictions at national level - including technical regulations discouraging the use of tropical timber in public works and housing projects - was a matter of concern. He questioned the EU's need for a new Trade Barriers Regulation, given new WTO rules and strengthened dispute settlement provisions, and hoped that the Regulation would not be used to pursue non-trade objectives. The accession of Austria, Finland and Sweden implied higher tariffs in some cases and the extension of the CAP and some non-tariff barriers, such as textile quotas, to these countries. He was concerned about the way the EU approached the negotiations under GATT Article XXIV.

43. Tariff peaks and tariff escalation persisted in key sectors for developing countries, including textiles and clothing, vegetable oils, timber, rubber products and fish. There appeared to be a surge

in EU anti-dumping actions against certain ASEAN countries, in some cases due to insufficient screening of complaints or questionable investigations. A new food hygiene directive contained stricter provisions on transport and storage than the existing Code of Practice adopted by the Codex Alimentarius Commission; the required special transport arrangements for bulk food items, including vegetable oils, implied additional cost and inconvenience for exporters. ASEAN countries were also concerned about the new EU import arrangements for rice.

44. ASEAN countries recognized that the GSP scheme was a useful, autonomous instrument to facilitate exports of developing countries. However, recent revisions appeared to be retrogressive and did not significantly benefit exporters. The proposed inclusion of non-trade issues, via environmental and social clauses, would further curtail benefits under the scheme.

45. The representative of New Zealand concurred that major changes had taken place since the EU's previous review. New Zealand was disappointed that the EU had again decided to negotiate under Article XXIV:6 only after the members had joined; he hoped that recent bilateral settlements with some trading partners would not disadvantage others. New Zealand did not accept cross-sectoral crediting in assessing the impact of enlargement on market access. Similarly, it would not accept proposals to aggregate the Union's previous export subsidy commitments and those of the new members.

46. He welcomed efforts to integrate reforming central and eastern economies into the mainstream of international relations; the Europe Agreements were central to these efforts. Trade liberalization should continue on an open and non-discriminatory basis. Suggestions that the EU would count imports from Europe Agreement countries under its new m.f.n. minimum access quotas, raised a number of questions. New Zealand was prepared to compete on equal terms with others and did not want trade opportunities to be further eroded by preferential arrangements.

47. He appreciated the first step towards agricultural reform in the EU to which the WTO Agreement added certainty. Grey-area measures were transformed into WTO-consistent arrangements and the tariffification of variable levies represented, in principle, a significant improvement. However, high tariffs and tariff escalation remained in agriculture and fisheries, and the new minimum access quotas were generally small. Attempts by the Community and others to circumvent subsidy commitments by not counting products approved prior to the implementation of Uruguay Round but shipped later, were inconsistent with the spirit of the WTO and contrary to expectations. New Zealand expected the actual quantities shipped by the EU in 1995/96 to accord with the scheduled levels.

48. The completion of the Single Market had on the whole proved beneficial, and moves to harmonize and simplify sanitary and phytosanitary measures were welcome. However, various recent EU directives had introduced substantially stricter standards and verification requirements. The necessary clearance of New Zealand establishments for trade in meat and fish had delayed trade. New Zealand was monitoring the EU's environmental initiatives to ensure non-discriminatory implementation by member States. The harmonization objective underlying the EU directive on packaging and packaging waste was appreciated.

49. The representative of the Republic of Korea welcomed that the EU's trade policies over the past two years had generally demonstrated a commitment to multilateral trade liberalization; the EU had sought to harmonize internal measures on the basis of m.f.n. obligations. However, there was widespread concern about the growing complexity of the Union's network of regional arrangements and their relation to the WTO. In particular, he sought assurances that duties and other restrictive regulations would be eliminated with respect to substantially all trade, as stipulated under GATT

Article XXIV:8, including sensitive sectors such as agriculture. He also enquired about the EU's pending customs union with Turkey, under which Turkey would be allowed to retain higher third-country tariffs on various manufactures, including cars, footwear and bags.

50. Acknowledging that the EU did not intend to take commercial defence actions in a manner inconsistent with the WTO, he wondered about the Union's stance in areas not covered by WTO provisions and involving non-WTO members. Korea was concerned about various problems caused by the EU's frequent reliance on anti-dumping measures, including the trade effects already incurred at the initiation stage, a growing tendency for measures to extend well beyond the initial term, and calculation methods biased towards increasing the dumping margin. While welcoming the widespread tariff reductions to be implemented in the wake of the Uruguay Round, he hoped that the EU would include sectors such as clothing, passenger cars and electronics in future tariff cuts.

51. The representative of Poland noted that his country's bilateral trade with the EU was expanding at an unprecedented pace, however, the balance had swung into deficit. Poland's exports could have grown faster in the absence of EU anti-dumping measures and restrictions on agricultural imports. For example, a recent anti-dumping investigation on cement, launched by producers involved in cartel arrangements, did not contribute to ensuring a stable and predictable trade environment. He asked for confirmation that the EU would maintain current access conditions for live sheep, and sought information on subsidies accorded to shipyards in the former GDR.

52. Poland had applied for EU membership and expected the negotiations to start shortly after the 1996 Intergovernmental Conference. Work on the approximation of legislation and economic adaptation had begun, in many areas Poland already met requirements of the *acquis communautaire*.

53. The representative of Japan appreciated the EU's non-confrontational approach in international trade relations. The process of European integration, as long as it remained open to third countries and consistent with GATT/WTO rules, could contribute to world stability and prosperity. However, GATT Article XXIV and Article V of the GATS had to be applied. Some aspects of the accession of Austria, Finland and Sweden had not been consistent with the relevant rules. Negotiations with Japan under Article XXIV:6 should have started before the implementation of the common tariff, and the EU should have supplied information in time. The EU had also violated the GATT/WTO Agreement on Anti-dumping by automatically extending anti-dumping measures to the new members without proper investigation. Japan had addressed specific questions in writing to the EU.

54. Japan could not accept an increase in export subsidies resulting from the EU enlargement, and the EU should refrain from subsidizing farm exports to new markets. Further areas of concern included Poland's increase, in the context of its Europe Agreement, of m.f.n. tariffs on certain goods while applying lower rates or zero-duty tariff quotas to imports from the EU. The customs union with Turkey resulted in the abolition of tariffs on bilateral trade from its entry into force, while Turkey was accorded a transitional period to align to the common external tariff on certain products, in some cases resulting in a substantial tariff gap. He invited the EU to reconsider these arrangements to the benefit of the multilateral system.

55. Discriminatory access barriers such as the local content provisions in the 'television without frontiers directive' should be revoked in the light of the relevant GATS principles. Local content requirements also existed in the procurement directive for the water, energy, transport and telecommunication sectors, and he noted an extremely low share of non-EU supplies in these areas. Trade descriptions introduced in France for scallops also discriminated against foreign suppliers. He

called for increased procedural transparency and opportunities for non-European producers to express their opinion when EU standards were drawn up. EU anti-dumping measures were used arbitrarily and for protectionist purposes; asymmetries in the calculation of dumping margins had been highlighted by the Panel examining the EU measures on audio tapes and cassettes. Japan was also concerned about the provisions on circumvention and registration of imports incorporated in the new EU anti-dumping regulation. Finally, he stressed that, contrary to certain indications in the Secretariat report, Japan applied no voluntary measures other than the monitoring agreement on car exports.

56. The representative of Canada, referring to past Trade Policy Reviews of the EU, identified certain persisting problem areas. In the EU's complex hierarchy of preferential arrangements, only five WTO members, including Canada, faced the full m.f.n. tariff. Given the expansion of preferential agreements since the previous review, disparities in access conditions would be maintained despite reductions in m.f.n. tariffs. Tariff escalation remained significant in several sectors - fish and non-ferrous metals were of particular interest to Canada - and high tariffs persisted on many value-added forestry products, including plywood. Tariff escalation in agriculture was difficult to assess due to the continued restrictiveness of the system.

57. The EU's implementation of market access commitments in agriculture was of great concern; Canada had already initiated consultations regarding the import régime for grain. The level of protection for passenger cars was difficult to understand, and the automobile arrangement with Japan set a bad example of managed trade. He also questioned the integrity of the Single Market and the Commission's ability to persuade member States to amend restrictive practices such as regulations on scallop labelling in France, technical standards for bovine semen in Italy, and marketing restrictions on windscreen washer anti-freeze in Finland. Inflexibilities in the EU's decision making system, once a common position had been reached, continued to be a serious problem.

58. Canada believed the EU had an obligation to conclude its negotiations with third countries under Article XXIV:6 prior to the accessions. Such negotiations should form part of the strategy to prepare future members for accession. The proliferation of preferential arrangements with countries acceding to the WTO could also influence these countries' approach in negotiations with other WTO members. Given improvements in EU procurement legislation, including the expansion in coverage, he considered the level of purchases from third countries as extremely low and recommended stronger enforcement by the Commission. By contrast, the Commission's persistence in disciplining member States' subsidy practices was commendable; he mentioned in particular coal and steel, textiles, shipbuilding, motor vehicles, transportation, research and development, and the environment. Attempts to integrate the EU's coal sector into the world market, including the termination of Germany's import restrictions and stricter subsidy disciplines, would be welcomed. The collapse of the restructuring plan for the EU's steel industry was disappointing. While the Commission appeared to favour a multilateral approach in areas related to trade and environment, legislation banning fur imports from countries not prohibiting certain leghold traps was inconsistent with the EU's international commitments.

59. Since multilateral negotiations could facilitate the process of policy reform, it was disappointing that the EU had not used the Uruguay Round to address more problem areas. He hoped that, as the world's largest trading entity, the EU would feel obliged to set an example and re-evaluate some of these areas.

