

GENERAL AGREEMENT ON TARIFFS AND TRADE

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COUNCIL

COUNCIL OF REPRESENTATIVES

Draft Report on Work since the Thirty-Third Session¹

In accordance with the Decision of 4 June 1960 establishing the Council of Representatives, the Council is required to report to the CONTRACTING PARTIES on the matters considered between sessions of the CONTRACTING PARTIES.

In carrying out its task the Council has held [] meetings since the thirty-third session in November 1977. The minutes of these meetings have been issued in documents C/M/124 - C/M/ Adoption of this report, which summarizes the action taken by the Council, will constitute approval by the CONTRACTING PARTIES of that action.

The following subjects are included in the report:

	<u>Page</u>
1. Anti-dumping practices	
- Committee on Anti-Dumping Practices	5
2. Adjustment of specific duties	5
3. Balance-of-payments import restrictions	
- Consultations on balance-of-payments restrictions	5
(a) Arrangements for consultations in 1978	5
(b) Consultation with Finland	6
(c) Consultation with Israel	6
(d) Consultation with Pakistan	6
(e) Consultation with Portugal	7
(f) Consultation with Turkey	7
(g) Examinations under simplified procedures	7
- Argentina, Brazil, Chile, Greece, India	

¹A supplemental draft to cover matters considered by the Council on 6 November will be issued as an addendum to this document.

	<u>Page</u>
4. Consultative Group of Eighteen	8
5. Emergency action and trade restrictive measures	
(a) Secretariat study on Article XIX	8
(b) EEC	
- Imports into the United Kingdom of television sets from Korea	9
(c) Portugal	
- Import surcharges and import deposit	10
(d) Spain	
- Imports of pulp	10
(e) United States	
(i) Suspension of customs liquidation regarding certain Japanese consumer electronic products	11
(ii) Proposed action on copper	12
6. Recourse to Article XVIII	
(a) Canada - Withdrawal of tariff concessions	12
(b) EEC	
(i) Measures on animal feed proteins	14
(ii) Minimum import prices for processed fruits and vegetables	14
(iii) Refunds on exports of malted barley	15
(iv) Refunds on exports of sugar	15
(c) Japan	
(i) Restraints on imports of leather	16
(ii) Measures on imports of thrown silk	17
(d) Norway	
- Restrictions on imports of textiles from Hong Kong	17
(e) Tax legislation	
(i) United States tax legislation (DISC)	19
(ii) Income tax practices maintained by France	19
(iii) Income tax practices maintained by Belgium	19
(iv) Income tax practices maintained by the Netherlands	19

	<u>Page</u>
7. Export inflation insurance schemes	19
8. Customs unions and free-trade areas; regional agreements	
(a) Anglo-Irish Free-Trade Area	20
(b) ASEAN Agreement	20
(c) Bangkok Agreement	20
(d) European Communities	
(i) Agreements with Egypt, Syria, Jordan and Lebanon	21
(ii) Agreement with Cyprus	21
(iii) Agreement with Malta	21
(iv) Agreement with Spain	22
(e) Agreements concluded with Finland	
(i) Finland-Czechoslovakia	22
(ii) Finland-Poland	22
9. Trade arrangements between Egypt, India and Yugoslavia	22
10. Waivers under Article XXV:5	
(a) Brazil	
- Renegotiation of schedule	23
(b) India	
- Auxiliary duty of customs	23
(c) Turkey	
- Stamp duty	24
(d) Uruguay	
- Import surcharge	24
11. Reports under waivers	
United States	
- Agricultural Adjustment Act	25

	<u>Page</u>
12. Renegotiations under Article XXVIII	
(a) Procedures for negotiations under Article XXVIII	26
(b) New Zealand - Renegotiations under Article XXVIII:4	26
(c) United States - Renegotiations under Article XXVIII:1	26
13. EEC - Adoption of European Unit of Account for Common Customs Tariff	27
14. Provisional accession	
- Thailand	27
15. Hungary	
- Consultations on trade	27
16. Poland	
- Consultations on trade	28
17. International Trade Centre	
- Joint Advisory Group	28
18. Trade in steel	29
19. Training activities	29
20. Status of Protocols	29
21. Administrative and financial questions	
(a) Committee on Budget, Finance and Administration	29
(b) Assessment of additional contributions	30
(c) Deputy Director-General post	30
(d) Final position of 1977 budget of GATT	30
22. Arrangements for thirty-fourth session	30
23. Observer status to sessions of the CONTRACTING PARTIES	30

1. Anti-dumping practices

- Committee on Anti-Dumping Practices

[to be concluded]

2. Adjustment of specific duties (C/M/124, 125, 126)

At the meeting of the Council on 14 March 1978 the representative of Israel raised a matter concerning the adjustment of specific duties bound in the Israeli Schedule, in view of the reduction in value of the Israeli currency under its present floating exchange rate system. He stated that the present value of the Israeli pound, as determined by the exchange market, was approximately I£ 16.00 per US\$1.00, which represented a depreciation since the latest adjustment of specific duties in 1975, exceeding by far the 20 per cent limit laid down in Article II:6(a). Israel, therefore, asked that this matter be considered in accordance with the principles of Article II:6(a). He stressed that he was aware of the fact that this request touched on a matter of principle since the par value system, which existed when Article II:6(a) was drafted, was no longer applied and floating exchange rate systems had become the rule. His delegation, therefore, would have no objection if the decision of the Council on the request were delayed, in order to afford the CONTRACTING PARTIES the opportunity, if they should so wish, to review the provisions of Article II:6(a) and consult as to their appropriate application in the present circumstances.

A number of representatives agreed that difficult and delicate problems were involved, which required further reflexion.

At its meeting on 17 May 1978 the Council established a working party to examine the modalities for the application of Article II:6(a) in the current monetary situation and to consult with the International Monetary Fund on this matter under the provisions of Article XV:2.

[The Working Party is proceeding with its work.]

3. Balance-of-payments import restrictions

- Consultations on balance-of-payments import restrictions

(a) Arrangements for consultations in 1978 (C/M/124)

Arrangements for consultations on balance-of-payments import restrictions in 1978 were presented to the Council on 14 March 1978.

The Council took note of the arrangements.

(b) Consultation with Finland (C/M/127)

In May 1978 the Committee on Balance-of-Payments Restrictions carried out a consultation with Finland under the provisions of paragraph 4(b) of Article XII. The report (BOP/R/102) was presented to the Council at its meeting on 24 July 1978. The Committee had welcomed the improvement in Finland's balance-of-payments position and had recommended that Finland should initiate the process of relaxation of its import restrictions in parallel with the strengthening of its external position. Finland was also invited to relax further the Cash Payments Scheme in view of its possible trade effects.

