

GENERAL AGREEMENT ON  
TARIFFS AND TRADE

RESTRICTED

C/M/117

19 November 1976

Limited Distribution

COUNCIL

12 November 1976

MINUTES OF MEETING

Held in the Palais des Nations, Geneva  
on 12 November 1976

Chairman: Mr. G. ALVARES MACIEL (Brazil)

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1. Observer status of Thailand

The Council agreed that, in connexion with the agenda item dealing with the Bangkok Agreement, the Government of Thailand could be represented at this meeting by observers.

2. Committee on Anti-Dumping Practices (L/4408)

Mr. Hagfors (Finland), speaking on behalf of Mr. Eggert, Chairman of the Committee on Anti-Dumping Practices, introduced the Committee's Eighth Report relating to the period October 1975-October 1976. He stated that the Committee had examined the anti-dumping legislation of some countries, notably that of Australia, Greece and the United States, and had discussed the anti-dumping practices of some countries, particularly those of Australia and the United States. The Committee had continued its work towards the establishment of an analytical inventory of problems and issues that had arisen under the Anti-Dumping Code and its application by the parties to the Code. This work would be continued at a special meeting in February 1977. On behalf of the Committee he invited representatives of countries non-adherents to the Anti-Dumping Code to discuss with the Committee, in connexion with the special meeting, the problems these countries faced in the anti-dumping field. He added that the Committee would welcome any written contributions interested countries might wish to make with a view to establishing a useful basis for these discussions.

The representative of Japan drew attention to the discussions in the Committee on the investigation by the United States International Trade Commission pursuant to Section 337 of the Tariff Act of 1930 and Section 603 of the Trade Act of 1974 regarding the importation of certain television receiving sets from Japan. In his view this investigation constituted a duplication of the anti-dumping and countervailing duty investigations that had been conducted by the Department of Treasury. Such duplication imposed heavy burdens on Japanese exporters and could jeopardize a normal flow of the products concerned from Japan as well as from other countries to the United States. He expressed deep concern about this and possible similar investigations.

The representative of the European Communities also expressed his concern about recent developments in the United States in this field. He stated that the United States had an anti-dumping policy that was always followed closely because of the problems that it had posed, and was still posing, for the General Agreement. In addition to the numerous investigations that in themselves were harassing international trade, there was now a new procedure bearing on dumping which afforded no assurance of conformity with the GATT Code, and this, at a time when negotiations for reductions of barriers to trade were taking place in the framework of the multilateral trade negotiations.

The representative of Canada also regretted that parallel investigations had been opened on the same products, which was an unduly burdensome procedure. He was also concerned about the conformity of the investigations of the International Trade Commission with the provisions of the Anti-Dumping Code.

The representative of the United States stated that the concerns expressed at the meeting of the Anti-Dumping Committee had already been transmitted to the United States authorities.

The Council adopted the report.

### 3. Agreement between Finland and Bulgaria

Mr. Easterbrook Smith (New Zealand), Chairman of the Working Party on the Agreement between Finland and Bulgaria, presented an interim report on the work carried out so far by the Working Party. He said that the Working Party had held meetings in September and October 1975 and in October 1976. The Working Party had addressed itself to such specific issues as trade coverage of the Agreement, customs duties, foreign exchange rate measures, rules of origin, quantitative restrictions, safeguards and balance-of-payments measures. The Working Party however had not been able to conclude its work due to the fact that information on certain foreign trade regulations, recently enacted by Bulgaria had not been available. The delegation of Finland had agreed to arrange for the text of these regulations to be made available to the Working Party. Upon receipt of this information, the Working Party would resume its deliberations.

The representatives of the European Communities and the United States expressed regret at the delay due to the lack of adequate information on Bulgarian foreign trade legislation.

The Council took note of the interim report.

4. Indonesia - establishment of a new Schedule XXI

The Chairman drew attention to a communication from the Government of Indonesia (L/4398) requesting a waiver from the obligations under Article II.

The representative of Indonesia recalled that a large part of the Indonesian schedule had been negotiated, not by Indonesia, but on behalf of Indonesia by Benelux. He said that Indonesia was facing many obstacles in updating this schedule, despite partial renegotiations held in the past. This was primarily due to the changed circumstances after almost thirty years as a result of changes in Indonesia's trade pattern, its administration, and the adoption of the Customs Cooperation Council Nomenclature. In addition, to conduct renegotiations of the old schedule would have met with administrative and technical difficulties on the Indonesian side. The Indonesian Government had, therefore, come to the conclusion that the best way to proceed would be to negotiate a completely new schedule. He stated that the negotiations would be conducted in conformity with the principles of Article XXVIII, while the detailed procedural requirements of that Article should not apply. He added that Indonesia aimed at the establishment of a new Indonesian schedule containing concessions as far reaching as those included in the previous schedule. The new Indonesian customs tariff was being translated by the International Customs Tariff Bureau and would shortly be available in English, French and Spanish. Indonesia was prepared to start the negotiations very early next year.

The representative of Japan said that renegotiation under Article XXVIII was in principle the appropriate approach. He recognized, however, the technical difficulties of this approach in this particular case and could, therefore, accept the Indonesian request. He stressed, however, that Article XXVIII renegotiations should continue to be the general rule and that this new type of negotiations should not be made use of as an easy substitute for Article XXVIII renegotiations in other cases. It was his expectation that the interest of countries which were principal or substantial suppliers of the items in question, as well as old concession rates of duty, would be fully taken into account in the course of the preparation of the new Schedule XXI.