60. The representative of Costa Rica asked for details regarding the EU's new GSP scheme, notably the criteria applying to agricultural imports, the use of special incentives and the graduation of economically advanced countries. He also enquired whether the preferential arrangements applying

to central American countries in 1995 would be aligned in product coverage to those maintained vis-à-vis the Andean Pact. Costa Rica had also raised a number of advance questions in writing.

61. The representative of Romania stressed the EU's influence on world trade, pointing in particular to the entry into force of the Maastricht Treaty, the recent enlargement and the network of preferential agreements with third countries. The EU had become Romania's principal trading partner; closer economic and commercial ties were an important factor in Romania's transition to a market economy and its integration in the world economy. The EU had not only helped to devise a more transparent, stable and better functioning trading system in the Uruguay Round, but played a key rôle in the implementation process. It was reassuring that the EU remained firmly committed to a liberal and coherent trade policy, even if certain elements had yet to be defined.

62. The representative of Uruguay failed to see a clear direction in the Common Agricultural Policy in the aftermath of the 1992 reforms and the Uruguay Round. Tariffs were high, with peaks in the meat and dairy sectors, and insulated EU producers from the realities of the world market. Certain sectors received disproportionately high transfers, for example bovine meat accounted for almost 20 per cent of total subsidies. The integration of countries in central and eastern Europe in the EU would be an important new policy factor. Given the CAP's negative impact on third countries, he enquired about future policy changes; Article 20 of the WTO Agreement on Agriculture called for negotiations on continuing the reform process.

63. The new import system for rice was of particular relevance, past exports from Uruguay had been negligible due to the operation of variable levies. While import liberalization for citrus fruit would be of considerable interest, he felt that the new minimum import prices for fruit and vegetables perpetuated traditional levels of protection. Among other negative aspects, exporters would be unaware, at the time of shipment, of the duty levels applied by the EU. The EU enlargement caused additional concern; he mentioned in particular the extension to the three new member States of the CAP and of the Uruguay Round commitments on export subsidies and internal support.

64. The representative of Switzerland was pleased to note that the EU's regional integration efforts were an instrument of trade creation, generally meeting the requirements of GATT Article XXIV. Access conditions for third countries had improved after the conclusion of the Uruguay Round. Nevertheless, it was necessary to monitor any temporary discrimination of trading partners at different levels of economic integration. He enquired about the EU's work progress in expanding the cumulation of origin status across preferential agreements with European partners.

65. The EU's constant efforts to apply the principles of the Single Market and liberalize trade in services were welcomed. However, the ruling of the Court of Justice on the division of negotiating competence between Community and member States raised questions in relation to individual sectors under the GATS. Moreover, he wondered whether the new commercial defence instruments also applied to services and, if so, what measures and procedures were envisaged.

66. The representative of the United States recognized the general openness of the EU market and the Union's leadership in concluding the Uruguay Round and creating the WTO. Remaining concerns related to a tendency to conclude regional trade arrangements that failed to fully reflect the relevant WTO obligations; persistent problems in agriculture; failure to provide national treatment in the areas of investment and intellectual property; and numerous specific barriers.

67. While the United States supported regional integration, conscious of its important political component, it insisted on the compatibility with agreed multilateral rules. The EU had a long tradition of discriminatory regionalism and most arrangements, customs unions or partial free trade agreements, were far from fully liberalizing agriculture. In addition to ignoring multilateral rules, the arrangements deprived the EU's partners of important commercial advantages and promoted a generally lax attitude towards free trade agreements. He hoped that the EU would develop a new approach to ensure that its agreements complemented the multilateral system.

68. Despite its general commitment to open markets, the EU had occasionally resorted to trade distorting measures. Examples included restrictions on automobile imports from Japan, attempts to manage trade in bananas and to impose own value judgements on trading partners in the regulation of leg hold traps. Problems with reciprocity requirements and denial of national treatment were evident in the investment régimes and intellectual property legislation, especially on copyrights, of some member States. Questions also surrounded the EU's interpretation of some commitments in agriculture.

69. The representative of India shared concern expressed about the Union's new commercial defence regulations. Restraint should be exercised in the use of these instruments since the procedures, irrespective of the final outcome, involved trade harassment and caused significant costs to exporters. While the first phase of the EU's integration programme for textiles and clothing met the technical requirements of Article 2.6 of the WTO Agreement, it was far from meaningful and included only products not under restraint. The process of structural adjustment of the EU's textiles industry had been postponed and would be more painful at subsequent stages. He suggested the elimination of residual restrictions on some textiles and clothing products and, pointing to full liberalization under the Europe Agreements in 1998, urged speedy integration of the sector to guarantee equality of access and non-discrimination.

70. Eco-labelling was a potential source of protectionism, and the EU criteria relating to textiles had not always been objective, scientific, transparent or equitable. Significant barriers existed for services suppliers relying on temporary relocation of natural persons; they were subject to differing national legislation and arbitrary and subjective decisions under economic needs tests. These problems affected in particular developing countries which, due to a poor capital base, could not establish a commercial presence abroad.

71. Linking benefits to environmental and labour standards, the EU had introduced elements of discrimination and reciprocity in its GSP scheme; they were alien to the GSP concept as envisaged in the GATT. Despite the overhaul of the CAP, there had been little change in the intensity of agricultural protection, if at all. Significant distortions remained and deprived efficient producers of trading opportunities. A major proportion of EU imports entered under contractual or unilateral preferences, subject to emergency safeguards and zero-duty quotas. Such features, however, fuelled apprehensions about EU-led regionalism being inward looking. The complex network of trade preferences created an area apart from m.f.n. principles, and recent Europe Agreements contained no references to obligations under international agreements such as the WTO. Satisfactory examination of regional trade arrangements under WTO provisions was an important institutional issue. He hoped that the EU, as a major trading entity, would fully respect the letter and spirit of all WTO Agreements.

72. The representative of Zimbabwe drew attention to the importance of the Lomé Convention for developing countries. While appreciating the mid-term review of Lomé IV, which addressed structural deficiencies in beneficiary countries and their loss of market share, he questioned the inclusion of human rights issues. He sought more information on the Union's co-operation agreement with South Africa.

VI. REPLIES BY THE REPRESENTATIVE OF THE EUROPEAN UNION AND ADDITIONAL COMMENTS

73. The representative of the European Union (Mr. Roderick Abbott), referring to a written statement which had been distributed to participants, said he would concentrate on focal points to inspire the debate.¹ More detailed replies to written questions would be provided in due course.

(i) Overall contribution to the WTO system

74. The representative of the European Union noted the general appreciation of the EU's contribution to the Uruguay Round. In manufactures, the EU had undertaken to reduce its tariffs by 37 per cent to an average tariff of 3.6 per cent in 2000, and close to 40 per cent of imports would enter free of duty. The EU's rule-based approach was reflected in many results of the Uruguay Round, in particular the strengthened dispute settlement mechanism. The EU was currently striving to secure a meaningful agreement in financial services, in full support of the multilateral system.

75. The EU had no particular plans for further negotiations on market access. Its tariffs in sectors such as textiles and motor vehicles compared favourably with those of other WTO members. Moreover, EU rates were bound. The ongoing reform of the CAP, the possible inclusion of additional sectors, the effectiveness of set-aside, and the implementation of Uruguay Round commitments could be examined in greater depth in the Agriculture Committee. Developments thus far were encouraging, and new measures were under discussion in the tobacco, wine and sugar sectors. Any clear assessment of the reform impact was premature as several new factors had come into play, including Uruguay Round commitments, enlargement, and the pre-accession strategy for countries in central and eastern Europe. The EU had taken the necessary decisions to implement the Uruguay Round results, for example for grain, and these would be subject to further review. The new system for fruit and vegetables, including minimum entry prices, was designed to avoid disturbances in local markets.

76. The EU did not share other participants' interpretation of the requirements under GATT Article XXIV. In previous enlargements, applying the same procedures, the EU had never been told that these were incorrect. Article XXIV required each member of a customs union to apply a common external tariff and did not call for the tariff negotiations to be completed before the duty changes were made. The WTO Understanding on Article XXIV implied no new aspects; procedures were to be commenced before tariff concessions were modified. Any further obligations would have been opposed by the EU on legal and practical grounds.

77. The EU aimed at negotiating agreements under Article XXIV:6 within a reasonable period of time; if not possible, the Unions' tariff concessions would be notified and partners might retaliate. A clear conflict existed between the substantive requirement of Article XXIV - a common tariff - and the procedures indicated in Article XXVIII which had originally been designed for more limited negotiations. Although the Understanding did not oblige the Community to conclude interim agreements, temporary arrangements, erga omnes in their effect, had been accepted to avoid a serious dispute over GATT interpretation with a potentially damaging impact on the WTO. Overall, the EU expected the duty changes following the enlargement to result in a positive net effect for WTO members in the order of ECU 230 million.

¹A revised version of the statement is annexed.

78. The nature and functioning of a customs union entailed the uniform application of anti-dumping measures at the external border. It could accordingly be argued that the EU had not adopted measures for three new members, but was extending existing measures to its enlarged territory.

79. The first discussant enquired about the implications of the Communities' remark, in its TPR report, that Uruguay Round agreements would be implemented 'to the extent possible'. He was also concerned about the co-existence of dispute settlement procedures under bilateral arrangements and the WTO mechanism. He wondered whether the EU would be prepared to reduce its high tariffs on textiles if other major traders also agreed to do so. In the enlargement context, the EU had concluded an interim agreement with one trading partner, which was not available to others. Calculations of global benefits resulting from enlargement were not very informative, since it was the specific situation of each individual exporter that mattered. While review procedures could be invoked if anti-dumping measures were extended to the new members, he felt that these procedures shifted the burden of proof to exporters.

80. The second discussant argued that the recent enlargement was different from past accessions due to the simultaneous conclusion of the Uruguay Round. Therefore, compensation should have been negotiated prior to the accessions or interim arrangements been offered on a broader basis.