The Council adopted the report.

(c) Consultation with Israel (C/M/127)

In May 1978 the Committee on Balance-of-Payments Restrictions carried out a consultation with Israel. The report (BOP/R/101) was presented to the Council at its meeting on 24 July 1978. The Committee had congratulated Israel on its measures taken in October 1977 which had allowed an unprecedented degree of trade liberalization. However, the Committee noted that Israel's large trade deficit, the level of foreign reserves and the size of the foreign debt were factors of uncertainty for the future.

The Council adopted the report.

(d) Consultation with Pakistan (C/M/124)

In January 1978 the Committee on Balance-of-Payments Restrictions held a consultation with Pakistan under Article XVIII:12(b). The report on this consultation (BOP/R/98) was presented to the Council at its meeting on 14 March 1978. The consultation had afforded the Committee not only a clear view of Pakistan's balance-of-payments difficulties and trade measures in force, but also of the rôle of external factors on Pakistan's economy. The Committee had recognized that such factors as the international economic recession, difficult access to markets and restraints applied in these markets had affected Pakistan's export performance and, therefore, its balance of payments.

The representative of Pakistan emphasized that the extent to which restrictions maintained against exports of Pakistan by its principal trading partners would be relaxed, in response to the conclusions drawn by the Committee, would be a measure of the seriousness with which these countries accepted their obligations as contracting parties. He also commented more generally, on the terms of reference and procedures of the Committee. He stated, in particular, that the consultations should provide a comprehensive review of the problems and difficulties faced by the contracting party and the manner in which the trade partners could help it in overcoming these

difficulties. He also referred to an imbalance in the present procedures in that the balance-of-payments consultations related generally to the trade policies of developing countries, while there were no comparable procedures for periodic reviews of measures adopted, mostly by developed countries under Article XIX.

Many delegations associated themselves with these considerations. Some representatives also expressed the view that the normal procedure for consultations with developing countries should be the "simplified procedure". Other delegations felt that consultations under the "simplified procedure" were an exception to the provisions of Article XVIII:12(b) and were primarily intended for countries in the early stages of development which lacked the machinery to prepare adequately for regular consultations.

The Council adopted the report.

(e) Consultation with Portugal (C/M/124)

The Committee on Balance-of-Payments Restrictions carried out a consultation with Portugal in January 1978, during which it also examined modifications in the Portuguese import surcharges introduced in May 1975 (see item 5(c) hereafter). The report (BOP/R/96) was presented to the Council on 14 March 1978.

The Council adopted the report.

(f) Consultation with Turkey (C/M/124)

In January 1978 the Committee on Balance-of-Payments Restrictions carried out a consultation with Turkey under Article XVIII:12(b). The Committee also examined Turkey's request for an extension of the Turkish stamp duty waiver (see item 10(c) hereafter). The report (BOP/R/99) was presented to the Council at its meeting on 14 March 1978. The Committee had recognized that further steps to liberalize the import régime of Turkey could only be undertaken after the present imbalance in the payments situation had been reduced.

The Council adopted the report.

(g) Examinations under simplified procedures (C/M/124, 127)

- Argentina, Brazil, Chile, Greece, India

At its meetings in January and May 1978, the Committee on Balance-of-Payments Restrictions examined written statements supplied by a number of developing countries under the simplified procedures.

At its meeting on 14 March 1978, the Council considered the report on the examination of the statements supplied by Argentina, Chile and India (BOP/R/97). The Committee recommended that Argentina and Chile should be deemed to have consulted with the CONTRACTING PARTIES and to have fulfilled their obligations under Article XVIII:12(b) for 1977. In the case of India a full consultation would be held in the autumn of 1978.

The representatives of Argentina and Chile said that their countries no longer applied trade restrictions for balance-of-payments reasons and were therefore no longer required to carry out consultations.

The representative of India said that India's acceptance of the decision of the Committee for a full consultation was without prejudice to its position that the simplified consultations were the appropriate procedure for developing countries by virtue of their special situation.

The Council adopted the report (BOP/R/97) and noted that a full consultation would be held with India under the applicable procedures. The Council agreed that Argentina and Chile should be deemed to have fulfilled their obligations under Article XVIII:12(b) for 1977. The Council also took note that Argentina and Chile had ceased to apply trade restrictions for balance-of-payments reasons which warranted consultations under Article XVIII:12(b).

At its meeting on 24 July 1978 the Council considered the report on the examination of the statements supplied by Brazil and Greece (BOP/R/100). The Council agreed that Greece should be deemed to have consulted with the CONTRACTING PARTIES and to have fulfilled its obligations under Article XVIII:12(b). The Council noted that a full consultation would be held with Brazil under the applicable procedures and adopted the report (BOP/R/100).

4. Consultative Group of Eighteen

[To be concluded]

5. Emergency action and trade restrictive measures

(a) Secretariat study on Article XIX (C/M/124, 125, 126, 127)

At the meeting of the Council on 14 March 1978, the representative of Korea referred to a notification by the EEC (L/4613) invoking Article XIX for the imposition of unilateral discriminatory import restrictions on certain television sets exported from Korea to the United Kingdom.

A large number of representatives spoke on the matter and expressed the opinion that Article XIX did not provide for the discriminatory application of measures to limit potentially disruptive imports. Some delegations considered that the only latitude permitted to contracting parties in this regard was that permitted under Part IV in favour of developing countries.

Other representatives expressed the view that the action under discussion and the modalities of its implementation could not be considered to contradict the provisions of Article XIX. It was also stated that the interpretation of Article XIX had frequently been subject to discussions, reflecting the fact that the text of that Article was not clear in some respects.

Since doubts had been raised about the interpretation of Article XIX some representatives requested that the secretariat prepare a study on the way Article XIX had been applied up to the present. In view of divergent views expressed as to the contents of the study, the Council agreed to revert to this matter at a later meeting.

The Council considered this matter further at its meetings on 17 May and 6 June 1978. The Council agreed to request the preparation by the secretariat of a descriptive study on the provisions of Article XIX since 1947 and its application to date. The study should describe the various discussions in GATT and the different opinions expressed concerning the provisions of the Article and describe not only the formal modalities of the action taken, but likewise the modalities for its practical application.

At the meeting of the Council on 24 July 1978, several representatives expressed their appreciation for the study on the application of Article XIX contained in document L/4679.

The Council took note of the statements.