The representative of the United States stated that he attached importance to the inclusion of paragraph 3 in the draft decision to maintain consistency with past waivers and to preserve the practice for future waivers. His delegation, however, did not intend to exercise its rights under this paragraph. He considered that the technical difficulties mentioned by Indonesia were so exceptional that the present case could not constitute a precedent.

Several delegations also supported the Indonesian request.

The Council approved the text of the draft decision (C/W/282) and recommended that it be adopted by the CONTRACTING PARTIES by means of a ballot to be taken at the thirty-second session.

5. Provisional Accession of Colombia (L/4430)

The Chairman said that the Declaration of 23 July 1975 on the Provisional Accession of Colombia and the Decision of the CONTRACTING PARTIES of the same date, which provided for the participation of Colombia in the work of the CONTRACTING PARTIES, were due to expire on 31 December 1976. The Government of Colombia had circulated a request for the extension of these arrangements (L/4430).

The representative of Colombia stated that his Government had asked for an extension of the Declaration on the Provisional Accession of Colombia and that its definitive accession would be decided in the light of the results obtained in the multilateral trade negotiations, in which his delegation actively participated. He emphasized his Government's intention to accede to GATT, which was also shown by the fact that Colombia, in the course of 1976, had continued to improve its trade policy in order to adapt it to the standards and principles of GATT.

The Council agreed to extend the arrangements for the Provisional Accession of Colombia until 31 December 1978 or until Colombia's accession, whichever was earlier. The Council approved the text of a Procès-Verbal Extending the Declaration and agreed that the Procès-Verbal should be opened for acceptance by the parties to the Declaration. The Council approved the text of the Decision extending the invitation to Colombia to participate in the work of the CONTRACTING PARTIES to 31 December 1978 and recommended its adoption by the CONTRACTING PARTIES at their thirty-second session.

6. Free-Trade Agreement between the EEC and Portugal (L/4419)

The representative of the European Communities said that in order to strengthen the links of co-operation the EEC and Portugal had signed on 20 September 1976 an Additional Protocol to the Free-Trade Agreement of 1972. The Additional Protocol was designed to improve the Agreement of 1972 in the field of trade and to extend it to other areas, such as economic and financial co-operation, manpower and social security. On the same date an Interim Agreement had also been signed to bring into force the trade provisions of the Additional Protocol without having to wait for the conclusion of the ratification procedures of the Additional Protocol. The Interim Agreement had entered into force on 1 November 1976.

The Council agreed to set up a working party with the following terms of reference and membership.

Terms of Reference:

To examine, in the light of the relevant provisions of the General Agreement, the provisions of the Interim Agreement between the European Economic Community and the Portuguese Republic, signed on 20 September 1976, and to report to the Council.

Membership:

Membership would be open to all contracting parties indicating their wish to serve on the working party.

Chairman: Mr. Tomić (Yugoslavia).

The Council agreed furthermore that contracting parties wishing to submit questions in writing relating to the Agreement should send in such questions by 15 January 1977 at the latest and that replies to the questions should be made available within six weeks after receipt of the questions by the parties.

7. Reports of panels

- (a) United States tax legislation (DISC) (L/4422)
- (b) Income tax practices maintained by France (L/4423)
- (c) Income tax practices maintained by Belgium (L/4424)
- (d) Income tax practices maintained by the Netherlands (L/4425)

Mr. Mariadason (Sri Lanka), Chairman of the panels, recalled that four panels had been established in July 1973 following the recourse to Article XXIII:2 by the European Communities with regard to the United States tax legislation (DISC) and by the United States with regard to income tax practices maintained by France, Belgium and the Netherlands. The composition of the panels had been agreed in February 1976. The reports of the four panels summarized the factual aspects, the main arguments presented and set out the conclusions which the panels had reached. The conclusions and the reasons for their findings had been unanimously adopted.

The representative of the United States, addressing himself to the four reports, stated that his authorities had not yet had the opportunity to study the findings fully. His remarks were therefore preliminary. He recalled that the United States had continuously contended that the DISC did not violate United States obligations under Article XVI, and his delegation was disappointed that the Panel on DISC had not accepted this view. The United States had also contended, however, that if the DISC violated GATT obligations, then the tax practices of France, Belgium and the Netherlands did also. He noted that the panels had accepted this alternative contention.

He considered that the findings of the panels had far-reaching implications, as major tax practices of several principal trading entities had been found expressly to violate GATT obligations. Moreover, similar tax practices of a large number of other contracting parties that had not been parties to this proceeding appeared by implication to be also in violation. The United States took its GATT obligations and the findings of these panels very seriously and expected, for its part, to begin very soon both domestic and international consultations toward a solution to this problem.

He observed that the formation of the panels had been an unusually time-consuming and complicated effort. The United States trusted that the negotiations in the MTN would result in a full review of these and related dispute settlement problems. He considered that this exercise supported the view expressed by the United States, that it was essential to re-examine internationally the effect of various national income tax practices on international trade.

The representative of the European Communities stressed that the Council was to consider the four complaints separately, since the Council had instituted four panels to examine the separate complaints. It was very important for the General Agreement and the future of its conciliation procedures not to merge procedures and to link one complaint to a counter-complaint relating to different questions unrelated with the original complaint. He considered that this linking of matters had largely contributed to the delay in the establishment and composition of the Panel on DISC and had hampered the implementation of the dispute settlement procedure.

Addressing himself to the report of the Panel on DISC, he stated that the report was at present being examined and he refrained at this stage from making comments, except to note that a first perusal of the report seemed to confirm the Community's views on DISC. He took note of the suggestion to hold consultations on these matters, but reserved his position so as to know how the DISC matter would now be pursued.