81. The representative of Argentina agreed that concerns about the EU's agricultural policies could be discussed in detail in the Committee on Agriculture. He stressed, however, the rôle of the TPRB as a forum to address weaknesses in the methodology used and in the decision-making procedures related to the implementation of WTO commitments. Certain measures affecting imports of grains, fruit and vegetables were contrary to the EU's written undertakings in the Uruguay Round. Some countries had been more successful than others in avoiding the adverse consequences of the recent enlargement.

82. The representative of the United States emphasized the need to implement faithfully the WTO Agreement on Agriculture. The United States felt that the requirements under GATT Article XXIV:6 were quite clear, however, differences of opinion tended to surface with each EU enlargement.

83. The representative of Hong Kong agreed with the first discussant's comments on the extension of EU anti-dumping measures to the new members. He could not see that the EU's approach was covered by Articles 4.2 and 4.3 of the Anti-dumping Code; duties should have been re-assessed on the basis of a redefined domestic industry prior to their application to the acceding members. The extension of safeguard measures was also questionable.

84. The representative of Australia recalled that the Uruguay Round had not only resulted in specific concessions on market access and export subsidies for agriculture, but defined a new approach for domestic policies. The 1992 CAP reform was an important first step, further measures should follow the path of the Agreement on Agriculture and move away from production-linked payments to producers. The Uruguay Round negotiations with the countries acceding to the EU had been based on the assumption that the results would be fully available from the beginning of the implementation phase. In concluding some interim arrangements, the EU itself had recognized the need to avoid an increase in trade barriers at the outset. Broader recognition of this principle would make Article XXIV arrangements more acceptable and easier to defend under WTO rules and objectives.

85. The representative of the European Union appreciated the remarks made. He emphasized that the EU had negotiated the WTO Agreements in good faith and would implement them in the same

spirit. Regarding the EU enlargement, he reiterated that the overall picture was positive and provided a good negotiating basis.

(ii) Impact on third countries of EU integration, new accessions and preferential agreements

86. The representative of the European Union stressed that the Single Market was an example of open regionalism; the share of extra-EU trade in total trade had risen from 37 per cent in 1980 to 41 per cent in 1993. Discussion of regional trade arrangements, a regular topic in Trade Policy Reviews of the EU, was becoming more and more relevant, given the expansion of NAFTA, evolving trade rules in the context of APEC, and the redefinition of relations between North and South America.

87. A Trade Policy Review was not a forum to examine the consistency of preferential agreements with WTO provisions, but gave an opportunity to reflect on the interpretation of Article XXIV. He wondered whether WTO members wanted to accept new economic and political realities or apply Article XXIV as a straitjacket to any partnership or co-operation agreement with a basic free trade objective. A distinction had to be drawn between traditional free trade areas - focusing on tariffs, quotas, origin rules and now also on trade in services - and the more general concept of regional integration, which included wider economic co-operation, financial assistance in some cases, approximation of legislation in the economic area, competition policies, even co-operation in matters such as political dialogue and migration.

88. Partnership of this kind frequently involved developed and developing countries, and this had implications for the timing and objectives of each partner. While retaining the basic objective of Article XXIV, namely to create rather than divert trade, it might be necessary to re-examine the requirement to cover substantially all the trade and other provisions pertaining to the submission of a plan and schedule, which led to a free trade area within a reasonable length of time.

89. Fears of some trading partners of being left out by the EU were defied by trade statistics. Any categorization of EU partners according to their preferential status should be carefully interpreted. While the vast majority of countries qualified for preferential treatment, almost 70 per cent of EU imports entered on a non-discriminatory basis, either because of the trade weight of the suppliers concerned, zero tariffs also for m.f.n. imports, or discrepancies between GSP entitlements and actual import registrations. Referring to alleged limitations in coverage of the EU's regional trade arrangements in Europe, he stressed that each agreement set timetables for further liberalization or free trade in sensitive areas such as textiles or steel, and significant market opening was foreseen in agriculture over the life of the agreements.

90. The EU autonomously differentiated among GSP suppliers only in the sense that it tried to direct benefits to the countries needing them most. The special incentive régime which would grant additional preferences to beneficiary countries was not yet in operation. It would be first applied from 1 January 1998. The Commission would present a report in 1997 on international studies on the relationship between trade and labour rights and trade and the environment. The Council of the European Union would then decide on the intensity of the special incentive régime under the GSP scheme. In principle, all GSP beneficiaries were eligible. Internal consultations on any withdrawal of GSP concessions would take place in the Committee for the Management of Generalized Preferences, while the ultimate decision would be taken by the Council.

91. The first discussant reiterated that the existing WTO mechanism for the review of regional arrangements was highly unsatisfactory, and pointed to difficulties in distinguishing between open and

discriminatory regionalism. He recognized the important geo-political aspects of regional arrangements and acknowledged that integration was evolving well beyond trade issues, but the proliferation of such agreements made it imperative to assess their impact on the multilateral system.

92. The second discussant stressed the importance of trade liberalization negotiated in an m.f.n. context; it could be supplemented by unilateral liberalization. Referring to the question of whether GATT Article XXIV was a straitjacket or should be applied flexibly, she felt that the examination of regional arrangements in the WTO, without being restrictive, naturally should focus on trade issues. However, more precision was required in the implementation of GATT Article XXIV and GATS Article V. Concerns about the EU's new GSP scheme were legitimate, given its potential for discrimination among developing countries. Transparency was important in this respect, and existing benefits needed to be maintained.

93. The representative of Argentina also saw the need to adapt the multilateral trading system to new challenges. However, established rules and disciplines had to be respected. While under the GATT/WTO system the GSP was admitted through the Enabling Clause, as a unilateral concession by industrialized countries, the introduction of environmental and social standards created conditions of reciprocity. The graduation principle was equally alien to the original intentions underlying the GSP concept.

94. The representative of the United States said that in discussing free trade arrangements with other partners, the United States had insisted that disciplines under GATT Article XXIV were tight and needed to be respected. They provided protection for others. This was particularly important in arrangements between countries at different stages of development in order to counterbalance any disproportionate influence of large participants.

95. The representative of New Zealand repudiated the idea that Article XXIV, which provided a derogation from general GATT rules, could operate as a straitjacket. Free trade agreements and any further expansion of preferential relations should be comprehensive in coverage and include sectors such as agriculture.

96. The representative of Australia agreed that regional trading arrangements provided a positive contribution to global free trade, if they were comprehensive and did not create barriers vis-à-vis the rest of the world.

97. The representative of Japan argued that the provisions of GATT Article XXIV should be interpreted strictly as they were important criteria for ensuring a non-discriminatory multilateral trading system.

98. The representative of Canada noted that the debate so far had not addressed the question if and how far regional arrangements affected the position of countries seeking accession to the WTO.

99. While acknowledging that regional trade arrangements could have broader political or security objectives, the representative of Hong kong emphasized the need to comply with existing WTO rules and protect third country interests. Whether these rules were adequate, required more in depth analysis. He was not convinced that the EU's special incentives under the new GSP scheme were based on appropriate criteria. Studies on the effects of sectoral or country graduation had not confirmed that the alleged benefits accrued in fact to the targeted countries.

100. The representative of India stated that the new GSP scheme ignored the factor-intensity of production in developing countries; certain labour-intensive chemical and textile products had been removed from the Scheme. He invited the EU to examine this aspect.

101. The representative of the European Union noted that the GATT historically had been a pragmatic institution. Therefore, as future free trade arrangements could encompass highly diverse economies, some thought should be given to the question how multilateral disciplines could be applied in these cases.

(iii) Sectoral policies and market access

102. The representative of the European Union said that it was both legitimate and appropriate to integrate the textiles sector stage-by-stage into the GATT. Liberalization under the Agreement on Textiles and Clothing was of value for all countries involved, any acceleration of the programme might impair import and export interests.

103. The EU had applied an equivalence scheme to the marketing of seeds and plant propagating material since 1966; it had worked satisfactorily with at least 25 countries. Consistent with the provisions of the Agreement on the Application of Sanitary and Phytosanitary Measures, the Union was negotiating agreements with a number of countries. They would provide for enhanced co-operation on sanitary and phytosanitary questions.

104. Concerning individual policy aspects in the areas of services, fish, coal and subsidization, he referred to the written submission (Annex). Further replies would be provided at a later stage.

105. The first discussant stressed that the debate had not focused on the Union's compliance with provisions of the Agreement on Textiles and Clothing, but on the political and economic question whether delaying the integration of 'sensitive' products might compound adjustment pressures and fuel protectionist resistance at the final stage. As far as coal was concerned, he had got the impression that the EU had no concrete plans to dismantle subsidies.

106. The representative of Hong Kong agreed that spreading adjustments over time could help to contain protectionist pressures.

107. The representative of Brazil was prepared to acknowledge that fast liberalization could cause adjustment problems. However, from a global perspective, this needed to be set against the efficiency gains resulting from sound economic competition.

108. The second discussant said she preferred sanitary and phytosanitary requirements to be set in accordance with internationally agreed standards. Unfortunately, the EU had not indicated whether its harmonized rules would equate, or be stricter than, international norms.

(iv) Use of trade policy instruments

109. According to the representative of the European Union, changes in the EU's safeguard rules were designed to implement the WTO agreement. The new Trade Barriers Regulation did not differ from its predecessor concerning the adoption of measures. In cases under WTO rules, the Regulation required the initiation of a dispute settlement procedure, a resulting decision in favour of the Union, and authorization by the Dispute Settlement Body. The Regulation could be seen partly as a safety

valve allowing traders and industry associations to address their concerns to EU institutions. The ultimate aim was the elimination of trade barriers, not the adoption of retaliatory measures against third countries.