(b) EEC - Imports into the United Kingdom of television sets from Korea (C/M/124)

At the meeting of the Council on 14 March 1978, the representative of Korea referred to a notification by the EEC (L/4613) invoking Article XIX for the imposition of unilateral discriminatory import restrictions on certain television sets exported from Korea to the United Kingdom. He explained that Korea's exports of these television sets to the United Kingdom had amounted to only 2,100 units in 1976, but due to the big demand there had been indications that these exports could increase substantially in 1977. The British Government had, however, requested Korea, in June 1977 to voluntarily restrain its exports. When no agreement could be reached in these bilateral consultations, due to divergent views, the British Government had unilaterally imposed restrictions in July 1977, limiting imports of television sets from Korea to 35,000 units per year during 1977 and 1978. The EEC had notified the CONTRACTING PARTIES of the action taken only in December 1977. He urged the EEC to repeal the measure and to seek a mutually agreeable solution through bilateral consultations.

A number of delegations expressed views as to the discriminatory application of Article XIX (see item 5(a)).

The representative of the European Communities pointed out that Korea had not held bilateral consultations with the Community since the notification had been circulated.

The Chairman suggested that further consultations might be carried out between the parties with a view to reaching a satisfactory conclusion.

The Council agreed to revert to this matter at a later meeting if necessary.

(c) Portugal - Import surcharges and import deposit (C/M/124, 128)

In January 1978 the Committee on Balance-of-Payments Restrictions carried out a consultation with Portugal during which it also examined modifications in the Portuguese import surcharges introduced in May 1975. The report (BOP/R/96) was presented to the Council on 14 March 1978. The Committee had welcomed the termination of the import deposit scheme on 31 December 1977 and invited Portugal to replace the import surcharges with internal fiscal measures, or to phase them out as the balance-of-payments situation permitted.

The Council adopted the report.

At the meeting of the Council on 18 October 1978 the representative of Portugal referred to the surcharges which were at the level of 60 per cent or 30 per cent depending on the list of products subject to the surcharges. He informed the Council that the surcharge of 30 per cent had been reduced as of 1 October 1978 and that the phasing out of this surcharge was contemplated.

The Council took note of the information.

(d) Spain - Imports of pulp (C/M/126, 127, 128)

At the meeting of the Council on 6 June 1978, the representative of Sweden, speaking on behalf of Finland, Norway and Sweden, stated that since April 1978, Spain had withheld the issuance of licences for imports of bleached sulphate pulp. This measure had been superseded thereafter by a restriction limiting imports of pulp to 12,000 tons per month which amounted to a reduction of about 40 per cent in the present level of imports. The three Nordic countries regarded these measures as serious and asked for the justification of the measures. The representative of the United States also expressed concern at these measures.

The representative of Spain confirmed that there had existed difficulties with regard to imports of wood pulp due to a large increase of these imports. He stated that the situation had become normal again and imports of pulp were not subject to any type of quantitative restriction.

The Council took note of the statements and agreed to revert to this matter at its next meeting.

At the meeting of the Council on 24 July 1978, the representative of Spain explained the difficult situation in the pulp sector which had resulted from increased imports at extremely low prices. He mentioned that imports of pulp over the first five months of 1978 had amounted to over 126,000 tons, as compared with total imports last year of 133,000 tons. He stressed again that no official measures had been taken by his authorities in respect of imports of pulp, but he confirmed that paper manufacturers and pulp producers had agreed on a private arrangement with the objective of limiting imports in the hope of normalizing the market. His authorities had no intention of introducing quota restrictions. His delegation was ready to enter into consultations with interested delegations on this matter.

The representative of Sweden, speaking on behalf of the Nordic countries, said that the unofficial quotas on imports of pulp constituted a real obstacle to trade. He considered that such measures should have been notified to GATT. He mentioned that if the situation could not be clarified the Nordic delegations might request consultations with Spain under Article XXII.

The representatives of Canada and the United States also expressed concern at any action to limit imports of pulp into Spain.

The Council agreed to keep the matter on the agenda of its next meeting.

At its meeting on 18 October 1978 the Council was informed by the representative of Spain that prices in the pulp market had come back to a normal level and that the private agreement between producers and importers of pulp was no longer operative. The representative of Sweden welcomed this situation and considered that there was no need to retain the item on the agenda of the Council.

The Council noted that there was no need to retain the item on its agenda.

(e) United States

(i) Suspension of customs liquidation regarding certain Japanese consumer electronic products (C/M/124)

At its meeting on 14 March 1978, the Council was informed by the representative of the United States that the Supreme Court had agreed to consider the appeal in which it was charged that the Japanese practice of rebating commodity taxes constituted a subsidy under United States law. The Supreme Court would render a decision before the end of the summer.

The Council took note of the statement.

In July 1978 the United States delegation informed the contracting parties that the Supreme Court had found that Japan did not confer a "bounty or grant" within the meaning of the United States countervailing duty legislation by failing to impose a commodity tax on exports, while imposing the tax on products sold in Japan (L/4693).

(ii) Proposed action on copper (C/M/128)

At the meeting of the Council on 18 October 1978 the representative of Chile referred to a United States communication concerning proposed United States action under Article XIX on imports of copper. He expressed concern that the proposed introduction of quantitative restrictions might lead to the creation of surpluses of copper on the world market with, as a consequence, a further decrease in prices. He stated that developing countries depending on exports of copper would be particularly affected and expressed the hope that the United States Government would not take import restrictive action.

A number of other representatives of copper-exporting countries shared the concern of the representative of Chile and expressed the hope that no decision would be taken on this matter which would adversely affect United States copper imports.

The representative of the United States stated that no decision had as yet been taken in this regard and that his authorities would give due consideration to the views of the copper-exporting countries in this respect.

6. Recourse to Article XXIII

(a) Canada - Withdrawal of tariff concessions (C/M/125, 126, 127, 128)

At a meeting of the Council in November 1976, the EEC had raised a matter concerning the withdrawal by Canada of certain tariff concessions in accordance with Article XXVIII:3, subsequent on the renegotiations by the EEC of certain concessions on lead and zinc in the EEC schedule. The EEC had sought recourse to the provisions of Article XXIII:2 and the Council had referred the matter to a panel for examination.

The report of the panel (L/4636) was presented to the Council at its meeting on 17 May 1978. The panel had considered that the basic issue involved was how specific rates of duty should in a correct and reasonable way be converted into ad valorem rates. Related to this was the question of the base period to be used for the conversion. The panel had noted that the objective of the EEC had been to arrive at new ad valorem rates of duty that were the fair and reasonable equivalents of the bound specific duties, and that the Community had had no intention of increasing the margin of protection. In the light of this the panel had held that the ad valorem equivalents of the Community offer should have been based on global trade statistics for the most recent three-year period for which statistics were available. This would have resulted in a rate for zinc lower than the rate implemented by the Community. The panel had, therefore, concluded that the ad valorem rate of duty on zinc implemented by the Community had implied an impairment of Canada's GATT rights and that Canada was entitled to proceed to a withdrawal of concessions. However, the panel had found that the extent of the Canadian retaliation had exceeded the actual damage suffered,

considering that account should have been taken of the rebinding of the Community duty and that the withdrawals should have been based on the difference between the ad valorem equivalent of the specific duty, calculated on imports from Canada only, and the new ad valorem rate. Finally, account should also have been taken of the fact that the duty on lead had been fixed by the Community at a level lower than the incidence in respect of imports from Canada. In the interest of maintaining the highest possible level of concessions the panel had concluded that the withdrawn Canadian tariff bindings should be re-established as soon as the Community proceeded either to decrease its duty on zinc or to make tariff concessions on other products of export interest to Canada of an equivalent value.

