

GENERAL AGREEMENT ON TARIFFS AND TRADE

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COUNCIL OF REPRESENTATIVES

Report on Work since the Thirty-Second Session

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 six meetings since the thirty-second session in November 1976. The minutes of these meetings have been issued in documents C/M/118 - C/M/123. Adoption of this report, which summarizes the action taken by the Council, will constitute approval by the CONTRACTING PARTIES of that action.

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1. Anti-dumping practices

- Committee on Anti-Dumping Practices (C/M/123)

At its meeting on 11 November 1977 the Council considered the ninth annual report by the Committee on Anti-Dumping Practices relating to the period October 1976 to October 1977 (L/4587). The Committee had examined the anti-dumping legislation, notably of Portugal and the United States and of Poland, which had adhered to the Anti-Dumping Code. The Committee had also focused on anti-dumping practices in various countries and had given specific attention to the anti-dumping measures on ball bearings and tapered roller bearings imposed by the EEC and to the provisional measures imposed by the United States on carbon steel plates. The Committee had continued its discussion on the analytical inventory of problems and issues that had arisen under the Code.

The representative of Japan stressed that anti-dumping measures should not constitute an unjustifiable obstacle to international trade and expressed concern over the anti-dumping procedures against imported steel introduced by the United States. The representative of the European Communities shared the concern expressed by Japan. The representative of the United States associated himself with the remarks made that anti-dumping policies should not serve as protective devices. With regard to the specific application of the anti-dumping procedures he believed that the United States administered its anti-dumping law in compliance with the Anti-Dumping Code.

The Council adopted the report.

2. Balance-of-payments import restrictions

- Consultations on balance-of-payments import restrictions

(a) Arrangements for consultations in 1977 (C/M/119)

Arrangements for consultations on balance-of-payments import restrictions in 1977 were presented to the Council on 2 March 1977.

The Council took note of the arrangements.

(b) Consultation with Finland (C/M/122)

In May 1977 the Committee on Balance of Payments carried out a consultation with Finland under the provisions of paragraph 4(b) of Article XII. The report (BOP/R/95) was presented to the Council at its meeting on 26 July 1977. The

Committee had welcomed the termination of the Finnish import deposit scheme on 31 December 1976. After having reviewed the overall situation the Committee recognized that there was need for a degree of trade restriction. The Committee however expressed some concern as to the possible trade effects of the Cash Payments Scheme.

The Council adopted the report.

(c) Consultation with Israel (C/M/119, 123)

In November 1976 the Committee on Balance of Payments conducted a consultation with Israel during which it also examined the temporary import surcharge. The report (BOP/R/90) was presented to the Council at its meeting on 2 March 1977. The Committee had noted with satisfaction that the import deposit scheme had been eliminated and that the rate of the surcharge had been reduced to 15 per cent but had regretted that no indication could be given as to an eventual removal of the surcharge. The Committee had invited Israel to pursue more fundamental policy measures which should make a further liberalization of trade possible.

The Council adopted the report.

At the meeting of the Council on 11 November 1977 the representative of Israel informed the Council of a series of important economic measures introduced by his Government on 28 October 1977. These included the introduction of a floating exchange rate system for the Israeli pound, the removal of most foreign exchange restrictions relating to foreign trade, the abolition of the system of temporary surcharges on imports, continuation of the programme of import liberalization, a reduction in the scope of government imports, a large-scale reduction of import duties. He said that as a result of the floating exchange rate system the Israeli pound had effectively depreciated against the dollar in the order of 40 per cent. This would require appropriate adjustments to be made in the specific rates of duty bound in the Israeli schedule, in accordance with the provisions of Article II:6(a). Israel also considered the reductions in the rates of duty to be a contribution in the context of the multilateral negotiations. He finally stated that full details of the measures would be provided to the Committee on Balance-of-Payments Restrictions within the framework of the scheduled consultation with Israel.

The Council took note of the statement.

(c) Consultation with Portugal (C/M/119)

In November 1976 the Committee on Balance of Payments conducted a consultation with Portugal that included an examination of the import surcharge introduced in May 1975. The Committee also examined the import deposit scheme introduced in October 1976. The report (BOP/R/93) was presented to the Council at its meeting on 2 March 1977. The Committee had recognized the serious problems facing the Portuguese economy, but also considered that the Portuguese measures were severe. The Committee had viewed with concern the enabling legislation on quantitative restrictions adopted in October 1976 and urged the Portuguese authorities not to apply the legislation. It was of the view that adjustment in the balance of payments should be achieved through a comprehensive programme of domestic policies and external measures.

The Council adopted the report.