Referring to the question of a review of dispute settlement procedures he pointed out that the fact that three and a half years had elapsed between the establishment of a panel and the reaching of its conclusions was without precedent in GATT and that this case did not in his opinion justify generalized conclusions. He contended that the settlement of disputes was rather a question of political will to let the conciliation procedures of the GATT function properly. These procedures which had evolved in the light of experience over the years in a pragmatic manner, had functioned on the whole beneficially and it would be dangerous to believe that one could improve upon them by new legal provisions and procedures.

The representative of Canada stated that the reports of the four panels involved serious issues in terms of the obligations of the four countries in question under the General Agreement. A very large volume of trade was covered

by the DISC legislation and the tax practices concerned and the interests and rights of many other contracting parties were affected. He noted that the panels had concluded that the United States DISC legislation and the other tax practices in question should be regarded as export subsidies, and in some respects had effects that were not in accordance with the obligations of the countries concerned under Article XVI:4. The panels had found that there were prima facie cases of nullification or impairment of benefits which other contracting parties were entitled to expect under the General Agreement. In the light of these findings the Canadian authorities would expect that the United States and the other governments concerned would give serious consideration to the early termination of these tax practices. They would also expect the CONTRACTING PARTIES to call for the earliest possible termination of the DISC and the other tax practices concerned.

The panels also considered that these tax practices should be subject to the notification provisions of Article XVI:1. Accordingly, Canadian authorities would expect that the governments concerned would now submit to the CONTRACTING PARTIES full notifications, including details with regard to the extent, nature and estimated effects of the subsidization involved. Such details would be useful to other contracting parties in assessing the extent to which their interests had been affected and the benefits due to them under the General Agreement had been nullified or impaired. He further noted that the Panel on DISC had not examined whether the subsidies involved would result in the United States having more than an equitable share of world trade in any primary products in terms of Article XVI:3. Canada would expect the United States to address itself to this particular question in their notification. He concluded by saying that these views were preliminary and his delegation would express more definitive views when the Council took up this matter again.

The representative of the United States, in commenting on the statement made by the representative of the European Communities, agreed that it was inappropriate in dispute settlement procedures to link unrelated matters. He considered, however, that the present disputes dealt with various aspects of a common situation and were intimately related. He noted that the Council had established the four panels with identical membership and had instructed them to finish their work at the same time and pointed out that the panels had in fact operated in this way.

The representative of the European Communities, replying to the United States representative, observed that no decision to that effect had been made by the Council at the time when the four panels had been established. The Community had merely agreed that for practical reasons the members of the panels could be the same. He recalled that from the outset the Community had maintained that the matters under dispute were not related. The Council itself had treated the complaints under different points of its agenda when the four panels were set up in July 1973.



The representative of Argentina addressed himself to the four reports as they had certain characteristics in common. He pointed out that the conclusions drawn up by the experts had been very carefully phrased. They often referred only to some aspects of the very complex matters and avoided making a categorical finding. In his view the conclusions therefore were not final. The Council therefore should consider how to come to final conclusions. It was essential that the reports should not be put aside but be utilized, so that the CONTRACTING PARTIES could come to decisions which would be of great importance to all contracting parties.

The representative of Japan attached great importance to the issues raised in the reports which merited full consideration.

The representative of France stated that the reports were still being examined by his authorities. He stressed however that the matters which had been considered were entirely different and should continue to be treated in accordance with their own characteristics. In particular the legislation on DISC was based on a concept completely different from that of the other legislations in question, which were based on the territoriality principle. He noted that this latter principle was followed by a great number of countries other than those of which the legislation had been examined in the panels. He enquired whether the United States intended to request the institution of more panels to examine the legislation of the other countries which applied the same principle. He concluded by expressing a strong reservation on the conclusions of the report on the income tax practices maintained by France.

The representative of Belgium stated that more time was needed for an examination of the report on the income tax practices maintained by Belgium. Nevertheless, he was already in a position to express disappointment with regard to the conclusions of the panel and to give some preliminary reactions. It was the Belgian view that the tax practices in question were not in contradiction with the provisions of the General Agreement relating to export subsidies, because the Belgian legislation had in no way the aim of granting financial advantages to Belgian exporters and it had nowhere been demonstrated that these exporters had drawn any benefit whatsoever. The intention was only to alleviate the effects of international double taxation. Moreover, the system concerned subsidiaries abroad and was not designed to favour national companies. Furthermore, the fiscal system in question had been in force since 1906 and had never been questioned in GATT. The Panel had in fact recognized that the presumption of subsidization under the 1960 Declaration was not absolute. No contracting party could pretend that the Belgian system in any way damaged their interests. His delegation reserved all rights with regard to the definitive consideration of the report and of the conclusions in particular.

The representative of the Netherlands stated that his authorities were not yet in a position to make useful comments on the report relating to income tax practices maintained by the Netherlands.

The Council took note of the four reports and agreed to consider the matters again at a subsequent meeting.

The Council decided to derestrict the four reports (L/4422, L/4423, L/4424 and L/4425) forthwith. The Council did not take a decision on the proposal to derestrict the underlying material supplied by the parties to the panels.

#### 8. Bangkok Agreement (L/4418)

The Chairman recalled that at its meeting in October 1975 the Council had been informed of the signature of the Bangkok Agreement by seven member States of ESCAP. The text of the Agreement had now been circulated in document L/4418.