The representative of the European Communities, while not opposing the adoption of the report, put on record certain points on different aspects of the report, which in his view led to paradoxical conclusions which might lead to results other than those intended.

The representative of Canada stated that it was Canada's objective to arrive at a mutually agreed rate of duty on zinc and Canada was ready to consider any reasonable offer based on the panel's report.

The Council adopted the report.

At the meeting of the Council on 6 June 1978, the representative of the Community said that the Community would accept compensatory withdrawals from Canada on a bilateral basis, rather than conclude an agreement based on the global incidence, which would be less advantageous to the Community. As far as the Community was concerned the renegotiation was now over and it was for Canada to adjust its compensatory withdrawals in accordance with the conclusions reached by the panel. As there had appeared to be a difference of opinion with Canada on this matter he requested the Council to give a ruling on the interpretation of the report.

The representative of Canada was of the view that the report, in the interest of maintaining the highest possible general level of concessions, called for concessions withdrawn by Canada to be restored, as soon as the Community either had lowered the tariff on zinc or had made concessions on other products of export interest to Canada of an equivalent value. He felt that the suggestion made by the Community that it was up to Canada to restore the balance by adjusting the level of withdrawal of concessions would not give effect to the recommendation of the panel or to the objectives of Article XXVIII.

The Council agreed that the two parties should make a renewed attempt to consider the matter further bilaterally in order to arrive at an understanding.

At the meeting of the Council on 24 July the representatives of the European Communities and Canada presented again their views on the matter and it was pointed out that no bilateral consultations had taken place on this question between the two delegations since the last meeting of the Council.

A number of representatives were of the opinion that the Council should refrain from discussing the issue until further bilateral discussions had taken place.

The Council agreed to revert to this matter at its next meeting.

At its meeting on 18 October 1978 the Council was requested by the two parties not to pursue the matter at that meeting.

(b) EEC

(i) Measures on animal feed proteins (C/M/124)

At the meeting of the Council in July 1976, the United States had referred a complaint to the CONTRACTING PARTIES under the provisions of Article XXIII:2 regarding certain EEC measures affecting animal feed proteins. The report of the panel established to examine the complaint was presented to the Council at its meeting on 14 March 1978 (L/4599).

The representative of the European Communities stated that the panel had disagreed with his delegation on the question relating to the conformity of the measure under consideration with some provisions of Article III. He pointed out that the measure had been in force for only six months in 1976.

The Council noted that the measure in question had been terminated and adopted the report.

(ii) Minimum import prices for processed fruits and vegetables (C/M/124, 128)

At its meeting in July 1976, the Council had established a panel following a recourse to Article XXIII:2 by the United States relating to the EEC programme of minimum import prices for certain processed fruits and vegetables.

The Council was informed on 14 March 1978 of the new composition of the panel.

The report of the panel was presented to the Council at its meeting on 18 October 1978. Although not all of the panel's conclusions had been adopted unanimously, the panel had been unanimous in its final conclusions with regard to nullification and impairment of benefits accruing to the United States.

The representative of the European Communities pointed out that the panel had to a large extent recognized the merits of the Community arguments. He stated that where this had not been the case the Community had since then, for internal reasons, abolished the measure. He placed on record certain reservations which the Community had in respect of some of the conclusions of the panel.

The Council adopted the report.

(iii) Refunds on exports of malted barley (C/M/125)

At the meeting of the Council on 17 May 1978, the representative of Chile referred again to the question of refunds granted by the EEC on its malted barley exports. These refunds seriously affected the traditional malted barley exports from Chile to its markets in Latin America. He informed the Council that on the recommendation of the Council in November 1977, bilateral consultations had been held, but it had not been possible to arrive at a mutually satisfactory solution. His Government had therefore decided to proceed on the basis of the conciliation procedure relating to disputes between developed and developing countries.

The Council took note that the matter was now referred by Chile to the Director-General under the Decision of 5 April 1966, so that, acting in an ex officio capacity, the Director-General would use his good offices with a view to facilitating a solution.

(iv) Refunds on exports of sugar (C/M/128)

At the meeting of the Council on 18 October 1978 the representative of Australia sought recourse to the provisions of Article XXIII:2 on the question of refunds paid by the EEC on exports of sugar.

The representative of the European Communities raised a procedural matter. He pointed out that, although the Community had had discussions with Australia on this matter, it had not had formal consultations with explicit reference to Article XXIII:1. The Community considered it essential that the formal procedures be followed and his delegation was in a position to have these consultations promptly.

The representative of Australia said that the EEC was subsidizing its exports of sugar and had increased its exports to such an extent that it had gained more than an equitable share of the world sugar market. He illustrated his statement by figures which showed the increase in refund payments by the Community, both in total amount and amount per unit, and which showed the increase in Community exports in total volume and as a proportion of the free market. He indicated that Australia had conducted bilateral consultations with the Community for almost a year on agricultural

products, including sugar, which had been fruitless, and he was of the opinion that the consultations requirements as a prerequisite for the setting up of a panel had thereby been met. Australia therefore requested the Council to consider this matter urgently and to establish a panel for this purpose.

A large number of delegations supported the request by Australia. A number of delegations expressed their grave concern about the effects of the EEC measures, in particular for developing exporting countries.

The European Communities and Australia agreed to have immediate consultations under the appropriate GATT procedures. If no satisfactory adjustment of the matter was effected between the parties the Council would convene again to investigate the matter under Article XXIII:2.

(c) Japan

(i) Restraints on imports of leather (C/M/127, 128)

At the meeting of the Council on 24 July 1978, the representative of the United States referred to Japanese quota restrictions on imports of leather. These restrictions had been maintained in effect even though since 1963 they were no longer justified for balance-of-payments reasons. Furthermore, administrative obstacles made it impossible for American exporters to fill even the small quotas made available. The United States considered that these import restrictions constituted a nullification or impairment of benefits accruing to the United States. As consultations under Article XXIII:1 had not led to any results his delegation sought recourse to the provisions of Article XXIII:2.