(e) Consultation with Yugoslavia (C/M/119)

In November 1976 the Committee on Balance of Payments carried out a consultation with Yugoslavia under Article XVIII:12(b), which included an examination of the Yugoslav temporary import surcharge. The report (BOP/R/91) was presented to the Council at its meeting on 2 March 1977. The Committee had noted that Yugoslavia's balance of payments had improved markedly and had called for a resumption of import liberalization and the relaxation and eventual removal of the import surcharge.

The Council adopted the report.

(f) Examinations under simplified procedures (C/M/119, 122)

At its meetings in November 1976 and May 1977 the Committee on Balance of Payments examined written statements supplied by a number of developing countries under the simplified procedures. The reports on these examinations (BOP/R/89 and 94) were presented to the Council at its meetings on 2 March and 26 July 1977.

The Council agreed on 2 March 1977 that Bangladesh, Ghana, Greece and Tunisia should be deemed to have consulted with the CONTRACTING PARTIES and to have fulfilled their obligations under Article XVIII:12(b) for 1976 and adopted the report (BOP/R/89).

At the meeting of the Council on 26 July 1977 representatives expressed divergent views as to the interpretation of the simplified procedure for consultations with developing countries (BISD, 20S/47). A number of representatives questioned the appropriateness of the present procedure, under which a full

consultation was deemed obligatory if even one member of the Committee on Balance-of-Payments Restrictions asked for it. They believed that the simplified procedure should be the general rule. A number of other representatives stressed that the simplified procedure was established as an exception to the provisions of Article XVIII:12(b) and that until new procedures had been established the current procedure should be maintained.

The Chairman pointed out that there was a problem of procedure of a general nature and leaving aside the particular case dealt with by the Committee, he believed that the general problem could more fruitfully be examined elsewhere.

The Council took note of the exchange of views and adopted the report (BOP/R/94). The Council agreed that Egypt, Indonesia, Peru and Sri Lanka should be deemed to have consulted with the CONTRACTING PARTIES and to have fulfilled their obligations under Article XVIII:12(b) for 1977. The Council noted that a full consultation with Pakistan would be held under the applicable procedures.

3. Consultative Group of Eighteen (C/M/123)

At the meeting of the Council on 11 November 1977 the Director-General, Chairman of the Consultative Group of Eighteen, presented a report on the Group's activities since November 1976 (L/4585). The report had been prepared on his own responsibility. He mentioned that the Group had held only one meeting, but that a more frequent pattern of meetings would be regarded as the norm by members of the Group. As outlined in the report, the Group had a further discussion on dispute management, on world trade in agricultural products and on the subject of trade measures taken for balance-of-payments purposes, including the procedures for balance-of-payments consultations with developing countries and measures to improve co-ordination between the secretariats of GATT and the IMF. A new element was the suggestion that the question of the definitive application of the GATT be taken up in the current round of negotiations. One of the principal themes of the Group's discussions had been, furthermore, the growing incidence of protectionist measures. He stated that the Council would also have to re-examine the situation with regard to the existence of the Group and expressed the hope that it would be possible for the Council to confirm the existence of the Group.

The representative of the European Communities recalled that in November 1976 a number of representatives had expressed the view that the first year's activities of the Group had been useful and justified its further continuation. Some other representatives had considered that their experience with the Group had not yet been long enough. This situation had not yet fundamentally changed. The Community, therefore, proposed that the Council should confirm the existence of the Group and take a decision on the future of the Group at the conclusion of the Tokyo Round, when there would be a clearer view of the new situation.

A large number of representatives supported the proposal of the representative of the European Communities. A number of these representatives indicated that they would have been willing to establish the Group on a more permanent basis, but could accept the EEC proposal as a compromise.

Some representatives supported the suggestion mentioned in the report that arrangements should be made to keep track of and examine existing and newly-imposed trade restrictions. In this connexion the Director-General indicated that the secretariat was considering how best it could carry out such an exercise.

The Council confirmed the existence of the Consultative Group of Eighteen and agreed to take a decision on the future of the Group at the conclusion of the Tokyo Round when there would be a clearer view of the new situation.

The Council took note of the report.

4. Emergency action and trade restrictive measures

(a) Australia

- Article XIX import restrictions on passenger motor vehicles (C/M/123)

At the meeting of the Council on 11 November the representative of Japan expressed regret at the reintroduction of import restrictions by Australia on passenger motor vehicles under the provisions of Article XIX in July 1977. Japan reserved its rights under the GATT and had notified its intention to enter into consultations with Australia on this matter.

The representative of Australia stated that, since the notification, his delegation had been prepared to enter into consultations and hoped that the consultations could take place shortly.

The Council took note of the statements.

(b) Brazil

- Import restrictions (C/M/119)

At the meeting of the Council on 2 March 1977 the representative of the United States mentioned that Brazil had extended until the end of 1977 the import surcharge, the import deposit and the suspension of import licences on certain products. Brazil had furthermore extended the coverage of the import licences. The representative of Brazil stated that the measures would be duly notified.