Mr. Ahmed (Bangladesh), speaking on behalf of the Participating States of the First Agreement on Trade Negotiations among Developing Member Countries of ESCAP (Bangkok Agreement), stated that the agreement had entered into force on 17 June 1976 and had been ratified by Bangladesh, India, the Republic of Korea and Sri Lanka. The agreement was the first preferential trade agreement among developing countries of Asia.

The Agreement provided, inter alia, for the exchange of tariff and non-tariff concessions, industrial co-operation and special treatment in favour of the least-developed among the participating States. It had evolved in pursuance of the provisions of Part IV of the GATT and, in particular, of the objectives and commitments contained in Articles XXXVI and XXXVII:4 of the GATT. The Signatory States had, furthermore, been encouraged by United Nations resolutions regarding preferential trade arrangements among developing countries as an instrument for economic development. They considered that the Bangkok Agreement would not affect adversely the trade interests of other contracting parties to the GATT.

The Council agreed to establish a working party with the following terms of reference and membership:

#### Terms of reference:

To examine, in the light of the relevant provisions of the General Agreement, the provisions of the First Agreement on Trade Negotiations Among Developing Member Countries of the Economic and Social Commission for Asia and the Pacific (Bangkok Agreement) and to report to the Council.

Membership:

Membership would be open to all contracting parties indicating their wish to serve on the working party.

Chairman:

The Chairman of the Council was authorized to nominate the Chairman in consultation with principally interested delegations.

The Council also agreed that member States of the Bangkok Agreement, which were not contracting parties to the GATT, should be invited to be represented by observers at the meetings of the working party and at meetings of the Council at which the Bangkok Agreement would be discussed.

The Council agreed furthermore that contracting parties wishing to submit questions in writing relating to the Agreement should send in such questions by 15 January 1977 at the latest and that replies to the questions should be presented six weeks after receipt of the questions by the parties.

9. Association EEC-Greece (L/4420)
10. Association EEC-Turkey (L/4421 and Corr.1)

The Chairman said that the parties to the Agreement of Association between the EEC and Greece had supplied information on progress made under the Agreement in 1974 and 1975 (L/4420). Similar information had been supplied by the parties to the Agreement of Association between the EEC and Turkey (L/4421 and Corr.1). This information had been submitted in accordance with the calendar of biennial reports under regional agreements.

The representatives of the United States and Canada, while being sympathetic to the purposes of the Agreements of Association, expressed their regret that the reports had not been sufficiently detailed to enable them to follow the evolution under the Agreements and to determine their effects on third countries.

The representative of the European Communities said that his delegation was ready to supply more detailed information on a bilateral basis. The reports had been prepared on the basis of global statistics and did not take into account information that might be required by individual contracting parties.

The Council took note of the reports.

11. Regional agreements - Calendar of biennial reports (C/W/281)

The Chairman recalled that at their twenty-seventh session the CONTRACTING PARTIES had instructed the Council to establish a calendar fixing dates by which contracting parties members of a regional agreement would be invited to submit a

biennial report on developments under the agreement concerned. Suggestions for a new calendar were contained in document C/W/281.

The representative of the United States said that the proposed calendar was acceptable to his delegation. He pointed out however that the examination of the Agreement Finland-Czechoslovakia and of the Agreement Finland-Hungary had not yet been concluded.

The Council approved the time-table.

12. United States - Agricultural import restrictions (L/4426)

The Chairman recalled that under the Decision of 5 March 1955 the CONTRACTING PARTIES were required to make an annual review of any action taken by the United States under the waiver on the basis of a report to be furnished by the United States Government. The nineteenth annual report by the United States that had been distributed (L/4427) covered the period September 1975 to October 1976.

The representative of Australia noted that the report had only been received recently and he, therefore, reserved the right to comment further on it at a later date. He noted that there was a gap in reporting as the eighteenth report, circulated in February 1975, covered only the period from September 1973 to August 1974. He asked whether the United States would also furnish a report for the period to August 1975. He recalled that Australia had negotiated a tariff quota on imports of butter bound in the United States schedule, and that Australia retained rights under this binding. He also recalled that, at the thirty-first session, he had requested that the United States promptly institute a review to determine whether there had been a change in circumstances which would require the restrictions to be modified or terminated. This request had been confirmed in writing (L/4280) and the United States had subsequently acknowledged that Australia's formal request was consistent with the terms of the waiver. However, for various reasons, the question had been deferred for later consideration. He noted that this request for a thorough-going review of the necessity and justification of the restrictions covered by the waiver still stood. He further noted the pledge by the United States, in the waiver, to modify promptly restrictions whenever changed circumstances warrant such modification. He observed that, since 1955 the United States had come to advocate a more market-oriented approach to agriculture and suggested that the undertaking of a review as requested would be fully consistent with that approach. He expressed his concern that rights negotiated within the GATT in the form of bindings were being negated for such a prolonged period by the application of the waiver. He hoped that the United States Administration, in formulating its trade policy, would give adequate recognition to the need for a thorough review of its dairy import arrangements.

The representative of New Zealand stated that he shared Australia's concern regarding the continued justification for this waiver. He recalled that at the thirty-first session he had referred to the terms of the United States Agricultural Adjustment Act which set out the conditions under which quotas should be applied under the waiver and he had suggested that the sense of these provisions had not been reflected in the practice of its application. He also recalled statements made by the United States authorities regarding the use of the waiver which indicated that Section 22 quotas would be used only where necessary to maintain the price support programme and not for regulating the flow of imports independently of price support considerations. He doubted if, on the basis of these considerations, the CONTRACTING PARTIES could still justify the maintenance of the waiver. He welcomed the preparedness of the United States to negotiate on agricultural products in the MTN, and he took this to indicate recognition on their part that conditions had changed since the waiver was introduced. He maintained a distinction, however, between the United States GATT obligations to modify the restrictions for which the waiver was granted, and the broader liberalization of agricultural trade in the MTN context. He considered that a review of the United States waiver would provide clear evidence of the strength of the United States MTN intentions and would constitute a useful parallel exercise.