The representative of Japan said that his Government was under a legal obligation to encourage the leather industry which made it politically impossible to expand or abolish the quota on leather imports. He therefore asked the Council to leave this matter to bilateral consultations for the time being.

The representative of the United States agreed that bilateral consultations should continue, but asked the Council to proceed with the setting up of a panel if the bilateral consultations had not succeeded after a definite period of time.

The Council requested the United States and Japan to pursue their bilateral consultations under Article XXIII:1 for a further period and agreed that, if these consultations did not lead to a mutually satisfactory solution, an appropriate procedure for consideration of the United States complaint under Article XXIII:2 would be the establishment of a panel. The Council authorized its Chairman to take the necessary steps for the establishment of a panel with appropriate terms of reference, if the matter had not been settled satisfactorily on the proposed bilateral basis by 20 September 1978.

At the meeting of the Council on 18 October 1978 the representative of the United States informed the Council that the bilateral consultations had not led to a satisfactory outcome of the matter. He expressed the hope that the panel could be established soon.

The Chairman confirmed that action towards the formal establishment of the panel was proceeding.

(ii) Measures on imports of thrown silk (C/M/125)

In July 1977 the United States had raised in the Council the question of measures taken by Japan on imports of thrown silk. The United States had sought recourse to Article XXIII and the Council had referred the matter to a panel for examination.

The report of the panel was presented to the Council at its meeting on 17 May 1978 (L/4637). Following an attempt by the panel to bring about a compromise between the two parties concerned, the panel had been informed in February 1978 that bilateral consultations had been brought to a successful conclusion, and that the United States was satisfied with the way in which the Government of Japan would implement the prior permission system on thrown silk yarn imports. The panel had, therefore, limited itself to stating the facts of the case and to pointing out that a compromise had been reached.

The Council adopted the report.

(d) Norway - Restrictions on imports of textiles from Hong Kong (C/M/125, 126, 127)

At the meeting of the Council on 17 May 1978, the representative of the United Kingdom, speaking for Hong Kong, said that up to 31 December 1977 Hong Kong had restrained its exports of certain textile products to Norway in accordance with the terms of a bilateral agreement under the MFA. In December 1977, during bilateral consultations for a new agreement from 1 January 1978, Norway had proposed on average a 40 per cent reduction in Hong Kong's textile exports to Norway. As no agreement could be reached Norway had unilaterally introduced import controls which for Hong Kong represented on average a 40 per cent reduction. Further consultations under Article XXII:1 had not led to a solution. As Hong Kong was of the opinion that the measure introduced by Norway was a selective one, it had decided to seek recourse in this matter to the provisions of Article XXIII:2.

The representative of Norway pointed out that imports of textiles from countries with low-cost production had increased from Nkr 210 million in 1973 to Nkr 481 million in 1976, which had caused serious injury to the Norwegian textile industry. This had made it necessary to negotiate bilateral agreements with exporting countries. These negotiations had not led to an agreement with Hong Kong, but the delegations had not ruled out the possibility of further consultations in the course of the year.

The Council agreed to refer the matter for early consideration at its next meeting.

At the meeting of the Council on 6 June 1978, the representative of the United Kingdom, speaking for Hong Kong, said that Norway, in not having recourse to either the rules of the MFA or the provisions of the GATT, had acted in violation of the principles of the GATT. The justification given, that the imports were low-cost imports, was in his view inconsistent with the GATT provisions. His delegation had therefore requested the setting up of a panel to investigate this matter and to give a ruling on the Norwegian measures.

The representative of Norway said that Norway had been able to settle its textile trade problems in bilateral negotiations with all exporting countries except Hong Kong. His authorities believed that Norway and Hong Kong were still in a negotiating process and he regretted that Hong Kong had come to the conclusion that there existed no basis for further negotiations.

The Council requested Norway and the United Kingdom, on behalf of Hong Kong, to pursue their bilateral consultations under Article XXIII:1 for a further period. The Council agreed that if these consultations did not lead to a mutually satisfactory solution, an appropriate procedure for the consideration of the Hong Kong complaint under Article XXIII:2 would be the establishment of a panel. The Council authorized its Chairman to take the necessary steps for the establishment of a panel if the matter had not been settled satisfactorily on the proposed bilateral basis by 30 June 1978.

At the meeting of the Council on 24 July 1978, the representative of the United Kingdom, speaking on behalf of Hong Kong, said that further consultations had not led to a solution. He had noted, however, that Norway had invoked Article XIX on a global basis in respect of the textiles in question, which had changed the basis for Hong Kong's complaint. Hong Kong therefore, might decide to seek consultations with Norway under Article XIX.

The Council agreed that no further steps for the establishment of a panel should be taken. It was however open to either party to raise the matter again at a later meeting of the Council.

At its meeting on 18 October 1978 the Council was informed by the representative of the United Kingdom, speaking on behalf of Hong Kong, that Hong Kong had had consultations with Norway under Article XIX:2. These consultations had been inconclusive and Hong Kong had asked for information on imports from all sources. The representative of Norway said that Norway was consulting with a great number of countries on this matter. He reported that details on the modalities of the Norwegian action would be available shortly.

The Council took note of the statements made.

(e) Tax legislation (C/M/124)

- (i) United States tax legislation (DISC)
- (ii) Income tax practices maintained by France
- (iii) Income tax practices maintained by Belgium
- (iv) Income tax practices maintained by the Netherlands.

In July 1973, the Council had established four panels following the recourse to Article XXIII:2 by the European Communities with regard to United States tax legislation (DISC) and by the United States with regard to tax practices maintained by France, Belgium and the Netherlands. The panels had presented their reports to the Council in November 1976. The Council had noted the reports and had discussed the matter at several meetings in the course of 1977. In November 1977, because of the deadlock in the proceedings, the representative of the European Communities had proposed that the Chairman of the Council should be requested, with the advice of persons competent in the field of the General Agreement, to formulate an opinion on the concept of "export activities" in terms of the General Agreement.

At the meeting of the Council on 14 March 1978, the representative of the European Communities again referred to this proposal. The representative of the United States drew attention to the fact that since the last meeting of the Council, the United States President had formally proposed to Congress the phased elimination of the DISC programme. He also mentioned that his authorities had made proposals relating to a possible way of dealing with the questions of the tax practices of France, Belgium and the Netherlands in the Council and he expressed the hope that these proposals would lead to a constructive solution.

The Council agreed that the matters be referred to a future meeting.

7. Export inflation insurance schemes (C/M/124, 125, 126)

In July 1976, the Council had established a working party to examine certain export inflation insurance schemes from the point of view of their effects on international commerce. The report of the working party was adopted by the Council at its meeting in November 1977. In the light of

the unsatisfactory results of the working party the representative of Canada proposed at that meeting that this matter should be pursued further by setting up an independent panel of experts to provide a finding on the compatibility of these schemes with the General Agreement.