The Council took note of the statements.

The measures have since been notified in document L/4494.

(c) Canada

- Article XIX import restrictions on beef (C/M/119)

At the meeting of the Council on 2 March 1977 the representative of New Zealand referred to action taken by Canada under Article XIX in October 1976 concerning import restrictions on beef. He mentioned that an agreement with Canada had been reached on a level of imports during the quota period and that the restrictions had been abolished at the end of 1976 (L/4437/Add.1). He expressed concern, however, that quantitative restrictions of doubtful validity had been imposed in this case, which highlighted the need for international measures to improve world trading conditions for beef. This concern was shared by the representative of Australia.

The representative of Canada pointed out that, in his view the restrictions were justified under the GATT. Canada's action had resulted from the fact that Canada was the last open market for beef, which had put intolerable pressure on the Canadian market.

The Council took note of the statements.

- Article XIX import quota on double-knit fabrics (C/M/123)

At the meeting of the Council on 11 November 1977 the representative of Japan expressed regret at the introduction by Canada of restrictions on the import of double-knit fabrics under the provisions of Article XIX. His delegation wished to continue consultations on this matter.

The representative of Canada expressed the readiness of his delegation for consultations on this matter.

The Council took note of the statements.

(d) Finland

- Article XIX action on women's panty hose (tights) (C/M/119)

At the meeting of the Council on 2 March 1977 the representative of Singapore referred to Finland's Article XIX action introducing a surcharge on imports of women's panty hose (tights) (L/4461). He considered that the action was aimed at those developing countries which were able to produce and export at low cost and that the CONTRACTING PARTIES should have been given an opportunity to consult in respect of the proposed action.

The representative of Finland said that the measure had been duly notified and that consultations with interested contracting parties had taken place since March 1975. He explained the reasons for the measure which, in his view, was fully in accordance with the provisions of Article XIX.

The Council took note of the statements.

In June 1977 Finland notified the extension of the measure until 26 June 1978 (L/4461/Add.1).

(e) Greece

- Increase in bound duty (C/M/120)

At the meeting of the Council in May 1977 the representative of Greece said that consultations between Austria and Greece had been held on the matter of an increase in a bound duty. These consultations had resulted in an agreement which had been communicated to the CONTRACTING PARTIES (L/4499).

The Council noted with satisfaction that a conclusion in this case had been reached.

(f) Israel

- Temporary surcharge (C/M/119)

(see item 2(c))

(g) Italy

- Monetary measures (C/M/119)

In September 1976 the Council had established a Working Party to examine the monetary measures introduced by Italy in the light of the relevant provisions of the GATT. The report of the Working Party (L/4442) was presented to the Council at its meeting on 2 March 1977. The Working Party was of the view that the measures, although monetary in form, affected all external transactions, including trade, but were not more restrictive than measures to safeguard the balance of payments expressly provided for in the GATT. The Working Party had invited the Italian authorities to replace the deposit requirements on foreign exchange by comprehensive alternative measures to help restore equilibrium.

The representative of Italy said that the deposit requirement was being phased out and it was the intention of his authorities, as indicated in document L/4353/Add.2, to eliminate the measure completely on 15 April 1977. He pointed out that the tax for the purchase of foreign currency had been gradually reduced and was completely abolished on 18 February 1977. He emphasized that in spite of the monetary measures Italy's imports had increased.

Several representatives expressed satisfaction at the improvement in the Italian situation.

The Council adopted the report.

(n) New Zealand

- Import deposit scheme (C/M/123)

At the meeting of the Council on 11 November 1977 the representative of the United States referred to the import deposit scheme introduced by New Zealand in February 1976 and since extended. He requested that the scheme be again examined, which should preferably be carried out by the Committee on Balance-of-Payments Restrictions.

The representative of New Zealand recalled that the scheme had been reduced in scope in October 1976. It had since been extended in the light of the bad balance-of-payments prospects and was still in existence. He pointed out that the Working Party which had examined the scheme continued to be available for consultation. New Zealand was prepared for a further examination of the scheme in the Working Party.

The Council agreed that the Working Party should be reconvened to examine the New Zealand import deposit scheme.

(i) Portugal

- Import surcharge and import deposits (C/M/119)

(see item 2(d))

(j) South Africa

- Import deposit (C/M/119)

In September 1976 the Council had referred the examination of the temporary import deposit scheme introduced by South Africa to the Committee on Balance-of-Payments Restrictions. The report of the Committee (BOP/R/92) was presented to the Council at its meeting on 2 March 1977. The Committee had reiterated the view that adjustment of balance-of-payments disequilibria through the use of trade measures should be avoided. The Council noted that South Africa had terminated the measure as of 2 February 1977 (L/4386/Add.1) and adopted the report.