The representative of Argentina supported the concerns expressed. He pointed out that the waiver had been granted to meet certain circumstances which had now lasted for twenty-two years. He thought that this matter should be looked at closely in the MTN and it should be ascertained whether or not these exceptional measures were not permanent.

The representative of the European Communities stated that the waiver created a disequilibrium in relations between the United States and other contracting parties, not only for commercial relations but also for legal rights and obligations. He further stated that it was hard to accept that a major agricultural trading partner could take border measures against agricultural imports without being limited by the normal rules and constraints of the General Agreement.

The representative of Canada said that due to the recent receipt of the report his authorities had not had time to respond and reserved the right to do so later.

The representative of the United States stated with regard to the review request, that the waiver had been under periodic review. He noted that at one time under the waiver the United States had restrictions for eleven groups of products but there were now only three commodities or commodity groups under restriction. He acknowledged Australia's request for a review and the United States obligation to conduct such a review if requested by a contracting party. He pointed out that the United States

Government was convinced that their dairy restrictions were still necessary and he did not think a formal review was necessary. He also pointed out that an International Trade Commission investigation of this matter would have implications for the manner in which the United States Government could deal with this matter in the MTN. He stated that the United States looked forward to liberalized trade in dairy products and stated the United States willingness to negotiate their dairy barriers if others were willing to do the same. He noted the Community statement regarding the United States freedom to take border actions and pointed out that the United States was subject to precise provisions in the waiver in this respect.

The representative of Australia stated that the United States waiver could not be negotiated in the MTN because the terms of the waiver specify that it is to be removed when conditions warrant.

The representative of the European Communities stated that it did not seem to be in conformity with the terms of the waiver to condition the liberalization of dairy restrictions to the successful outcome of the negotiations.

The representative of the United States stated that he did not agree with the two previous speakers, as the liberalization of one commodity by one country was not possible independent of related actions taken by others.

The Council took note of the report and agreed to revert to the matter at a future meeting.

13. Application of Article XXXV to Japan (L/4431)

The representative of Japan stated that, since the last session of the CONTRACTING PARTIES, two contracting parties had disinvoked the application of Article XXXV in respect of Japan, namely Senegal and Austria. As a result, only four contracting parties: Cyprus, Haiti, Kenya and South Africa, still continued to apply Article XXXV vis-à-vis his country. He expressed the hope that these contracting parties would also be able to disinvoke Article XXXV in the near future.

The representative of South Africa said that his delegation had indicated its willingness to discuss the question of Article XXXV with Japan and informal discussions had recently taken place between the Japanese and South African delegations.

The representative of Japan confirmed that his delegation had had an informal contact with the delegation of South Africa. He pointed out, however, that this was not for the purpose of negotiating conditions for the disinvocation of Article XXXV.

The Council took note of the statements.

14. Greece - Increase in bound duty

The representative of Austria recalled that since 17 September 1975 Greece had applied a rate of duty on fireproof materials (CCCN 69.02), which was in excess of the bound rate negotiated with Austria. After he had raised this matter at the meeting of the Council in September 1975 (C/M/108) Austria and Greece had engaged in a series of bilateral consultations which however had not led to mutually acceptable results. He expressed the hope that the Greek authorities would intensify their efforts to reach a satisfactory solution to this problem.

The representative of Greece confirmed that bilateral consultations on this matter had been held and would be continued. He expressed the hope that a mutually acceptable solution would be reached shortly.

The Council took note of the statements made.

15. Withdrawal by Canada of tariff concessions under Article XXVIII:3 (L/4432)

The representative of the European Communities said that in December 1974 the Community had invoked the provisions of Article XXVIII to renegotiate its concessions on unwrought lead and unwrought zinc. These negotiations had taken place during 1975 and a proposal for compensation had been made, which the Community considered reasonable and which had been accepted by all contracting parties concerned except Canada. Canada had invoked Article XXVIII:3 and had withdrawn certain tariff concessions bound to the EEC. In spite of consultations conducted with Canada under Article XXIII:1, it had not been possible to arrive at a satisfactory solution and the Community, therefore, invoked the provisions of Article XXIII:2 and requested the Council to establish a panel in order to examine the complaint.

The representative of Canada acknowledged, as notified to the CONTRACTING PARTIES in document SECRET/224/Add.4 of 4 June 1976, that Canada had withdrawn bindings on three items as a consequence of the increase in EEC duties applied to unwrought zinc. This withdrawal of concessions was, in his view, consistent with GATT rules and procedures as Canada was the principal supplier of unwrought zinc to the European Community and the new rates of duty introduced by the Community constituted a substantial increase over the ad valorem equivalent of the former specific rate. He specified that the bindings withdrawn by Canada related only to the impairment of access for Canada's zinc exports to the Community and that no changes had been made in the actual rates of duty on the items selected by Canada.

The Council agreed to establish a panel with the following terms of reference:

To examine the matter referred by the European Economic Community to the CONTRACTING PARTIES pursuant to paragraph 2 of Article XXIII, relating to the withdrawal by Canada of tariff concessions under Article XXVIII:3 (L/4432 and

SECRET/224/Add.4) and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or rulings provided for in paragraph 2 of Article XXIII.