110. No correlation existed between the change in voting rules for anti-dumping cases and the frequency of anti-dumping actions.

111. The first discussant expressed the hope that increased efficiency of anti-dumping procedures would not lead to faster action against an ever large number of countries.

(v) Other policy issues

112. The representative of the European Union took up the issue of leg hold traps. The EU had opened a dialogue with several countries and it was not certain that a ban on fur imports would actually enter into force. He emphasized that Community rules on packaging and packaging waste required that return, collection and recovery systems did not discriminate against imports or create distortions of competition.

113. The first discussant reiterated that environmental standards should be multilaterally agreed and based on transparent, scientific, objective and equitable criteria. They should not be biased against imports, especially from developing countries.

114. The second discussant noted that Community rules on competition co-existed with national legislation, and there was no obligation to harmonize. She reiterated her interest in information on the effects of the Single Market on industrial concentration in the EU.

VII. CONCLUDING REMARKS BY THE CHAIRMAN

115. Over the past two days, the Trade Policy Review Body has conducted the third review of the European Union's trade policies and practices. These remarks, made on my own responsibility, are intended to summarize the salient points; they do not substitute for the Body's collective evaluation and appreciation which will be reflected in the minutes of the meeting.

116. The discussion developed under five main themes: (i) the European Union's overall contribution to the WTO system; (ii) the impact on third countries of EU integration, new accessions and preferential agreements; (iii) sectoral policies and market access; (iv) use of trade policy instruments; and (v) other policy issues.

117. In addition to the discussion, participants raised a large number of questions in writing. The representative of the European Union provided written replies and undertook to give further details after the meeting.

(i) Overall contribution to the WTO system

118. Members stressed the European Union's rôle as the largest entity in world trade and its ensuing responsibility within the multilateral system. The Union's contribution in the Uruguay Round to liberalizing trade in manufactures and services and to developing new rules was widely appreciated. In the same vein, many participants expressed their appreciation for the EU's current negotiating initiative in financial services. Questions were raised, however, concerning the implementation of commitments in main agricultural sectors, where many members expected tangible improvements in access conditions. Concern was also expressed at the timing of the negotiations, and the EU's interpretation of GATT Article XXIV:6 and GATS Article V:2 on the effects of the recent enlargement of the Union. Underlining the importance for many countries involved, several participants emphasised that, in future enlargements, such negotiations should be undertaken in advance. The automatic extension of anti-dumping measures to the new member States was also questioned.

119. In reply, the representative of the European Union stressed the importance of a rule-based trading system. The EU was doing its utmost to reach a meaningful agreement in financial services. Agricultural reforms were proceeding as scheduled; new reforms included tobacco, wine and sugar. An evaluation of the reformed Common Agricultural Policy and Uruguay Round commitments was premature.

120. As in previous enlargements, the Union had followed the relevant GATT procedures; the WTO understanding provided that the procedures of Article XXVIII must be "commenced" before tariff concessions were modified. The proper functioning of the common commercial policy required the application of existing measures, such as anti-dumping actions, to the enlarged territory of the Union. In his view, this was consistent with the Anti-Dumping Code.

(ii) Impact on third countries of EU integration, new accessions and preferential agreements

121. Members noted the rapid pace of change in the institutional structure and external relations of the EU. Over the past two years, the Union had completed the Single Market; enacted the Maastricht Treaty; admitted three new member States; established the European Economic Area; implemented six Europe Agreements; signed several free trade and co-operation agreements; and launched a new Euro-Mediterranean policy.

122. Several members stressed the beneficial effects of the Single Market for both internal and external suppliers and the need to protect its integrity. In this context, information was sought on the European Commission's ability to prevent individual member States from pursuing potentially restrictive standardization and labelling initiatives.

123. While a number of associated countries highlighted the beneficial effects of their preferential trade arrangements with the Union, other participants questioned how far the increasing network of preferential arrangements was compatible with the multilateral system. Several members requested the EU to ensure that any further developments took into account the interests and rights of all WTO members.

124. A number of participants expressed concern about aspects of the EU's new GSP scheme; they called attention to its apparent bias against the most dynamic beneficiaries through the various graduation mechanisms and the inclusion of non-trade considerations for GSP benefits, related to areas such as the environment and labour.

125. The representative of the European Union, noting that the EC Single Market process constituted open regionalism, replied that regional integration was moving beyond free trade, encompassing economic co-operation, financial assistance, approximation of legislation, competition policy and political dialogue. This might require a new look at certain aspects of Article XXIV of GATT, which should reflect political realities and not be a straitjacket. Intra-regional trade in the EU had remained stable for some time; fears of trading partners being "left out" by the EU were thus unjustified. Agreements included "sensitive" areas such as agriculture, where further liberalization was envisaged, and textiles, where timetables were fixed for full liberalization.

126. The objective of the new GSP scheme was to respond more efficiently to economic changes in developing countries and to assist the less developed among them. The special incentive régime, linking trade to environmental protection and social conditions, would not apply until 1998. Concession could only be withdrawn by the Council of Ministers after an examination procedure. Overall, the Union expected the new scheme to be neutral on the volume of trade. The decision making process regarding product sensitivity and country graduation would not be altered before 1998.

127. Participants reiterated that the provisions of Article XXIV, while not a straitjacket, contained clear multilateral disciplines within which all free-trade areas must be viewed; these procedures were for the benefit of all. In particular, preferential agreements must be comprehensive and consistent, with reduction of trade barriers to the rest of the world. They also stressed that the GSP scheme should not, through conditions, disadvantage developing countries with the capacity to use it.

(iii) Sectoral policies and market access

128. While appreciating the breadth and depth of tariff cuts made in many manufacturing areas, participants expressed disappointment at the moderate reductions in "sensitive" EU sectors such as textiles and clothing, motor vehicles, and electronics. High tariffs would remain for value-added forestry products, and significant tariff escalation persisted in sectors such as non-ferrous metals. Concern was expressed that liberalization of the textiles and clothing régime was proceeding slowly, and that the first integration stage under the WTO Agreement contained none of the restricted categories under the Multifibre Arrangement; more evenly spread integration across the stages should benefit the adjustment process while assisting exporting countries. Participants underlined the need for stricter subsidy disciplines on member States in the coal sector and looked forward to the termination of

Germany's safeguard action. One member noted that aid granted to shipyards in the former German Democratic Republic had apparently led to capacity increases.

129. Tariffication of variable levies and other import measures had brought about very high tariffs on agricultural products. Participants sought information regarding the implementation of minimum and current access quotas, and wondered whether the EU could meet its reduction commitments under the WTO Agreement, notably concerning export subsidies, without further policy reform. New import arrangements for cereals (wheat and rice) and fruit and vegetables were a matter of concern. The sugar régime, only marginally changed, remained costly to domestic consumers and restrictive for non-preferred exporters. New EU sanitary regulations introduced more onerous requirements for some food and agricultural products.

130. Members noted that high tariffs and escalation persisted in the fisheries sector, whose sensitivity was underlined by recent safeguard actions. One member was concerned about the EU linking trade preferences to access to fish resources. Information was sought on ongoing internal harmonization of sanitary controls.

131. Participants referred to the division of national and Community competence for trade in services. Questions were asked regarding reciprocity provisions in EU regulations and the application of European transmission quotas in the audiovisual sector. Some members referred to access problems for services providers who relied on the movement of natural persons; the relevant provisions varied significantly among member States.

132. The representative of the European Union replied that EU tariff cuts were substantial, the rates for motor vehicles and on made-up textiles and clothing items were relatively low compared to other trading partners. Moreover, EU rates were all bound. The EU had no defined plans for further tariff negotiations at this stage.

133. The Community adhered fully to the provisions of the Agreement on Textiles and Clothing. The Council of Ministers would decide on the further integration of products; accelerated liberalization could prove disruptive for both importers and exporters. In agriculture, sanitary requirements applicable by member States were subject to ongoing harmonization; the EU had the necessary powers to ensure the proper respect of its obligations under the SPS Agreement. The written replies contained answers concerning fisheries, coal and services. In financial services, he noted that information on the negotiating positions of individual participants was still awaited.

(iv) Use of trade policy instruments

134. The organic link between the new Trade Barriers Regulation and the Union's international obligations was welcomed. Some members sought confirmation that the Regulation could not be used in the absence of WTO authorization; others questioned the need for it in these circumstances. Concern was voiced at the Union's frequent recourse to anti-dumping measures and uncertainties surrounding their application.

135. Acknowledging that there was a common body of procurement legislation in the Single Market, members expressed disappointment at the persistently low share of foreign supplies; the Union was invited to provide detailed data on recent developments. Concern was expressed at reciprocity provisions in a procurement directive in the water, energy, transport and telecommunications sector.

136. Some participants felt that the rules of origin under the Union's preferential trade agreements lacked consistency and were unnecessarily complex. The cumulation of origin status across agreements should be improved.

137. The representative of the European Union stated that the New Trade Barriers Regulation had updated procedures established under its predecessor regulation, but not the essential requirements. As before, action could be taken only if authorized under WTO provisions. Changes in anti-dumping legislation were confined to implementing the WTO Agreement; virtually all current measures had been taken under the "old" rules.

138. The EU had ratified the Government Procurement Agreement and would apply its provisions fully by 1 January 1996. The Union would support the principle of non-discrimination in this area, if that were recognized and applied by all WTO members.

139. The cumulation of origin across agreements was under discussion with preferential trading partners. However, such a system would not encompass all countries as it required the EU's partners to apply a fully integrated origin system among themselves.

(v) Other policy issues

140. Several statements referred to the growing importance of trade-related regulations for environmental and health reasons, including recent eco-labelling schemes. Participants called for objective and transparent criteria to prevent the creation of new trade barriers.