(k) Yugoslavia

- Temporary import surcharge (C/M/119)

(see item 2(e))

(1) United States

(i) Import restrictions on beef (C/M/119)

At the meeting of the Council on 2 March 1977 the representative of New Zealand referred to the import restrictions on beef introduced by the United States in October 1976. He stated that although the quotas had been lifted, his delegation had had consultations under Article XXII with the United States on this matter. He believed that the conditions in the United States beef market had not justified the restriction of imports and considered that there was a general inconsistency between the quota provisions of the United States Meat Import Law and the United States obligations under the GATT.

The Council took note of the statement.

(ii) Imports of footwear (C/M/119)

At the meeting of the Council on 2 March 1977 the representative of Uruguay expressed his Government's concern at the threat of relief action by the United States on the basis of recommendations of the International Trade Commission relating to imports of footwear (L/4477). He hoped that Uruguay's interests would be taken into account.

The representative of the United States said that Uruguay's concern would be reported to his authorities.

The Council took note of the statements.

(iii) Suspension of customs liquidation regarding certain Japanese consumer electronic products (C/M/120, 121)

At the meeting of the Council on 23 May 1977 the representative of Japan referred to a recent ruling from the United States Customs Court that the refund of the Japanese commodity tax on certain electronic products constituted a bounty or grant under United States law and that countervailing duties should be assessed. Customs liquidation regarding these products had subsequently been suspended and bonds equal to the amount of the estimated countervailing duty were required. It was Japan's view that the Court ruling and the subsequent United States action was in clear contravention of the provisions of the General Agreement and consequently impaired Japan's rights under the GATT.

The representative of the United States said that he could not agree with some of the conclusions drawn by the representative of Japan. He pointed out that his Government was appealing the Customs Court decision and had not imposed countervailing duties.

The Council referred the matter to a working party and requested the working party to carry out its work expeditiously.

The report of the Working Party (L/4503) was presented to the Council at its meeting on 16 June 1977. All but one member of the Working Party had agreed that the Japanese tax rebate or remission of commodity taxes on exports on certain consumer electronic products was in full accord with the provisions of GATT. They also agreed that should the decision by the United States Customs Court be upheld and should countervailing duties be imposed on these products, such imposition would be in contravention of the provisions of the GATT, including Article VI:4 and the note to Article XVI, and would constitute a prima facie case of nullification or impairment of Japan's rights under the GATT. They were also of the view that the United States Customs Court decision and the subsequent United States action was already in violation of the GATT and had a serious adverse trade impact upon the Japanese exports in question to the United States.

Several representatives associated themselves with these views.

The representative of the United States shared the concern expressed by other delegations in this case. As a reversal of the Court decision was being pursued by his Government he considered it inappropriate to comment on some of the views expressed. The United States recognized its obligations under the GATT and would do everything possible to honour these obligations.

The Council adopted the report of the Working Party.

The Council also expressed grave concern at the serious implications of the United States Customs Court decision and its consequences for world trade, the Multilateral Trade Negotiations and the GATT system itself. Accordingly, the Council decided to keep the matter under close review and to keep it on its agenda in order to take such action as might be appropriate in the light of further developments.

Subsequently, the United States delegation informed the CONTRACTING PARTIES (L/4543) that the United States Customs Court Decision had been reversed by the Court of Customs and Patent Appeals. This decision, however, was potentially subject to further judicial review.

5. Recourse to Article XXIII

(a) Canada - Withdrawal of tariff concessions (C/M/119)

In November 1976 the Council had established a panel to examine the complaint by the EEC regarding the withdrawal by Canada of certain tariff concessions under Article XXVIII.3. At its meeting on 2 March 1977 the Council was informed of the composition of the panel.

(b) EEC - Import deposits for animal feed proteins (C/M/119)

In September 1976 the Council had established a panel to examine the United States complaint concerning the EEC programme of import deposits and purchasing requirements affecting non-fat dry milk and certain animal feed proteins.

At its meeting on 2 March 1977 the Council was informed of the composition of the panel.

(c) EEC - Refunds on exports of malted barley (C/M/123)

At the meeting of the Council on 11 November 1977 the representative of Chile recalled that already at the meeting of the Council in September 1976 he had raised the matter of the refunds on exports of malted barley granted by the EEC. As a result, Chilean exporters of malted barley had been displaced from their traditional markets in their own region. It had then been suggested that consultations between the delegations concerned be pursued with a view to a satisfactory settlement of the question. In spite of the recommendation that a satisfactory settlement be sought the EEC had continued the system of export refunds in July 1977. His delegation, therefore, in accordance with the special procedures under Article XXIII determined in 1966 for developing countries, had decided to refer the matter to the Director-General so that he might use his good offices.