The Council continued its discussion on the Canadian proposal and on the terms of reference for a panel at its meetings of 14 March, 17 May and 6 June 1978. At its meeting on 6 June, the Council agreed to establish a panel to examine whether and under what conditions export inflation insurance schemes were export subsidies within the meaning of Article XVI:4. The Council authorized its Chairman to nominate the Chairman and the two members of the panel in consultation with the delegations principally concerned.

At its meeting on 18 October 1978 the Council was informed of the composition of the panel.

8. Customs unions and free-trade areas, regional agreements

(a) Anglo-Irish free-trade area (C/M/124)

At the meeting of the Council on 14 March 1978, the representative of the United Kingdom presented a report, under the regular biennial reporting procedures, on developments under the Anglo-Irish Free-Trade Area Agreement. He stated that the report covered the final two years of progress towards the full accession of both parties to the European Communities, after which the material provisions of the Agreement had lapsed (L/4619).

The Council took note of the report and of the statement that the material provisions of the Anglo-Irish Free-Trade Agreement had lapsed.

(b) ASEAN Agreement (C/M/127)

In November 1977, the Council had established a working party for the examination of the provisions of the ASEAN Agreement and had authorized the Chair to nominate the chairman of the working party in consultation with the principally interested delegations.

At its meeting on 24 July 1978, the Council was informed of the appointment of the chairman of the working party.

[The working party is expected to begin its work shortly.]

(c) Bangkok Agreement (C/M/124)

In November 1976, the Council had established a working party for the examination of the Bangkok Agreement.

The report of the working party was presented to the Council on 14 March 1978 (L/4635). The working party had addressed itself to a number of issues including the implications of the Agreement for third countries and its relationship with other preferential arrangements, the questions of further accessions, non-tariff measures, rules of origin and balance-of-payments action. The working party proposed that a decision should be adopted to enable the participating contracting parties to implement the agreement.

The Chairman noted that decisions relating to these types of agreements had in the past been adopted by the CONTRACTING PARTIES by consensus and that there was a consensus in the Council, which was composed of at least one half of the contracting parties, to adopt the decision proposed by the working party. The Decision had, therefore, been adopted by the CONTRACTING PARTIES (L/4653).

The Council adopted the report.

(d) European Communities

(i) Agreements with Egypt, Syria, Jordan and Lebanon (C/M/125)

In July 1977 the Council had established four working parties to examine the provisions of the Agreements concluded between the European Communities and Egypt, Syria, Jordan and Lebanon.

The reports of the four working parties were presented to the Council at its meeting on 17 May 1978 (L/4660-L/4663). The parties to the Agreements and several members of the working parties were of the opinion that the Agreements were entirely consistent with the objectives and provisions of the GATT taken as a whole. Other members of the working parties had expressed doubts that the Agreements were entirely compatible with the GATT.

The Council adopted the four reports.

(ii) Agreement with Cyprus (C/M/127)

At its meeting on 24 July 1978, the Council considered the report submitted, in accordance with the calendar of biennial reports on developments under regional agreements, by the parties to the Agreement concluded between the European Economic Community and Cyprus (L/4685).

The Council took note of the report.

(iii) Agreement with Malta (C/M/127)

At its meeting on 24 July 1978 the Council considered the report submitted, in accordance with the calendar of biennial reports on developments under regional agreements, by the parties to the Agreement concluded between the European Economic Community and Malta (L/4686).

The Council took note of the report.

(iv) Agreement with Spain (C/M/128)

At its meeting on 18 October 1978 the Council considered the report submitted, in accordance with the calendar of biennial reports on developments under regional agreements, by the parties to the Agreement concluded between the European Economic Community and Spain (L/4695).

The Council took note of the report.

(e) Agreements concluded with Finland

(i) Finland-Czechoslovakia Agreement (C/M/125)

At the meeting of the Council on 17 May 1978, the Council considered the report submitted, in accordance with the calendar of biennial reports on developments under regional agreements, by the parties to the Agreement between Finland and Czechoslovakia (L/4664).

The Council took note of the report.

(ii) Finland-Poland Agreement (C/M/125)

At the meeting of the Council on 17 May 1978, the representative of Poland introduced the Agreement between Finland and Poland on the reciprocal removal of obstacles to trade (L/4652). The Agreement, which had entered into force on 1 April 1978, was to provide fair conditions of competition on the markets of the Contracting Parties to the Agreement and to promote a dynamic and harmonious development of trade and economic relations between the two countries. The Agreement provided for the progressive removal of customs duties and the elimination of quantitative restrictions and of measures having an equivalent effect.

The Council agreed to refer the examination of the provisions of the Agreement to a working party established for this purpose.

9. Trade arrangements between Egypt, India and Yugoslavia (C/M/124)

The Decision of 20 February 1970, as amended by the CONTRACTING PARTIES on 13 November 1973, enabled the Governments of Egypt, India and Yugoslavia, which participate in the Trade Expansion and Economic Co-operation Agreement, to continue to implement the Agreement, subject to certain specific conditions and procedures.

At its meeting on 14 March 1978 the Council considered a notification on behalf of the three participating States of their intention to extend the Agreement for another five years and their request for an extension of the Decision (L/4644). The representative of India, speaking on behalf of the three delegations concerned, stated that the Agreement was trade creative in its conception, though in actual practice its trade creative

effects had been modest. It was now felt that progress could also be made in the fields of industrial, technical and scientific co-operation, which could lead to a possible increase in the trade covered under the Agreement. He expressed the belief that the trade interests of other contracting parties had not been adversely affected by the Agreement. The Agreement was furthermore open for accession by other developing countries.

The representative of the United States expressed the view that the Agreement contributed to the deterioration of the rights of other contracting parties under Article I, while providing little positive benefit to its members. His delegation could therefore, not support a further extension of the Decision.

The Council approved the text of a draft decision. The Chairman noted that decisions relating to this Agreement had in the past been adopted by the CONTRACTING PARTIES by consensus and that there was a consensus in the Council composed of more than one half of the contracting parties to adopt a decision allowing for further continuation in force of the Agreement. The decision had therefore been adopted by the CONTRACTING PARTIES (L/4654).

10. Waivers under Article XXV:5

(a) Brazil - Renegotiation of Schedule (C/M/124)

Under the Decision of 26 November 1975, as extended by the Decision of 31 March 1977, the Government of Brazil had been authorized to retain in effect the new rates in its customs tariff, which were at a level higher than provided for in its schedule, pending the carrying out and conclusion of appropriate renegotiations. The waiver was due to expire on 31 March 1978.