As regards the composition the Council authorized the Chairman of the Council to nominate the Chairman and members of the panel in consultation and agreement with the parties concerned.

16. Portugal - Surcharges and import deposit (L/4433 and Add.1-3)

The representative of Portugal recalled that, in May 1975, a system of import surcharges of 20 to 30 per cent had been introduced by his Government on certain products, effective until 31 December 1975 (L/4185). This import surcharge scheme had been extended until 31 March 1976 (L/4185/Add.1) and subsequently further extended until 31 March 1977 and revised. As a result, a surcharge rate of 30 per cent was currently levied on most products and one of 60 per cent on the less essential and superfluous goods (L/4433). Furthermore, an import deposit scheme had recently been introduced (L/4433). The import deposits applied to goods regardless of origin, the amounts deposited were free of interest and amounted to half the c.i.f. value. The import deposit scheme would remain in force as long as necessary to overcome Portugal's economic and financial difficulties.

The Council noted that the measures would be examined by the Committee on Balance-of-Payments Restrictions in its consultation with Portugal and agreed to defer consideration of the measures until the report on the consultation with Portugal had been received.

17. Training activities (L/4411)

The Director-General, in presenting a report (L/4411) on the activities of GATT in the field of training, said that the contracting parties and particularly the developing countries, whether or not members of GATT, attached great importance to the training courses organized each year by the GATT secretariat. The training programme made an effort to respond to a need of developing countries. The comments made by delegations and the number of requests for admission were proof of the continually increasing interest of governments in this activity.

He pointed out that the practical value of the courses was greatly increased by study tours. Thus, in 1976, participants in the English-speaking course had visited Sweden and Austria and the French-speaking course would soon leave for France and Greece. In addition, each course had included a study tour of Switzerland. He expressed his appreciation to the Governments concerned for their interest in these training activities and for the hospitality extended to the participants during the study tours. The Director-General also thanked the governments which, through a special contribution, had assisted in the financing of the courses this year in the light of the financial difficulties experienced by UNDP. He mentioned that the danger of cancelling the present French-speaking course had been avoided by special contributions from the Governments of Denmark, Norway, the Netherlands and Switzerland.



In conclusion, he thanked UNDP and UNCTAD, as the executing agency of UNDP, for the scholarships granted for the training courses, and the representatives of delegations and of international organizations for the lectures they had given to the trainees.

The Council took note of the report.

18. Application of the General Agreement to Newly-Independent States (L/4427)

The Chairman recalled that in November 1967 the CONTRACTING PARTIES had adopted a recommendation inviting contracting parties to continue to apply the General Agreement de facto in respect of newly independent territories on a reciprocal basis. The Director-General presented the third report on the application of the Recommendation in document L/4427.

The Council took note of the report and invited the Director-General to remain in contact with the governments of the States concerned and to report again on the application of the Recommendation within three years.

19. Status of Protocols (C/W/280)

The Chairman drew the Council's attention to document C/W/280 which contained a report by the Director-General on the status of the protocols upon which some action was still required by one or more contracting parties. He noted that the Protocol Introducing Part IV was now in force amongst all but two contracting parties.

As the closing date for the acceptance of the Protocol would expire at the end of the thirty-second session, the Council agreed to recommend to the CONTRACTING PARTIES that the closing date should be extended until the end of the thirty-third session for those contracting parties which had not been able to accept it before the end of the thirty-second session.

The Council approved the text of the draft decision to this effect and recommended its adoption by the CONTRACTING PARTIES.

20. Consultative Group of Eighteen (L/4429)

The Chairman recalled that the Consultative Group of Eighteen was established by Decision of the Council of 11 July 1975. Its terms of reference provided that the Group should submit once a year a comprehensive account of its activities. The Decision also required the Council to review the Group's tasks, composition and terms of reference. A report to the Council had been distributed in document L/4429.

The Director-General, Chairman of the Consultative Group of Eighteen, introduced the report which gave a comprehensive account of the Group's activities during the period November 1975 until October 1976. He said that during this period the Group had held four meetings and that the report on these meetings, as agreed by members of the Group, had been prepared by him on his own responsibility as Chairman of the Group.

He said that the Group had covered a wide range of subjects. At each meeting members of the Group had discussed recent developments in trade policy and international trade which had provided an opportunity to raise questions of specific interest to contracting parties and to exchange views on the wider aspects of recent developments in trade policies and in the international economic situation in general. In its discussion of the international trading system and the rôle of GATT the Group had also exchanged views on a range of specific matters, such as the proposal that the Trade Negotiations Committee establish a group on improvements in the international framework for the conduct of world trade, the general subject of dispute management and the question of trade measures taken for balance-of-payments purposes, including the question of improved GATT/IMF co-ordination. Recently, the Group had embarked on a discussion of the question of world trade in agriculture.

He considered that the Group had been faithful to its terms of reference in not impinging upon the competence or activities of other GATT bodies or of the Trade Negotiations Committee. The members of the Group, at their last meeting, had expressed their personal views on the value of the Group's activities. These views had been included in the report as information only for the benefit of the members of the Council.

A large number of representatives, members and non-members of the Consultative Group of Eighteen, expressed their appreciation for the report. They felt that the Group had fulfilled a useful task in the first year of its activities and that a further continuation of the Group's work was justified.

The Council took note of the report and of the comments made.

With regard to the review of the Decision, the Council noted that the experience acquired under the Decision of 11 July 1975 had been useful. The Council agreed to confirm the Decision in all its elements and to re-examine the situation in a year's time.