141. Attention was also called to the interaction between trade and competition policy and the necessity to ensure a consistent approach in both areas. One member enquired about the division between national and Community competence in competition policy.

142. The representative of the European Union gave information on the criteria underlying the impending trade bans related to leghold traps and animal testing of cosmetics as well as the rules for packaging and packaging waste and eco-labelling.

143. Precise data on industrial concentration following the Single Market could not be provided, however, there was a clear trend to greater industrial integration. Further comments on the interaction of EU and national competition policy were made in writing.

144. It is my impression that the TPRB has conducted an intensive and productive review of the European Union's trade policies and practices and their effects on the multilateral system. It has covered traditional themes, such as policies in agriculture, "sensitive" industries and the use of trade defence instruments, and included reforms resulting from the Uruguay Round as well as an important discussion of issues relating to Article XXIV. If the discussion of "new issues" such as services was not as deep as might have been expected, this was no doubt explained by the state of the continuing negotiations.

145. The pace of ongoing changes highlights the usefulness of regular, comprehensive trade policy reviews. Consolidation and further development of the Uruguay Round results will help to minimize tensions between internal, regional and multilateral approaches, and assist the EU to maintain an international, outward-looking perspective. However, adherence to, and use of, WTO provisions in all respects is crucial.

ANNEX
Written Statement by the Representative of the European Union

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I. OVERALL EU CONTRIBUTION TO URUGUAY ROUND

1. Positive elements

It is my pleasure to open this statement, devoted to replying to the main questions asked yesterday morning, by recalling the general acknowledgment of the positive contribution of the EU to the UR, that clearly emerged from our partners' comments and interventions. This is true in terms of final obligations we subscribed to: (a) For manufactures, the reduction in tariff rates is 37 per cent and our average duty rate at the end of the implementation period will be 3.6 per cent. Considering all "0 for 0" concessions, close to 40 per cent of all Community industrial products will after full implementation, be free of duty. (b) In services, we are still deploying our most careful efforts to make it possible to reach a meaningful agreement in financial services, in full support of the multilateral system. (c) The rule-based approach, which has always been ours, is reflected in many results of the UR negotiations, in particular in the strengthened dispute settlement mechanism.

United States "Regarding sectors where negotiators were not able to achieve liberalization by the end of the UR, what plans does the EU have for further or faster market access liberalization in specific sectors?"

Both our report and that of the WTO secretariat underline the EU's contribution to the UR market access negotiations. Similarly to the United States who regrets the lack of progress in certain sectors of interest for them, there were also sectors like textiles and glass where the EU was not able to obtain liberalisation from its partners. It would be helpful in any planning we may do to know what others will do. So far, we have no plans.

Hong Kong "Taking into account the EU's Uruguay Round commitments which include widespread tariff reductions for manufactures, why does the EU still maintain the relatively high tariffs rates in some "sensitive" sectors, including clothing and passenger cars?"

Our reply to such an unrealistic accusation will be that our post-UR commitments reflect the outcome of the negotiations, which were hard and painful for some EU sectors. However, a 10 per cent rate on passenger cars and a maximum UR final rate of 12 per cent on textiles is not "relatively high". Indeed, it is quite low compared to rates charged by others in this room, and our rates are bound.

With regard to Textiles, the EC tariffs are at 0 per cent for raw materials, 2 per cent for slightly processed goods, 4-5 per cent for yarns and man made fibres, 8 per cent for fabrics and 12 per cent for made-up articles. This in no way can be qualified as high. These levels reflect our harmonisation approach and rather reduce tariff escalation. We can only hope that others with much higher tariffs can reduce theirs to EC levels.

2. Agriculture

As regards this sector two broad types of questions have been put forward:

- first, comments on the progress of the CAP reforms decided in 1992, including the extension of reforms to sectors not already tackled and the effectiveness of set-aside measures;
- second, comments on the implementation of our Uruguay Round commitments, e.g. in sectors such as grains, rice, fruit and vegetables.

These are issues which should be pursued in greater depth and in detail in the Agriculture Committee. However, as a layman, I will offer some provisional thoughts:

- we believe that, this far, the results of our reforms have been encouraging. These will of course only be fully implemented in the current marketing year, 1995-96, and it is therefore somewhat early to be drawing definite conclusions as to their impact on production;
- reforms in new sectors are continuing, for example our report refers to measures being discussed and adopted in the sectors of tobacco, wine and sugar;
- as regards a more in-depth assessment of the effects of the reforms being undertaken, this will I think have to wait until 1996-97 at least. In effect, we are having to deal with a fluid situation, in which several new factors have already intervened in recent years: the Uruguay Round commitments, enlargement and the need to prepare a pre-accession strategy in CEECs, to name only three. In the meantime, some adjustments are already having to be made to the Europe Agreements to take account of the impact of enlargement and of UR commitments on CEEC trade, and this clearly is bound to have an effect of feed-back upon our policy and its probable development;
- as for the UR implementation, we have to remember that this is now all of 25 days old. It has in certain cases not been easy to reconcile conflicting tendencies, we have taken the decisions that were necessary and, as you will be aware, these are subject to further review e.g. for cereals.

3. Enlargement

3.1 Systemic issues for Article XXIV:6 negotiations

A number of delegations have stated that we have not followed the correct procedure; that notification and in particular tariff negotiation should have been initiated much earlier, that such negotiations should have been completed before any duty increases were introduced, or that (failing that) interim arrangements should have been made to meet the concerns of all WTO members.

We do not share their interpretations of Article XXIV and its requirements - and since this is so, I am sure you will appreciate a direct and robust reply:

1. The Community is not the party that is innovating in terms of procedure. We have followed the same process as in 1973, 1981 and 1986, and we were never told on previous occasions that the procedure was incorrect.
2. Article XXIV does not require that tariff negotiations be completed before duty changes are made. On the Contrary Art. XXIV requires a customs union to apply "substantially the same duties" by each of its members, in other words a common external tariff.
3. The WTO Understanding on Art. XXIV has made no change in this respect. Paragraph 4 provides that the procedure of Art. XXVIII must be "commenced" before tariff concessions are modified.

4. It would have been extremely simple to have changed this wording to make it an obligation to begin substantive negotiations, or to complete them, before any duty changes: but this was not negotiated, and we would have opposed it on both legal and practical grounds.
5. Where the Understanding quotes Art. XXVIII (in paragraph 5) it certainly implies that negotiations should aim to reach agreement within a reasonable period of time; if this is not possible, the customs union is free to modify tariff concessions, and its partners may retaliate. This is precisely the objective of our current XXIV.6 negotiations.
6. There is a clear conflict between the substantive requirement of Article XXIV - a common tariff - and the procedures indicated in Article XXVIII which were originally designed for much more limited negotiations.
7. Lastly interim arrangements are also not in any way an obligation for the Community under the Understanding. We accepted, prior to 31 December, to make some temporary arrangements which were *erga omnes* in their effects, in order to avoid a serious dispute on a matter of GATT interpretation which would have had a damaging impact on WTO at the precise moment when it was being established.

Mr. Chairman, we should establish also a perspective on this question. Taking the impact of all duty changes, both reductions and increases in duties, the net effect for all WTO members is substantially a positive one, both now on the basis of duty rates applied in 1995, and at the end of the Uruguay Round when all tariff cuts are implemented. We are confident that the Working Party set to examine this matter will endorse conclusion.

3.2 Anti-dumping and Enlargement

It is necessary, first of all, to emphasise that the nature and functioning of the Community as a customs union legitimately entails the uniform application of anti-dumping measures at the external border which has now been extended to include the new Member States.

The effect of this is twofold. First, anti-dumping measures imposed by the three new Member States are repealed as of 1 January 1995 and second, anti-dumping measures in force in the Community on that date, which have all been adopted following an investigation carried out in conformity with Article VI of the GATT and Community implementing legislation, are applicable to those new Member States. From the GATT-law point of view, this situation is *sui generis*. It could, however be argued that the Community has not adopted measures in respect of the three new Member States but rather applies existing measures to the enlarged territory of the EC. In this respect, the situation could be assimilated to other situations warranting a review, such as that of new producers joining the Community industry or new exporters engaging in business in the Community market after the adoption of measures. In such cases, the GATT Anti-dumping Code (Article 11.2) and the Community's consequent legislation (Article 11 (3) of Regulation (EC) No. 3283/94) have made provision for reviewing measures in case of such changed circumstances.

On this basis, the Community considers that any interested party able to demonstrate that the findings (and the measures) adopted would have been significantly different had they been based on information including the new Member States, should be entitled to a review and has decided, in addition, that the time restriction (1 year of minimum existence of a measure for being reviewed) set out in Article 11 of the basic Regulation will not apply in this case. To that effect, the Commission has published in

the Official Journal of the European Communities, a notice in order to inform all parties concerned and give them a fair chance to have their case re-examined, if warranted. In addition, the Community may examine whether retroactive reimbursement (from 1 January 1995) of duties would be appropriate.

This approach ensures consistency of the common commercial policy in the enlarged Community, while fully complying with the EU's GATT obligation. Since the EU has achieved a high level of integration and because of its constitutional structure (see Article 4.2 and 4.3 of the Anti-dumping Code) it was entitled to apply the duties to the three new Member States.

4. Problems of implementation: Standards and Certification

We heard criticism about insufficient integration/harmonisation within the European market or the non-availability of mutual recognition in certain areas. This is either because we are in areas outside Community competence, or the process is still incomplete. At present, the general framework applying to the internal market is as follows:

A distinction has to be made between regulatory provisions adopted by public authorities which are binding, and voluntary instruments, such as standards adopted by independent standards organisations, which remain voluntary.