The representative of the European Communities pointed out that no consultations had been held since the matter was raised in September 1976.

The Chairman suggested that the matter might be reverted to later so as to enable bilateral consultations to be carried out.

(d) Japan - Import restrictions on thrown silk (C/M/122, 123)

At the meeting of the Council on 26 July 1977 the representative of the United States referred to problems encountered by United States exporters of thrown silk yarn to Japan. He mentioned that the Japanese foreign exchange banks had been instructed not to open any new letters of credit for imports of thrown

silk yarns from the United States. He also mentioned the introduction of a prior permission system on imports of silk yarn. He pointed out that the duty on thrown silk yarn was bound. The United States was of the opinion that the Japanese measures were inconsistent with the GATT. Since consultations on this matter had not led to results, his Government sought recourse to the provisions of Article XXIII:2.

The representative of the European Communities also stated that exporters of silk yarn to Japan had experienced difficulties from the Japanese measures.

A number of other representatives shared the concerns expressed by the United States and the European Communities.

The representative of Japan described the situation of the silk market in Japan, and explained that an explosive increase in imports of silk yarns had led to the introduction of the measures.

The Council requested the United States and Japan to pursue their bilateral consultations under Article XXIII:1 on this matter for a further period. The Council 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 if the matter had not been settled satisfactorily on a bilateral basis by 20 August 1977.

At the meeting of the Council on 11 November 1977 the Chairman informed the Council that the consultations had not led to a satisfactory solution as a result of which a panel had formally been established. The Panel had already had a number of meetings and was expected to complete its work soon.

(e) Tax legislation (C/M/119, 120, 122, 123)

- (i) United States tax legislation (DISC) (L/4422)
- (ii) Income tax practices maintained by France (L/4423)
- (iii) Income tax practices maintained by Belgium (L/4424)
- (iv) Income tax practices maintained by the Netherlands (L/4425)

In July 1973 the Council had agreed to establish four panels 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 tax practices maintained by France, Belgium and the Netherlands. The question of the composition of the four panels was left to the Chairman of the Council to be settled in agreement with the parties concerned.

At its meeting in February 1976 the Council was informed that agreement had been reached on the composition of the four panels with identical terms of reference and membership. In November 1976 the panels presented their reports to the Council which, after a preliminary consideration, took note of the reports and agreed to consider the matters at a subsequent meeting. The four reports have subsequently been considered by the Council at its meetings on 2 March 1977, 23 May 1977 and 26 July 1977.

With regard to the report on the United States tax legislation (DISC) the representative of the European Communities referred to the conclusions of the panel, which showed the non-conformity of the United States DISC legislation with the relevant provisions of the GATT. He stated that the DISC legislation had been specifically created to increase exports and quoted figures which illustrated these increases. He pointed out that the DISC legislation related to taxation of profits derived from export activities in the traditional sense of the GATT. The normal procedure was now for the Council to adopt the report and to examine what recommendations or ruling, as appropriate, under paragraph 2 of Article XXIII should be made. He concluded that the appropriate conclusion would be for the Council to recommend that the United States repeal the DISC legislation.

A number of other representatives supported the adoption of the report on the DISC and expressed the hope that in the light of the panel's conclusions the United States would give serious consideration to an early termination of the programme.

The representative of France, referring to the conclusions of the panel that the French tax practices constituted a subsidy on exports, considered that the panel had based its conclusions on an interpretation of the concept of "export" or "export activity", which went beyond the concept of exports in the GATT sense. The activities of foreign branches and subsidiary companies of French corporations in foreign countries did not relate to exports but were internal trade activities in the importing country. The French Government did not share the panel's conceptions and could not therefore accept the panel's conclusions. The French position was described in detail in documents C/97 and Add.1.

The representative of Belgium, referring to the conclusion of the panel that the Belgian tax practices had effects which were not consistent with Belgium's obligations under Article XVI:4, stated that the panel had based its considerations on a concept of export activities which incorporated transactions effected in foreign countries by branches and subsidiaries of Belgian enterprises. These transactions in his view, did not enter into the framework of export operations and therefore fell outside the scope of Article XVI:4. The Belgian position was described in detail in document C/98.

The representative of the Netherlands, referring to the conclusions of the panel on tax practices maintained by the Netherlands, also considered that any profits accruing from transactions subsequent to importation into a foreign country, could not be ascribed to export activities and fell outside the scope of the relevant GATT obligations. It was now for the Council to determine the legal obligations of contracting parties within the scope of the relevant GATT provisions. He was ready to co-operate in the search for a procedure which would deal with the fundamental question of clarifying the term "export activities". The position of the Netherlands was described in detail in document C/99.