At its meeting on 14 March 1978 the Council considered a request by Brazil for an extension of the waiver by one year (L/4629).

The Council approved the text of a draft decision extending the waiver until 31 March 1979 and recommended its adoption by the CONTRACTING PARTIES by postal ballot.

The Decision was adopted on 17 April 1978 (L/4656).

(b) India - Auxiliary duty of customs (C/M/125)

By Decision of 15 November 1973, as extended by the Decision of 31 August 1977, the CONTRACTING PARTIES had waived until 31 March 1978 the application of the provisions of paragraph 1 Article II to the extent necessary to enable the Government of India to apply the temporary auxiliary duty of customs on items included in the Indian schedule.

At its meeting on 17 May 1978, the Council considered a request by India for an extension of the waiver until 31 March 1979 (L/4655).

The representative of India explained the special circumstances which had compelled his Government to continue to apply the auxiliary duty as a means to provide resources for essential development needs. He expressed his delegation's willingness to consult with any contracting party which considered that serious damage was caused or threatened to its trade interests.

The Council approved the text of a draft decision, extending the waiver until 31 March 1979 and recommended its adoption by the CONTRACTING PARTIES by postal ballot.

The Decision was adopted on 28 June 1978 (L/4681).

(c) Turkey - Stamp duty (C/M/124)

In January 1978, the Committee on Balance-of-Payments Restrictions examined the Turkish request for an extension of the Turkish stamp duty waiver. The examination took place in the context of its consultation with Turkey under Article XVIII:12(c). The report (BOP/R/99) was presented to the Council at its meeting on 14 March 1978.

The Committee had noted that the stamp duty was a fiscal measure levied for revenue purposes. Since the stamp duty could only be replaced by a comprehensive fiscal reform the Committee had recommended an extension and a modification of the waiver for the application of the stamp duty.

The Council adopted the report and approved the text of a draft decision extending the waiver until 31 December 1979. The Council recommended the adoption of the decision by the CONTRACTING PARTIES.

The Decision was adopted by postal ballot on 17 April 1978 (L/4657).

(d) Uruguay - Import surcharge (C/M/125, 126)

Under their Decision of 24 October 1972, as extended until 30 June 1978, the CONTRACTING PARTIES had waived the provisions of Article II of the General Agreement to the extent necessary to allow the Government of Uruguay to maintain certain import surcharges in excess of bound duties.

At the meeting of the Council on 17 May 1978, the representative of Uruguay recalled that questions of extension of the waiver had traditionally been referred to the Committee on Balance-of-Payments Restrictions. His delegation was at present in the process of consulting as to how Uruguay's foreign trade policy could best be accommodated in the light of the results of the trade negotiations. He indicated that while these negotiations were being pursued he would ask at the next meeting of the Council for an extension of the waiver.

At its meeting on 6 June 1978 the Council considered Uruguay's request for an extension of the waiver (L/4672).

The Council approved the text of a draft decision extending the waiver until 31 December 1978 and recommended its adoption by the CONTRACTING PARTIES by postal ballot.

The Decision was adopted on 18 July 1978 (L/4688).

11. Reports under waivers

United States - Agricultural Adjustment Act (C/M/124)

At its meeting on 14 March 1978 the Council considered the twentieth annual report by the United States on action taken under the Decision of 5 March 1955 (L/4600).

The representative of New Zealand referred to the recent major increases in support prices for dairy products and considered that the use of the waiver to protect these high prices from the realities of the international market was difficult to reconcile with the support expressed by the United States for the liberalization of agricultural trade. He noted that the various measures taken by the United States to balance supply and demand had not succeeded and urged therefore the United States to consider the termination of the waiver.

The representative of Australia urged the United States to undertake a review promptly as provided in the waiver, to determine whether there had been a change in circumstances requiring the modification or termination of the restrictions. He stressed that any modification made by the United States to its import system in dairy products in the framework of the MTN should not be considered a concession for which payment should be made. These views were also shared by other representatives.

The representative of the United States pointed out that the original number of commodity groups under restriction had been reduced from eleven to three. He stated that the United States was looking forward to liberalized trade in dairy products as a result of the MTN.

The Council took note of the report.

12. Renegotiations under Article XXVIII

(a) Procedures for negotiations under Article XXVIII (C/M/127, 128)

At its meeting on 24 July 1978 the Council considered a note by the Director-General giving procedural guidelines for renegotiations under Article XXVIII. These guidelines had been revised and up-dated in the light of experience and following suggestions from and consultations with a number of delegations (L/4651).

The representative of Canada suggested a number of minor modifications for consideration.

The Council agreed that the suggestions made should be reflected in a revised version of the text to be drawn up in consultation with delegations. The Council would revert to this item.

(b) New Zealand - Renegotiations under Article XXVIII:4 (C/M/126)

At its meeting on 6 June 1978, the Council considered a request submitted by New Zealand for authority under the provisions of Article XXVIII:4 to renegotiate a number of concessions included in the New Zealand schedule (SECRET/245).

The representative of New Zealand said that his authorities had undertaken a review of New Zealand's customs tariff with a view to updating and simplifying it, taking account of the phasing out of preferential tariffs and with a view to establishing tariff rates at levels appropriate to the requirements of New Zealand's industry. Many of the items concerned in the renegotiation had only minimal trade coverage or no trade at all and the total affected was about \$NZ 7.5 million. New Zealand was offering compensatory bindings having a total average trade value of \$NZ 9.7 million. His delegation was ready to enter into consultations with those countries which considered themselves affected by these tariff-rate changes.

The Council agreed to grant the authority sought by New Zealand.

(c) United States - Renegotiations under Article XXVIII:1 (C/M/128)

At the meeting of the Council on 18 October 1978 the representative of the European Communities referred to certain notifications by the United States for renegotiations under the provisions of Article XXVIII:1. He expressed concern at the magnitude of these renegotiations and was doubtful whether these negotiations could be concluded before the multilateral trade negotiations were due to end.

Several other contracting parties also spoke on this matter and reserved their rights under the General Agreement.

The representative of the United States stated that in the framework of the negotiations offers had been made on the majority of the items in question.

The Council took note of the statements made.

13. EEC - Adoption of European Unit of Account for common customs tariff (C/M/128)

At the meeting of the Council on 18 October 1978 the representative of the United States referred to a communication by the European Communities relating to the adoption of the European Unit of Account for the common customs tariff (L/4706). In view of the complexity of this matter and its potential importance in trade terms his delegation reserved its position on the procedure the Community had followed and the possibility to revert to this matter at a later meeting, if necessary.

The representative of Canada also stated that his delegation might revert to this matter.

The Council took note of the statements.