21. Report of the Committee on Budget, Finance and Administration (L/4413)

Mr. Gates (Australia), Chairman of the Committee on Budget, Finance and Administration, said that the Committee had examined the 1975 accounts, the financing of the 1976 budget and the budget estimates for 1977.

In connexion with the 1975 accounts and the financing of the 1976 budget the Committee had paid special attention to the situation created by the large amount of outstanding contributions. Although since the report had been issued five contracting parties: Bangladesh, Brazil, India, Korea and Madagascar, had paid their contributions, there was still an amount of more than Sw F 5.1 million outstanding. He made an earnest appeal to the governments which had not yet paid their contributions to do so as rapidly as possible in order to avoid serious cash difficulties which could amount to a liquidity crisis in the next few months. He stressed strongly that if a significant proportion of the amount outstanding had not been received by the end of the year, the totality of the Working Capital Fund would be insufficient to cover the shortfall.

With regard to the current budgetary position of GATT he said that the 1976 budget was expected to close with a year-end surplus of some Sw F 126,000. He indicated that the main reason for this surplus was the lower than anticipated inflation rate in 1976.

Referring to the budget estimates for 1977, he pointed out that it had been possible to make reductions from the initial request of Sw F 36,633,000 firstly by Sw F 100,000 because of the discontinuation of GATT participation in the GIM II computer programme, and secondly by Sw F 504,000 as a result of the revised estimates for 1977 presented by the International Trade Centre. The Committee thought it wise to provide an additional amount of Sw F 291,000 to cover the estimated cost of proposals made to the General Assembly of the United Nations with regard to adjustments to be made to salaries and allowances for staff in the professional category and above. As a result of these changes the revised expenditure estimates for 1977 amounted to Sw F 36,320,000. This corresponded to an increase of 6.21 per cent over the approved 1976 budget. The Committee had found no particular difficulties in its examination of the 1977 expenditure estimates and recognized that the budgetary increase had been kept at a realistic level, in spite of the need to create fifteen new posts to provide essential basic servicing at the new headquarters building.

He pointed out in connexion with the provision of Sw F 60,000 for the GATT Commercial Policy Training Courses that the Committee had expressed the view that, in principle, technical assistance should be financed by voluntary contributions. As the Committee was aware of the importance of these courses to developing countries and of the problems currently facing UNDP, it had exceptionally approved the credit for 1977. He further stated that at the request of the Staff Council, the Committee had heard a statement on the question of erosion of salaries and allowances for staff in the professional category and above. The views of the Committee in this regard were reflected in the report.

The Director-General, in connexion with the question of erosion of salaries, recalled that an amount of Sw F 515,610 had been set aside in a suspense account following the request of the Council to him to submit proposals for dealing with this situation. He recalled that his proposals were contained in document C/92 of 14 March 1975. He added that the International Civil Service Commission had recently made recommendations concerning the salaries and allowances for staff in the professional category and above to the General Assembly of the United Nations which was now in session. It was only when the decision of the General Assembly on this point was known, which was expected before the end of the year, that it would be possible for the Council to take a decision in this regard in full knowledge of the matter. The Council might therefore wish to place this question on its agenda at a later meeting once the decision by the General Assembly was known.

The Council agreed that the question of erosion of salaries be considered at an appropriate time.

The Council approved the recommendations contained in paragraphs 17, 19, 21, 41 and 46 of the report.

The Council approved the report of the Committee on Budget, Finance and Administration (L/4413) and recommended its adoption by the CONTRACTING PARTIES, including the recommendations contained therein and the Resolution on the Expenditure of the CONTRACTING PARTIES in 1977 and the Ways and Means to meet such Expenditure.

The recommendations of the Council would be incorporated in the report of the Council to the CONTRACTING PARTIES.

22. Spain - Import Surcharge (L/4436 and Corr.1)

The representative of Spain referred to a communication by his delegation, which described the economic measures recently taken by his Government (L/4436 and Corr.1).

He pointed out that Spain had been particularly affected by the world economic crisis of the last few years, which resulted in rates of unemployment higher than ever in the past and an alarming decline in investment. This had led to the adoption of a series of measures designed to meet the deterioration in the various sectors of the economy. It had indeed proved inevitable to introduce a number of duty increases which affected a greater number of items than was normally the case when there was a periodic revision of the tariff. However, particular care had been taken not to affect duties bound in the GATT; in fact the Decree provided specifically for the exception of these bound duties from the measures. His authorities were of the opinion that the tariff adjustments would not result in a change in the usual flow of trade nor was there any

discrimination. He pointed out that his authorities had not had recourse to other more drastic measures such as prior deposits, quotas or other restrictions and emphasized that the present measures were temporary. Consequently, the measures entirely respected the commitments undertaken by Spain under the General Agreement. The CONTRACTING PARTIES would be kept informed if his authorities felt compelled to introduce any new measures. His delegation was at the disposal of any delegation seeking further clarification on these measures.

The Council took note of the statement.

23. United States - Import restrictions on meat (L/4434)

The representative of Australia, raising a matter under Other Business, expressed concern about the import restrictions on beef recently imposed by the United States. The United States was Australia's largest export market for beef. He recognized that the United States meat import restrictions were replacing existing voluntary restraint arrangements, but recalled that the United States had accorded Australia certain rights in terms of a GATT binding which had been compromised by subsequent restraints. As Australia had not yet been offered Article XIX consultations, he expressed the expectation that the United States would specify the provisions under which it justified its actions. He appealed to the United States to reconsider its GATT position in relation to these restrictions.