The representative of the United States stressed that the findings of the four panels were closely linked in substance and in form. The panels had come to the conclusion that all the tax practices in question were subsidies inconsistent with Article XVI, and inconsistent with the Declaration of November 1960, which bound the contracting parties which had accepted it. He had found no evidence in the reports to support the complaint that the panels had used an overly broad definition of exports. Moreover, the real issue concerned the definition of subsidies and not of exports. He regretted that the results of the detailed technical work by a group of competent experts were brought into question. This would undermine the basis of all the reports. He considered that the Council should, consistent with past practice, adopt all four reports even if some of the parties wished to maintain certain reservations. The conclusions of the panels had important implications for the tax legislation in all countries concerned. These conclusions supported the United States view that it was important to re-examine the overall tax situation in the larger context of the MFN discussions on subsidies.

The representative of the European Communities disagreed with the United States position of linking the adoption of one report with the adoption of the three other reports, both for procedural and substantive reasons.

A number of other representatives stated that each panel report should be considered on its own merits and there was no factual or legal necessity for the Council to proceed in a parallel way.

A number of representatives called attention to the overriding importance for all contracting parties, but especially for small countries, of maintaining the integrity of the dispute settlement procedures of the GATT. The four reports should therefore be treated as panel reports had always been treated so far.

The Council agreed to revert to these matters at a later meeting.

At its meeting on 11 November 1977 the Council continued its consideration of these four matters.

The representative of the United States stated that his Government continued to believe that the reports of the four panels should be adopted promptly. Although his delegation had declined so far to enter into a complex debate on these matters he pointed out that the concept of export activity advanced by France, Belgium and the Netherlands was incomplete. In transactions between related affiliates products frequently moved to their ultimate destination through a subsidiary in a tax-haven country. The United States believed that all economic activity should be taxed until the product moved into the country of ultimate destination. Furthermore, the transfer to the country of ultimate destination should be in conformity with the arm's length pricing principle. In his view the panel had considered these points fully in rendering its opinion.

The representative of France reaffirmed that under the French tax legislation which was strictly applied by the fiscal authorities, benefits taxable in France were determined on the basis of prices freely established between independent enterprises. He also stressed that it was impossible for a French company to escape taxes by creating fictitious companies in low tax countries. He maintained the French objections against the concept of export activity.

The representative of Belgium confirmed that the Belgian tax authorities strictly adhered to the arm's length principle, which was specifically laid down in the Belgian tax legislation. These provisions had been extended so as to cover abnormal benefits due to particularly advantageous tax régimes in third countries. He maintained that Belgium could not accept that the concept of export activities could go beyond the frontier of the importing country.

The representative of the Netherlands drew specific attention to the declaration by his delegation, as reflected in the report of the panel on the tax practice in the Netherlands, that the Netherlands tax administration applied the arm's length principle. He also drew attention to the Netherlands' declaration that if no taxes were levied in a tax haven, the income was fully subject to Dutch tax. He furthermore appealed for an appropriate procedure to settle the question of definition of "exports" and "export activities".

The representative of the European Communities supported the remarks made by the representatives of France, Belgium and the Netherlands. He stressed that in the case of DISC there was question of a tax exemption on export activities which took place in the United States itself. It was inconceivable that, in the case of the tax practices in the three EEC member States, the definition in GATT of subsidies on exports would depend on the fiscal system in a third country. Because of the present deadlock in the proceedings the Community proposed that the Chairman of the Council, after ascertaining the views of persons whose competence in the field of GATT was recognized, would formulate an opinion, with supporting considerations as to the concept of "export activities" in terms of the GATT rules.

A number of representatives supported the suggestion.

The Chairman said that he would wish to reflect on the suggestion, while also further consultations should be held.

The Council agreed to refer to this suggestion at its next meeting.

6. Export inflation insurance schemes (C/M/123)

At its meeting in July 1976 the Council established a working party to examine, from the point of view of their effects on international commerce, certain export inflation insurance schemes.

The report of the working party was presented to the Council at its meeting on 11 November 1977 (L/4552). Several members of the working party held the view that the export inflation insurance schemes under examination were subsidies in terms of Article XVI. They expressed concern over the distortive effect of these schemes on international trade and called for the termination of existing programmes. Several other members held the view that export inflation insurance schemes were only in contravention of the General Agreement where they could be shown to be subsidies under the terms of Article XVI. They did not believe that any indication of dual pricing, as defined in Article XVI:4, or of any distortive effect on international trade, had been produced in the working party. In consequence, they did not subscribe to the call for the termination of existing schemes.

The working party had not been able to reach a conclusion as to the compatibility of the schemes in question with the provisions of the General Agreement. The working party had also been unable to reach consensus on the question whether certain exchange rate guarantee schemes, which had been brought to the attention of the working party, fell within its terms of reference.