As regards mandatory technical rules, whether they cover technical specifications, or relate to testing and certification, including administrative procedures, there are several instruments to avoid technical barriers to trade:

Harmonised area covered by EU legislation

- . In this area, two different legislative techniques are being followed. The technical harmonisation directives of the "old approach" fix the protection requirements with regard to safety, public health, consumer protection or other legitimate objectives of the Community in a very detailed manner. The directives based on the "new approach" and the "global approach" only establish the essential requirements with regard to products as well as the appropriate conformity assessment procedures. The protection level set up using both techniques represents the minimum that manufacturers must fulfil in order to be able to place their products on the Community market and at the same time the maximum that can be required by the market surveillance authorities of the Member States.

Non-harmonised area covered by national legislation

- . Directive 83/189 obliges Member States to notify draft regulations to the Commission and other Member States, allowing them to identify potential trade barriers and to adopt the necessary steps in order to avoid the creation of new trade barriers.
- . As regards existing regulations, which may differ according to Member States, the principle mutual recognition has been developed and established on the basis of Articles 30 to 36 of the EEC Treaty. This means that, products legally manufactured or marketed in one country can in principle freely circulate throughout the whole European market. Products imported from a third country and legally put on a market in a Member State, are assimilated to Community products and, therefore, can in the same manner freely circulate.

As regards voluntary instruments, the Community has adopted a series of policies with a view to creating a European standardisation infrastructure, capable of dealing with requests for European standards. European standards have to be transposed into national standards and conflicting national standards have to be withdrawn, thus bringing about an effective harmonisation. In addition, Directive 83/189 obliges national standards organisations to notify to each other new work items. On that basis national bodies may ask for European standards to be developed instead of the national standard, or ask for active or passive participation in the national activities.

European standards organisations have a strong record in implementing international standards and have concluded cooperation agreements with their international counterparts.

As regards testing and certification in the voluntary field, the Commission and the European standards organisations have set up the European Organisation for Testing and Certification (EOTC). This is an umbrella organisation under which interested parties can conclude mutual recognition agreements. Participation in these voluntary agreements is open also to companies in third countries.

II. IMPACT ON TRADING SYSTEM/EU TRADE RELATIONS WITH THIRD-COUNTRIES

1. Single Market

I have stressed yesterday that the EC harmonisation process equates with liberalisation. I would like to add that the EC single market process in fact constitutes a form of open regionalism, as is demonstrated by the increasing share of extra EU trade (imports plus exports) in total trade. This share has evolved from 37 per cent in 1980 to 41 per cent in 1993.

2. Importance of preferential relations of the EU

It is becoming a tradition to have a general discussion on the issue of regional trade arrangements on the occasion of our TPRs and this makes sense because of the wide network of agreements that the EC has in place or under consideration. In future, however, it will also become more and more relevant in other TPRs too, as we move into a period of expanding NAFTA, establishing the modalities of APEC's evolving trade arrangements and defining the relations between North and South America. Indeed, as you will be aware, even more significant (in volume of trade terms) free trade possibilities are more and more being evoked, especially in political circles.

In my opening remarks yesterday, I referred to the geopolitical aspects of our own network of agreements, with Central and Eastern Europe, the Baltic States and the Mediterranean countries in mind. This is not the forum for looking at the question of WTO consistency of any such agreement, that will be done elsewhere. But it gives an opportunity for a broader reflection on the way in which Article XXIV should be interpreted. In blunt terms: will the WTO members want to adapt to the economic and political realities which are likely to emerge? Or will Art. XXIV be a straitjacket to be imposed on any partnership or co-operation agreement in which free trade is a basic objective?

I pose the question not to justify any particular approach but to underline a more general point. There is clearly a wide distinction to be made between the traditional free trade area, focused on tariffs, quotas, origin rules and so forth, and now also encompassing the area of trade in services, on the one hand,

and the more general concept of regional integration, an idea which includes also wider economic co-operation, financial assistance in some cases, approximation of laws in the economic area, competition policies, even co-operation in matters such as political dialogue and migration. In such a case free trade is only one component together with free movement of capital and of persons.

Furthermore, when partnerships of this kind are being envisaged, it is often between developed and developing economies and some account has to be taken of what this may imply in terms of the timescale and trade objectives of each partner. We in Europe are wrestling with these issues in Central and East Europe and in the Mediterranean; others will soon confront the same issues in Latin America and in the Asian Pacific region. We must of course retain the basics of Art. XXIV, that trade creation not trade diversion, is the objective and the outcome; and that preferential trade is permitted only where this contributes to the collective (multilateral) good. But beyond that our old friends "substantially all the trade", "plan and schedule" and "reasonable length of time" may need to be revisited.

2.1 Share of preferential trade

In answer to the fears expressed by some of being "left out" by the EU, I must point out again that it is only too easy to exaggerate the importance of preferential arrangements and to worry unnecessarily at the perceived spread of regional trading blocs.

On the latter point, I circulated in annex to my opening statement a table showing quite clearly that the share of intra-regional trade (exports plus imports) in total trade of the three main geographic trading zones (EU, United States, Japan) has remained largely stable over time (roughly 63 per cent for both the EU and United States zone), with the exception of the Japan/Pacific Zone. Asia's experience demonstrates that regional integration agreements are not a pre-condition for a rising share of intra-regional trade. Fears about the development of regional trading arrangements, and their impact on the WTO trading system should be seen against this background.

Secondly, the importance and effects of preferential trade can be exaggeratedly amplified. While the chart produced by the WTO Secretariat (WT/TPR/S/S Page 19) gives a broad overview of the situation on preferences, it must be carefully interpreted in using the accompanying paragraph 23, so as not to understate the percentage of MFN trade. The chart gives to understand that only around 40 to 45 per cent of EC trade enters at MFN rates. The real situation is that not far short from 70 per cent of EU imports enters the EU on an entirely non-discriminatory basis, because of the economic weight of the suppliers concerned, and because of the difference between entitlements and actual facts.

Our trade data show that around 42-43 per cent of imports are entered under MFN rate. To this should be added, especially in view of the recent concessions on "zero for zero" sectors, the share of duty-free preferential trade for which the MFN rate is already at zero, i.e. an other 17 per cent of imports. And then there is the difference between GSP entitlements and actual GSP import registrations, representing up to now around 8-9 per cent of imports. In total, almost 70 per cent of EU imports are dealt on a MFN basis, even if, like the WTO Secretariat said, the vast majority of the Union's trading partners qualify for free trade area or other preferential treatment.

2.2 Europe and Mediterranean Agreements

Questions have been raised about the alleged "limited coverage" of some of the EU's regional trade arrangements, with reference to the Europe Agreements, and agreements involving our European neighbours. It was said that sensitive import areas such as textiles or steel were excluded from the

agreements. As was already pointed out two years ago, this is simply not correct: each of the agreements mentioned very clearly do set out the timetable for moving towards free trade or further liberalisation in these areas. In all cases, there is total liberalisation of customs duties and restrictions on trade between our partners and the EU within a specified period. For agriculture, significant market opening is foreseen over the life of the agreement, with both major duty cuts and increased access.

3. Revision of GSP

The Community's new scheme attracted a lot of attention, which is normal since we really innovated, with the objective of creating a more efficient system in the new economic panorama of the developing world.

Questions were asked about the conditions for special incentives and the criterion to determine which countries are eligible, as well as on the functioning of the newly introduced clause related to labour and environment standards.

The answers to the first 2 questions are contained in Articles 7 and 8 of Council Regulation (EC) No. 3281/94. The special incentive régime which will grant additional preferences to beneficiary countries is not yet operative. It is to be put into operation as from 1.1.1998. In 1997, the Commission will establish a report, on the one hand, on the results of the studies carried out in international fora (ILO, WTO, OECD) on the relationship between trade and labour rights ("*social clause*") and, on the other hand, on the relationship between trade and the environment ("*environmental clause*", it will apply only to tropical timber and products processed from it). The Council will carry a review based on that report and the Commission will submit a proposal for a Council decision on the intensity of the special incentive régime and the modalities for implementing them, in particular the concrete control procedures. All beneficiaries will in principle be eligible to the new incentive régime if they wish to apply for it. For that purpose, the countries should request in writing the benefit of the régime and provide the proof, that they have adopted and actually apply domestic legal provisions incorporating the substance of, in the case of the "*social clause*", the standards laid down in ILO Conventions Nos 87, 98 (freedom of association, protection of the right to organize, collective bargain) and No 138 (minimum age for admission to employment) and in the case of the "*environmental clause*", the standards laid down by ITTO relating to the sustainable management of tropical forests.

As for the possibility of withdrawal of the GSP concessions, the Regulation set forth a procedure, whereby internal consultations will take place in the Committee for the Management of Generalized Preferences (consisting of representatives from the Member States and chaired by the Commission). If the Commission finds, following the consultations, that there is sufficient evidence concerning the alleged circumstances, an in-depth investigation (the duration of which being normally one year) will be held in cooperation and consultation with the Committee for the Management of Generalized Preferences. The opening of the investigation will be published in the Official Journal of the European Communities. The information will be verified by hearings of all parties concerned including the complainants and the competent authorities of the beneficiary country concerned. For that purpose the Commission may dispatch its own experts to establish the truth of the allegations. Competent authorities of the beneficiary country concerned will be given every opportunity to cooperate in the conduct of these enquiries. When the investigation is complete the Commission will decide either to close the investigation without any other consequences or to propose to the Council to withdraw preferences to the country concerned in whole or in part according to the conclusion of the investigation. The Council will finally decide the withdrawal or not of preferences on that basis. Written questions were also presented by Canada on the economic impact of the new scheme and the volume of trade

involved; as well as the possibility for a country to return to eligibility conditions and other detailed issues of the functioning of the GSP scheme.