The representative of New Zealand also expressed his Government's concern at the introduction of import restrictions on beef by the United States. He noted that the restrictions had been notified without reference to a GATT Article and recalled, in this respect, the United States position in the MTN that notification of restrictive measures without the citation of GATT provisions removed the basis for evaluating the justification of the action taken. He was furthermore concerned that, as a result of the United States and Canadian action in the field of beef imports, there existed now no major market for beef without restrictions on imports. This would affect the precarious confidence of beef producers in the future of their industry, which would have consequences for supplies, prices and consumption in both importing and exporting countries. He recalled that half of New Zealand's beef export earnings were obtained through sales to the United States, which represented about 7 per cent of New Zealand's total export income. New Zealand, therefore, attached great importance to its ability to export meat to the United States. He recognized that the quantities which would now come under quota would not reduce the amount of meat shipped so far and noted that the quotas were intended for the remainder of 1976 only. He felt, however, that quotas did not represent an acceptable means of controlling imports and were incompatible with the international obligations of the United States. His authorities were seeking early consultations with the United States under Article XXII to seek clarification of the legal and economic justification for the action taken and to seek assurances for the prompt removal of the restrictions.

The representative of the United States said that his Government's actions had been notified (L/4434) and that he would report the absence of citation of a particular GATT article to his authorities. He then recalled that United States legislation on meat had permitted substantial meat imports over the years, which was in contrast with other meat importing markets. His authorities had consulted with the countries supplying meat to the United States market and the quota level of 1,233,000,000 lb. corresponded to the import level originally contemplated for 1976 under the voluntary restraint agreements. His authorities were now in the process of studying the 1977 meat import policy and he stressed that the situation would be eased if other major meat importers would liberalize their import restrictions. His delegation agreed to the request for Article XXII consultations with New Zealand.

The Council took note of the statements.

24. Canada - Emergency action on imports of beef and veal (L/4437)

The representative of Australia, raising a matter under Other Business, referred to the emergency action taken by Canada to control imports of beef and veal (L/4437). As Canada was Australia's third largest export market for beef, his authorities wished to enter into Article XIX consultations, in particular on the question of the incompatibility with GATT obligations of Canada's refusal to admit shipments of beef which were en route at the time that the restrictions were announced. This, in his view, was a denial of Australia's rights under Article XIII of the GATT. If Canada did not lift the embargo, Australia expected Canada to assume responsibility for compensation in respect of all additional costs involved. His delegation, furthermore, would seek clarification of the effect of the current restrictions on 1977 imports. The present system appeared to preclude shipments in 1976 for entry in 1977.

The representative of New Zealand also expressed his concern and regretted that yet another major importer had imposed restrictions on beef imports. As Canada was New Zealand's second largest beef market, New Zealand was seeking Article XIX consultations with Canada on this question.

The representative of Canada said that the emergency measures were temporary. The measures had inter alia become necessary following the introduction by the United States of import restrictions on beef which affected Canadian beef exports to the United States and had repercussions on the Canadian meat market. He noted that consultations had already been held between Canada and Australia and New Zealand. He further noted the request for consultations to be held under Article XIX but did not share the views put forward by the representative of Australia.

The Council took note of the statements made.

25. EEC - Programme of minimum import prices, licences and surety deposits for certain processed fruits and vegetables

The Chairman recalled that at its meeting in July the Council had established a panel to examine the matter referred to the CONTRACTING PARTIES by the United States under Article XXIII:2 relating to the EEC programme of minimum prices, licences and surety deposits for certain processed fruits and vegetables. The Council had then authorized him to nominate, in consultation with the parties concerned, the Chairman and the members of the Panel. These consultations had now been concluded. He informed the Council that the composition of the Panel was as follows:

Chairman: Mr. Jagmetti (Switzerland)

Members: Mrs. Breckenridge (Sri Lanka)  
Mr. Eggert (Finland)  
Mr. Segalla (Austria)  
Mr. Yoshikuni (Japan)

26. Export Inflation Insurance Schemes

The Chairman recalled that at its meeting in July 1976 the Council had established a Working Party on Export Inflation Insurance Schemes and had authorized him to nominate the Chairman of the working party.

He now informed the Council of the appointment of Mr. Selmer (Norway) as Chairman of the Working Party.

27. Monetary measures applied by Italy

The Chairman recalled that at its meeting in September the Council had established a working party to examine the monetary measures applied by Italy and had authorized him to nominate the Chairman of the Working Party.

He now informed the Council of the appointment of Mr. Iranzo (Spain) as Chairman of the Working Party.

28. Working Party on Trade with Poland

The Chairman said that Ambassador Chadha (India), Chairman of the Working Party on Trade with Poland, had taken up a new function and would no longer be available to fulfil his task as Chairman of the Working Party. He proposed that Mr. Sandilya (India) be nominated the new Chairman of the Working Party.

The Council agreed to the appointment of Mr. Sandilya (India) as Chairman of the Working Party on Trade with Poland.

29. Report of the Council (C/W/279)

The secretariat had distributed in document C/W/279 a draft of the Council's report to the CONTRACTING PARTIES on the matters considered by the Council since the thirty-first session and any action taken in this respect.

Several representatives proposed amendments to the draft.

The Council noted a factual statement in the report that the Working Party on the Agreement between Finland and the German Democratic Republic had not yet been convened.

The Chairman requested the secretariat to insert the various amendments proposed as well as suitable additional notes regarding action taken at this meeting.

The Council agreed that the report with these additions should be distributed and presented to the CONTRACTING PARTIES by the Chairman of the Council.