A number of representatives in the Council expressed their disappointment at the unsatisfactory results of the working party. They noted that the countries maintaining export inflation insurance schemes had defended them, but the other members of the working party had been in general agreement that the schemes had a distortive effect on trade and should be eliminated. There was also the danger of proliferation of such schemes to other countries for the protection of their exports. They regretted that there was no indication that steps would be taken for the phasing out of these schemes. The representative of Canada proposed in the light of the unsatisfactory results of the working party that the matter should be pursued further through reference to an independent panel of experts to provide a ruling on the compatibility of these schemes with the General Agreement.

Some representatives supported the proposal.

The representatives of the United Kingdom, France and Finland did not agree that the cost escalation insurance schemes which were operated in their countries were necessarily incompatible with the General Agreement. The schemes were, in principle, self-financing. The representative of Finland noted that the Finnish scheme had even produced a slight surplus.

The Council considered that further reflexion should be given to the proposal for the establishment of a panel and to the drawing up of its terms of reference and agreed to revert to this matter at its next meeting.

The Council adopted the report.

7. Customs unions and free-trade areas; regional agreements

(a) Arab Common Market (C/M/119)

At the meeting of the Council on 2 March 1977 the representative of Egypt introduced a report on progress achieved in the Arab Common Market (L/4462), under the regular biennial reporting procedures on developments under regional arrangements. He pointed out that, with some exceptions, tariffs on manufactured products had been abolished in 1973 so that a free-trade area among member States had been in operation since then. Work was now in progress for the elimination of non-tariff barriers. Furthermore, other Arab States were in the process of joining the Arab Common Market and a programme for the establishment of a customs union had been adopted, under which customs legislation would be unified and a common external tariff system would be achieved in the period 1978-81. Trade among members of the Arab Common Market had continued to expand as had trade between members and the rest of the world.

The Council took note of the report.

(b) ASEAN Agreement (C/M/123)

At the meeting of the Council on 11 November 1977 the representative of Indonesia presented on behalf of the five ASEAN member States the Agreement on ASEAN Preferential Trading Arrangements (L/4581). The Agreement had entered into force on 31 August 1977. The preferential trading arrangements covered long-term quantity contracts; purchase finance support at preferential interest rates; preference in procurement by Government entities; extension of tariff preferences; liberalization of non-tariff measures on a preferential basis; and other measures. The preferential arrangements would be applied to basic commodities, particularly rice and crude oil; products of the ASEAN industrial projects; products for the expansion of intra-ASEAN trade; and other products of interest to ASEAN member States.

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

(c) Bangkok Agreement (C/M/119)

In November 1976 the Council established a working party for the examination of the provisions of the Bangkok Agreement and authorized its Chairman to nominate the chairman of the working party.

At its meeting on 2 March 1977 the Council was informed of the nomination of the chairman.

The working party is expected to begin its work shortly.

(d) Caribbean Common Market (C/M/119)

In October 1974 the Council established a working party to examine the provisions of the Treaty Establishing the Caribbean Community and Common Market. The Working Party carried out its task in January 1977 and submitted its report to the Council on 2 March 1977 (L/4470). The parties to the Agreement had emphasized the importance of integration among Commonwealth Caribbean countries. The Working Party had addressed itself to such matters as customs duties, quantitative restrictions, marketing arrangements, trade coverage, etc. It was generally agreed that the Caribbean Common Market constituted an interim agreement leading to the establishment of a customs union and that as such it was consistent with the provisions of Article XXIV.

The Council adopted the report.

(e) European Communities

(i) Agreement with Portugal (C/M/122)

In November 1976 the Council established a working party to examine the provisions of the Interim Agreement between the European Communities and Portugal. The report of the working party was presented to the Council at its meeting on 26 July 1977. The working party had not been able to reach any unanimous conclusions as to the compatibility of the Interim Agreement with the provisions of the General Agreement and had therefore limited itself to reporting the opinions expressed by its members.

The Council adopted the report.

(ii) Agreements with Egypt, Jordan, Syria and Lebanon (C/M/120, 122)

The representative of the European Communities informed the Council at its meeting on 23 May 1977 of the signing by the European Communities of Agreements with Egypt, Jordan, Syria and Lebanon. The purpose of the Agreements was a broad co-operation in order to contribute to the economic and social development of these countries and to strengthen their relationship with the European Communities. Pending the ratification of the Agreements the parties had also concluded Interim Agreements, providing for the entry into force of the provisions relating to trade.

The texts of the Interim Agreements were presented to the Council on 26 July 1977. The Council agreed to initiate the customary procedure for the examination of the provisions of the Interim Agreements and established four separate working parties for this purpose.