The Commission considers that it is impossible to make serious calculation of the impact of the revised GSP by comparison with the former, taking into account the qualitative differences between them. On the basis of empirical estimates, the Commission thinks that the scheme should be globally neutral. On the basis of an annual report from the Commission, the Committee for the Management of Generalized Preferences will examine the extent to which the objective of neutrality of the effects of the scheme is achieved and any steps that the Commission will consider appropriate to ensure the observance of that principle.

In overall terms, the European Union does not expect significant changes in the volume of trade from beneficiary countries eligible under the previous scheme due to the implementation of the new scheme taking into account its objective of global neutrality, bearing in mind that one of the objectives of the new scheme is the rebalancing of its advantages from the most advanced countries to those countries most needing it.

The graduation mechanism is fixed for the duration of the scheme, i.e. four years. A revision will take place after the period of applicability of the scheme (over the ten-year period of extension, the scheme is intended to apply during three pluri-annual periods, four years, three years, three years). The review of the graduation will take place at the occasion of the terms of the above mentioned periods. The criteria used for determining categories of sensitivity for products covered by GSP are basically the same than those used for establishing the European Union tariff offer in the Uruguay Round. Adjustments were made in some cases to correct the effects of the specificity of the negotiating context of the Uruguay Round. In any case, the criteria used take into account all qualitative and quantitative elements relating to the impact of imports on the situation of the EU domestic industry and the EU market in general.

Annex II part 1 of the Regulation 3281/94 identifies and defines each sector for which countries (identified by a footnote 1) have been found as exceeding the 25 per cent trigger level.

As stated above, there will not be any product/country graduation new decision making process before 1998. All beneficiary countries views will, at that time, be welcomed during this process, as in the past, bearing in mind the autonomous and non negotiable nature of the GSP.

III. SECTORAL POLICIES

1. Industry (Textiles)

Textile policy has just been the object of a major improvement world-wide: the sector is now under the multilateral framework. The Community is implementing the engagement it undertook with a total adherence to the provisions of the UR agreement. The criticism and suspicions I hear, Mr. Chairman, are oblivious of two elements, one of legal nature and one of economic nature.

First, there are three stages of liberalisation in the agreement and it is legitimate to proceed stage by stage. The EU will notify its integration programme for stages II and III of the ATC in conformity with the timetable set out in Article 2 (11) of the ATC (i.e. before 1. 1. 97 for stage II and before 1. 1. 2000 for stage III). According to the EU decision-making procedures, the Council will establish product

lists for integration under stages II and III on a proposal from the Commission, which is considered premature at this moment.

Second, the gradual or progressive integration of the textile sector in the multilateral system and - within the sector - of the various categories of products is of value for all concerned partners; for the importers, who can plan ahead for their restructuring process and for the exporters, who might otherwise see more efficient producers occupy their parts of the Community market. More rapid acceleration of this programme is likely more disruptive for both import and export interests, and there is no reason to make particular experiments in this area rather than in any other.

2. Agriculture/SPS

Seeds

In accordance with the so called equivalence régime implemented by the European Community on the basis of the various Council Directives on the marketing of seeds and propagating material of plants (which establish quality conditions for the free marketing of such material within the EU), seeds and propagating material harvested in third countries may be imported into the Community. Such importation is conditional upon satisfaction of quality conditions relating to the material, such considerations being considered "equivalent" to those of similar material harvested in the Community. Generally speaking seed and propagating material harvested in third countries is acceptable if it meets international standards (i.e. OECD, UN ECE or ISTA).

This approach, introduced in 1966, has worked satisfactorily with at least 25 countries and being consistent with the Agreement on Technical Barriers to Trade there would not appear to be any reason to remove this seed equivalence régime.

"In some cases, member countries seem to be applying more stringent measures at the border than those that would be required to achieve the appropriate level of protection set by the EU. Based on the WTO SPS Agreement, how can the EU ensure that the Member States are applying measures at their borders in a manner consistent with the policies and regulations set by the EU?"

The EU is in the process of finalising the harmonisation of its third country import policy, fully in line with the provisions of the SPS Agreement. Pending the completion of this process, certain products and animals are subject to individual Member State frontier provisions. The process of harmonisation should be completed shortly, and the relevant draft measures will be notified to the WTO as appropriate in conformity with Annex B to the SPS Agreement. The EU has all the necessary powers to ensure the proper respect of its obligations under the SPS Agreement.

"How will the EU proceed with specifying equivalency requirements for agricultural products covered by the SPS agreement but not included in the veterinarian agreement?"

The EU has developed legislation and measures for a wide variety of products and animals. The assessment of equivalency will in each case, whether within negotiations on an equivalency agreement or otherwise, be approached in a consistent manner following the principles of the SPS Agreement.

"How does the EU plan to address the issue of adaptation of measures to regional conditions as required by the SPS agreement?"

The EU was one of the first to develop sanitary and phytosanitary measures adapted to regional conditions, and this policy is applied within the EU. The EU can recognise the adaptation to regional conditions by third countries where third countries have applied measures providing equivalent health guarantees.

"Can the EU provide more information on the "veterinary agreements" concerning the criteria for equivalence for sanitary and phytosanitary measures? How will these agreements work? What will be the effects on the trade of third countries? In which areas or products is work underway to reach such agreements?"

"Does the EU intend to use this type of method for countries other than those with which it is already in negotiation?"

The European Community is negotiating with a number of countries with a view to reaching agreements consistent with the provisions of the SPS Agreement and providing for enhanced cooperation of communication on sanitary and phytosanitary questions. The scope of the agreements being negotiated covers veterinary measures on animals and animal products and in certain cases also phytosanitary measures for plants and plant products. The negotiations are not yet concluded and therefore it is not possible to detail the way in which such agreements would function. The scope for extending the number of countries with which negotiations are taking place will be determined by the progress achieved in the existing negotiations.

3. Fisheries

Concerning quantitative restrictions on fishery products, namely preserved tuna and sardines, the Community is in the process of dismantling these restrictions, which will no longer exist after 31 December 1996. Under Regulation (EC) No. 3267/94 of 20 December 1994, the Commission increased the annual quantities for preserved sardines from 2,385 to 4,425 tonnes and for preserved tuna and bonito from 113,990 to 151,035 tonnes. These increases took account of the Community's commitment to increase the quotas as well as the accession of the three new Member States.

Regarding question 8 on fisheries from the United States, the answer to all three questions is no. United States fishing vessels have no fishing possibilities in Community waters (and vice-versa) - this fact has absolutely no link with the accession.

On the questionnaire from Japan, under question 2(ii), we would refer the Japanese to GATT Notification L/7413 dated 23 February 1994, which explains the reasoning used by the Community in taking its safeguard measures. The type of "further measures" is already described in the Secretariat Report (footnote 44).

The marketing controls referred to by Japan in question 2(iii) are described in Article 3 of Regulation (EC) No. 1093/94 of 6 May 1994.

4. Coal

The new rules on State aid to the coal industry are perfectly transparent. They have been published in the Official Journal L329 of 30 December 1993 (Decision 3932/93/ECSC of 28.12.93) and transparency is one of the main principles guiding those new rules.

"How can the EU permit an aid Framework which not only implies Significant economic distortions, but runs counter to the very idea of an integrated market?"

The question is not pertinent because the aid Framework doesn't imply "Significant economic distortions".

The EU is making a substantial effort to reduce the less competitive capacities.

Coal is one of the scarce energy resources of the EU and the measures have been taken partly to ensure a diversification of energy supply and supplies, including national energy resources.

Additionally, coal production contributes to solving social and regional problems.

"Can the EU provide information on the criteria that would allow for continued assistance to these areas beyond the 2002 target set by the new rules on state aid?"

No significant problem is foreseen in any new aid framework decision being legally based on Articles 92 and 93 of the EC Treaty.

"What progress has been made by the EU towards reaching its 1995 target for Germany that subsidized domestic coal input be limited to 20 per cent of gross electricity consumption?"

The rule of 20 per cent has been applied in the "Jahrhundertvertrag" case and in the privatisation of the electricity sector in UK, but it is no longer a general rule for the EU.

In Germany all the necessary efforts have been made to respect the rule of 20 per cent. The German government has submitted a restructuring plan to the European Commission, providing for the degression of aids and the reduction of production costs.

"Future plans for the revision of policies to ensure a reduction of barriers to trade?"

The barriers are presently minimal. Of the 15 Member States, only 2 (Germany and Spain) have some barriers. These 2 countries are continuously increasing coal imports, as this is also the trend in the EU as a whole.

"Policy towards dismantling coal subsidy régimes?"

The EU does not have the intention of dismantling coal subsidy régimes.

The principle of a degression of aids and the reduction of production costs, as well as transparency (via budgetisation) are sufficient to ensure the permanent restructuring of the industry.

5. Services

A number of issues and questions have been raised in relation to services. It should be noted that many of these are ultimately conditioned by ongoing negotiations within the various groups established either by Ministerial Decisions at Marrakesh or as part of ongoing work of the Council for Trade in Services.

This is particularly the case in respect of Financial Services and Movement of Natural Persons (referred to by Ambassador Narayanan, in his capacity as Discussant). While it had been hoped that negotiations would have been successfully completed by now we are still awaiting information from some major

partners as to their final position on Financial Services. Members will recall that the additional offer made by the EC and its Member States in respect of movement of persons was conditional upon the outcome of negotiations on Financial Services.

The importance of measures relating to qualification requirements and procedures, technical standards and licensing requirements is acknowledged within the text of the GATS agreement itself and the matter has already been discussed in informal consultations held by the Chairman of the Council for Trade in Services.

Replies to the detailed questions raised by Members will be issued in due course.

IV. TRADE POLICY INSTRUMENTS AND "RULES" ISSUES

1. Trade Defence Instruments : safeguards

In Community law, the main legal basis for taking safeguard measures is Council Regulation (EC) No 3285/94 of 22 December 1994. This Regulation has implemented in the Community law the rules of the Agreement on Safeguards.