14. Provisional accession - Thailand (C/M/127)

At its meeting on 24 July 1978, the Council considered the request of the Government of Thailand for provisional accession to the GATT. The representative of Thailand stated that Thailand maintained trade relations with a large number of contracting parties. Furthermore, certain elements of its trade policy and practices were in line with the major practices and principles of the General Agreement. Thailand participated in the Tokyo Round and had therefore decided to seek provisional accession to the GATT within the context of the MTN. Thailand's final decision on full accession would depend largely on the results of the negotiations. He also asked that Thailand be granted observer status to the Council.

The Council set up a working party to examine the request, and agreed to grant observer status to the Government of Thailand in the Council and regular GATT committees and working parties.

15. Hungary - Consultations on trade (C/M/124)

The Protocol for the Accession of Hungary provides for consultations to be held biennially between Hungary and the CONTRACTING PARTIES in order to carry out a review of the operation of the Protocol and of the evolution of trade between Hungary and contracting parties. In May 1977 the Council had established a working party to conduct the second consultation with the Government of Hungary.

The Council considered the report of the working party (L/4633) at its meeting on 14 March 1978. The working party had noted that discriminatory quantitative restrictions were still maintained in three customs areas. During the discussion in the working party it had been stressed that the type of restrictions and the kind of measures adopted with a view to their elimination should be more clearly specified. It had also been pointed out that progress towards the elimination of restrictions and the increase of quotas was continuously being made.

The representative of Hungary stated that discriminatory restrictions were a barrier to trade. He also pointed out that the Protocol of Accession did not make any reference to increases in quotas under discriminatory restrictions.

The Council adopted the report.

16. Poland - Consultations on trade (C/M/126)

The Protocol for the Accession of Poland provides for annual consultations. In November 1977, the Council established a working party to conduct the tenth annual consultation on trade with Poland and to re-examine the question of the establishment of a date for the termination of the transitional period.

[The working party has begun its work.]

17. International Trade Centre - Joint Advisory Group (C/M/127)

At its meeting on 24 July 1978, the Council considered the report of the Joint UNCTAD/GATT Advisory Group on its eleventh session (ITC/AG(XI)/57). The Group had noted with concern the decreasing share of UNDP financing in the ITC's total assistance resources. It had therefore urged the Centre to undertake a strong fund-raising effort. In respect of the Centre's programme the Group had underlined the need for a considerable increase in the flow of market information to facilitate trade among developing countries. The Centre had also been asked to build up its capacity to assist developing countries in their import operations in order to strengthen trade among developing countries. The Group had emphasized that priority should be given to the least-developed countries in respect of the Centre's technical co-operation activities and had recommended that special least-developed country trust funds should be sought. The Group had expressed satisfaction with ITC's work in the field of training. Many delegations had supported ITC's work for the establishment of the International Tea Promotion Association and the International Tropical Timber Bureau. The Group had also supported the Centre's collaboration with the International Institute for Cotton and had requested the Centre to undertake a promotion programme for jute and jute products. The Group had endorsed the recommendation of the Technical Committee that the Committee's composition should be based on the principle of self-election. Finally, several delegations of the Group had expressed their appreciation for the financial assistance provided to the Centre by donor countries.

The representative of Egypt expressed his delegation's concern at the declining financial contributions to the Centre by UNDP. He also expressed appreciation for the voluntary contributions given by certain donor countries for trade promotion programmes.

The Council approved the recommendations made by the Group and adopted the report.

18. Trade in steel (C/M/125, 127)

At the meeting of the Council on 17 May 1978, the representative of India asked for information on discussions between major steel trading countries concerning an arrangement relating to trade in steel.

At the meeting of the Council on 24 July 1978, the representative of India drew attention to the setting up of a steel committee under the auspices of the OECD (C/M/127/Corr.1). He noted that the declared intention of those setting up the committee was to provide a continuing forum for bringing into consultation interested parties, to keep trade in steel as unrestricted as possible, to reduce barriers to trade, to cope with crisis situations, to avoid encouraging economically unjustified investments and to co-operate in order to anticipate and to prevent problems.

The representative of the United States said that his Government was an active participant in the work for setting up a steel committee in the OECD and stressed that the United States would not propose any measures that would restrict the free flow of trade in steel or that would tend to freeze the steel supply.

The Council took note of the statements.

19. Training activities

[To be concluded.]

20. Status of Protocols

[To be concluded.]

21. Administrative and financial questions

(a) Committee on Budget, Finance and Administration (C/M/127)

The Committee on Budget, Finance and Administration had a meeting in May 1978. Its report (L/4675) was presented to the Council at its meeting on 24 July 1978.

The Committee had discussed the delay, until mid-August, of the presentation of the 1979 GATT budget estimates. Furthermore, the Director-General had informed the Committee of a UNDP proposal to modify the financing of the GATT training courses. The Director-General felt that

this would have a detrimental effect on the quality of the courses. The matter was still being discussed with UNDP, but unless other arrangements could be made it might become necessary to foresee a financing of the courses from the GATT budget at an annual cost of Sw F 600,000. The Director-General had also informed the Committee of the intolerable situation with regard to staff pensions created by the present United Nations pension fund system. He had furthermore proposed a minor adjustment in the pension fund regulations applicable to some staff upon promotion. The Committee recommended approval of this proposal as well as of a revised contribution to the ITC for 1977, which had become necessary following a budgetary adjustment approved by the United Nations General Assembly.

The Council approved the recommendations and adopted the report.

(b) Assessment of additional contribution (C/M/126)

At its meeting on 6 June 1978, the Council adopted the assessments of an additional contribution to the 1978 budget and an advance to the Working Capital Fund for Suriname which had become a contracting party under the provisions of Article XXVI:5(c).

(c) Deputy Director-General post (C/M/124)

The Council agreed at its meeting on 14 March 1978, that the reclassification of one D.2 post to the level of Deputy Director-General should remain effective for a further period of thirteen months until 31 July 1979.

(d) Final position of 1977 budget (C/M/124)

At its meeting on 14 March 1978 the Council considered the Report on the Final Position of the 1977 Budget of the GATT (L/4631). The Council authorized the necessary increase in the appropriation in respect of certain excess expenditure and approved the proposed financing.

22. Arrangements for the thirty-fourth session (C/M/127)

At its meeting on 24 July 1978, the Council agreed that the thirty-fourth session of the CONTRACTING PARTIES should be opened on Monday, 27 November 1978, and that its duration should be limited to two to three days, if possible.

23. Observer status (C/M/125)

The Council agreed at its meeting on 17 May 1978 that the Organization of the Islamic Conference should be invited to be represented by observers at the sessions of the CONTRACTING PARTIES.