Its main provisions are as follows:

- safeguard measures are import reliefs applied when a product is imported into the Community in such greatly increased quantities and on such conditions (prices, etc.) that it causes or threatens serious injury to Community producers.
- the terms "threat of serious injury", "serious injury" and "Community producers" are precisely defined; this will benefit all parties concerned;
- the right to reply to other parties' arguments for the interested parties is ensured; this underlines the contradictory nature of the investigation ("due process").
- a provision on the provisional safeguard measures to be applied in critical circumstances (conditions, duration and nature); this provision allows the taking of a measure without investigation in emergency situations, but under the form of a customs duty (so that it can be reimbursed, should the provisional measure not be confirmed afterwards);
- with respect to the quotas, an explicit provision setting their levels normally at the average imports of the last 3 representative years (this is in fact a consolidation of the EC practice) and another about their allocation among suppliers countries (where the countries whose imports have increased disproportionately may be singled out);
- provisions on the limited duration of the safeguard measures (normally four years, maximum huit years), their progressive liberalisation and their mid-term review, and the prohibition of repetitive measures, this confirms the temporary nature of safeguard measures, designed to give time to the domestic industry for adjustments.

2. Trade Barriers Regulation

Regulation (EEC) No. 2641/84 (usually known as the "New Commercial Policy Instrument" - NCPI) was adopted on 17 September 1984 to provide the Community with procedures enabling it to respond to any illicit commercial practice from a third country. The NCPI was designed as an additional instrument separate from the more "traditional" commercial policy instruments (i.e. anti-dumping, countervailing duties and safeguards instruments). Five proceedings have been initiated under the NCPI, the most recent cases, which are still pending, being a proceeding against Thailand concerning piracy of EC sound recordings (initiated in July 1991) and a proceeding against Turkey concerning the imposition by Turkey of an import levy and higher customs duties on EU exports of polyester fibres (initiated in January 1993). As from 1 January 1995 the NCPI has been repealed and replaced by Regulation (EC) No. 3286/94 (usually known as the "Trade Barriers Regulation" - TBR).

Both of these regulations essentially establish internal Community procedures by which industries and enterprises can request the European Community institutions to act internationally. Their purpose is not to affect in any sense the existence or the scope of the Community's rights under international trade rules.

Most of the differences between the NCPI and the TBR relate to the conditions which are requested for the lodging of complaints. Numerous improvements have been introduced in order to ensure greater efficiency in the implementation of the TBR. Two types of obstacles to trade are now foreseen (those having an effect on the Community market and those having an effect on the market of a third country), with varying conditions as regards the standing to lodge a complaint ("Community industry" for obstacles having an effect on the Community market, one or more Community enterprises for obstacles having an effect on the market of a third country) and the negative effects to be shown ("material injury" for obstacles having an effect on the market of a third country). The TBR's scope of application is also broader (further to goods it covers to some extent services and intellectual property rights). All these show a shift of emphasis towards the export barriers and the opening of third country markets.

In addition, the concept of "illicit practices", which had been used in the NCPI, has been replaced by the term "obstacles to trade" ("any trade practice adopted or maintained by a third country in respect of which international trade rules, which are essentially the WTO rules, establish a right of action for the Community") which is more clearly linked to international trade rules and can therefore more easily be applied within that framework. New provisions have also been introduced to facilitate amicable solutions: thus, a proceeding can be suspended in order either to monitor the concrete implementation of satisfactory measures taken by the third country, or to allow the negotiation of an agreement with the third country.

Finally, the commercial policy measures which can be adopted have not changed. It should, however, be recalled that in WTO cases such measures cannot be taken unless the dispute settlement procedure has been initiated, results in a decision in favour of the Community and the measures are authorised by the Dispute Settlement Body. Furthermore, it should also be stressed that the ultimate aim of the TBR is the elimination of the trade barriers and not the adoption of retaliatory measures against third countries.

3. Rules of Origin

The EU is in the process of negotiating new rules of origin in the CEECs in order to encourage trade integration throughout the region and to strengthen the effectiveness of the Europe Agreements. One

aspect of this initiative is to extend the cumulation possibilities to all associated countries and possibility EFTA countries as well.

It is not envisaged that such a cumulation system would encompass all the EU's preferential trading partners. A precondition for cumulation is that all contracting parties to a system have agreements between themselves, based upon identical rules of origin. It is therefore not realistic to imagine a totally integrated system covering all the EU's partners. However, a strategy similar to that proposed for the EU's European partners is being developed for the Mediterranean region and it is envisaged that as far as possible, all the EU's preferential rules of origin will be similar if not quite identical.

4. Public procurement

Hong Kong "Reciprocity and sectoral non-application were introduced in the final hours of UR negotiations to the Agreement on Government Procurement which represent serious derogations from the fundamental GATT principles of MFN and national treatment. It is important for the major trading nations to set an example in cherishing free and open trade. Will EU consider to remove these derogations and return to the basic principle of non discrimination in this important sector of trade?"

The EU can not make a firm commitment today on its future position on this question. However, if in the future the principle of non-discrimination were to be recognised and applied by all WTO contracting Parties with respect to government procurement the EU would be clearly supportive and willing to assume its own commitments on a balanced basis in this respect.

United States "What is the status of implementation of the Government Procurement commitments agreed to in Marrakesh?"

The EU has already completed ratification of the GPA. By 1 January 1996, the EU will be in a position to implement its commitments in full.

Japan "We understand that the EU has not published statistics on its procurement since it last published for the year 1992. When will the latest statistics be published?"

The Commission will continue providing statistics on its procurement as soon as these are available hopefully in the next few months; it also considers essential that progress be made with the work led by the Working Group on Statistical Reporting with respect to the new statistical obligations under the new agreement so that the collection and interpretation of statistics on procurement can be facilitated. The EU has been particularly active in contributing to such work despite what seems to be a lack of interest from the other members of the new agreement.

V. OTHER ISSUES

1. Trade Environment

1.1 Leghold trap

An evaluation of the trade impact of the impending ban on imports of furs from third countries is, at this stage, difficult.

Data available to the EU and to trading partners show discrepancies in the assessment of current trade in furs which might be affected by the measure. Furthermore, the Commission will draw up a list of countries meeting the requirements of the Regulation only in September 1995. The examination of information provided by our trading partners is still ongoing at this point in time.

1.2 Cosmetics

We are not in a position to assess the impact on trade, both on current transactions and on future ones, since the Directive 93/35/EEC as amending Directive 76/768/EEC will in no case entail a restriction on trade before 1 January 1998.

Furthermore, if sufficient progress in developing satisfactory methods to replace animal testing has not been achieved, the Commission will postpone the entry into effect of the measure "for a sufficient period" and by at least two years.

1.3 Packaging and packaging waste (Costa Rica - Question)

The Community rules on packaging and packaging waste are to be found in the Directive 94/62/EC. There is no other regulation on the specific subject.

Directive 94/62 entered into force on 31/12/94. Member States implementation must take place "before 30 June 1996" (Art. 22.1).

The effects on third countries will be non discriminatory. The Directive, in its Art. 7 sets the criteria for national legislation to comply with. In particular the rules for return, collection and recovery system "shall also apply to imported products under non-discriminatory conditions, including the detailed arrangements and any tariff imposed for access for the systems, and shall be designed so as to avoid barriers to trade or distortion of competition". The Community institutions will control the compliance to these principles through a notification procedure, set forth in Art. 16, intervening already at the stage of draft national regulations. The Directive will apply for the future only and the existing stocks of products will not be affected, as expressly granted by Art. 22.5, for a period of five years.

1.4 Eco labelling (United States - Question)

EC Regulation on eco-labelling

- . Council Regulation 880/92EEC of 23 March 1992, on a Community eco-label award scheme;
- . Commission Decision 93/430/EEC of 28 June 1993, establishing the ecological criteria for the award of the Community eco-label to washing machines;
- . Commission Decision 93/431/EEC of 28 June 1993, establishing the ecological criteria for the award of the Community eco-label to dishwashers;
- . Commission Decision 94/923/EC of 14 November 1994, establishing the ecological criteria for the award of the Community eco-label to soil improvers;
- . Commission Decision 94/924/EC of 14 November 1994, establishing the ecological criteria for the award of the Community eco-label to toilet paper;

- . Commission Decision 94/925/EC of 14 November 1994, establishing the ecological criteria for the award of the Community eco-label to kitchen rolls.

All these Decisions have a period of validity of three years from the date on which the decision takes effect i.e. respectively 20 June 1996 and 14 November 1997. This time limit is the consequence of the time limit of the validity of the criteria set in the Council Reg. 880/92/EEC.

2. Trade and competition

- a) There is no requirement that the concept of Member States' competition laws should be the same as those of the EU. However, there has been a strong trend towards convergence of the basic concepts between national competition law concepts and EU competition law concepts and this trend is continuing.

In any event, with the integrated EU market there are few matters which do not affect trade between Member States. If this condition is fulfilled, undertakings from within and from outside the EU can notify their agreements to the EU Commission. If the EU Commission finds a violation but exempts it under Article 85 par. 3, such decision has priority over any contrary national decision. The same applies to all agreements covered by block exemption Regulation. In no way is there any discrimination between undertakings from within or from outside the EU in this respect.

- b) Article 222 of the EU Treaty stipulates that the EU Treaty shall in no way prejudice the rules in Member States governing the system of property ownership. Thus, the EU does not intervene in the question of private v. public ownership.

However, in the course of privatisation, EU competition rules may come to play by way of control of state aids, acquisition of ownership (mergers) or by way of application of Art. 85/86/90 to the privatised companies. In addition, Art. 221 of the Treaty provides for an obligation of non-discrimination as regards participation in the capital of companies in respect of nationals of other Member States of the EU.