(iii) Agreements with Tunisia, Algeria and Morocco (C/M/123)

At its meeting on 17 September 1976 the Council considered the texts of the Agreements concluded between the European Communities and Tunisia, Algeria and Morocco. The Council established three separate working parties for the examination of the provisions of these Agreements.

At its meeting on 11 November 1977 the Council considered the reports of the three working parties (L/4558, L/4559, L/4560). There had been wide sympathy in the working parties for the view that the purposes and objectives of the Agreements also reflected those embodied in the General Agreement, including Part IV. The parties to the Agreements and several other members of the working parties considered that the Agreements were entirely consistent with the objectives and the relevant provisions of the General Agreement taken as a whole. Other members of the working parties held the view that it was doubtful that the Agreements were entirely compatible with the requirements of the General Agreement.

The Council adopted the three reports.

(iv) Agreements with Austria, Finland, Iceland, Norway, Portugal, Sweden and Switzerland (C/M/123)

At its meeting on 11 November 1977 the Council considered the reports submitted, in accordance with the Calendar of biennial reports on developments under regional agreements, by the parties to the agreements concluded between the European Communities and the seven member States of EFTA and FINEFTA (L/4573-L/4579).

Some representatives expressed their continuing concern at the rules of origin applied under the agreements, which in their view remained unnecessarily stringent and went beyond the requirements necessary to prevent trade deflection.

The representative of the European Communities, supported by the representative of Switzerland on behalf of the EFTA countries, pointed out that rules of origin were necessary under each preferential system. The current rules of origin could, in his view, not be considered as unduly restrictive.

The Council took note of the seven reports.

(f) European Free Trade Association and Finland/EFTA Association (C/M/123)

At the meeting of the Council on 11 November 1977 the representative of Switzerland presented, on behalf of the member States of EFTA and FIN/EFTA, a biennial report on the activities under the Associations (L/4566). He pointed out that EFTA countries depended heavily on foreign trade, which was illustrated by the fact that the average imports per capita in EFTA were higher than in any other trading area. He also pointed out that in spite of the difficult situation in the world economy the EFTA countries had only in exceptional cases had recourse to protectionist measures. He also drew attention to the important step taken towards free trade in Western Europe when on 1 July 1977 the last remaining duties on most industrial trade between the sixteen countries in EFTA and the European Community were removed.

A representative expressed his continuing concern at the application of the rules of origin.

The Council took note of the report.

(g) Agreements concluded with Finland

(i) Finland-Hungary (C/M/120, 123)

In October 1975 the Council adopted a report of the Working Party on the Agreement between Finland and Hungary, and agreed that in the light of further experience, an appropriate time should be fixed for the further examination of the Agreement.

At its meeting on 23 May 1977 the Council considered the second report of the Working Party (L/4497). The Council took note that the Working Party had been unable to reach any unanimous conclusion as to the compatibility of the Agreement with the provisions of the General Agreement. The Council also noted that there

were differences of opinion as to the continuation of the work of the Working Party. The Council agreed that, in the light of further experience and in consultation with the delegations concerned, an appropriate time for a further meeting of the Working Party should be determined. The Council noted the reservation made by the representative of Hungary that he was not able to accept the request for a continuation of the work of the Working Party.

The Council adopted the report.

At its meeting on 11 November 1977 the Council considered a report, submitted in accordance with the Calendar of biennial reports under regional agreements, containing information furnished by the two parties (L/4564).

The Council took note of the report.

(ii) Finland-German Democratic Republic (C/M/119)

In November 1975 the Council established a working party for the examination of the provisions of the Agreement between Finland and the German Democratic Republic. The Working Party met in February 1977 but limited itself to an interim report since detailed trade statistics and precise information on the foreign trade régime of the German Democratic Republic were not available. The Interim Report was presented to the Council at its meeting on 2 March 1977 (L/4471).

The Council adopted the Interim Report and took note that the Working Party had agreed to meet again within the coming eighteen months.

(h) New Zealand-Australia Free Trade Agreement (C/M/123)

At the meeting of the Council on 11 November 1977 the representative of New Zealand presented the sixth report on developments under the New Zealand-Australia Free Trade Agreement (L/4589). The report was submitted in accordance with the Calendar of biennial reports on developments under regional agreements. He pointed out that the MAFTA, which had been in force for more than ten years, played a key rôle in increasing the trade flow between Australia and New Zealand. The report showed that total Schedule A trade which was duty free under MAFTA or on which tariffs were being progressively eliminated had increased to 67 per cent of total trade in 1975/76. Trade covered under the Agreement together with trade which was otherwise duty-free now amounted to some 83 per cent of total trade. He further stated that at a MAFTA Ministerial meeting in September 1976 it was agreed that the life of the Agreement should be extended for ten years to 31 December 1985.

The Council took note of the report.

(i) Papua New Guinea-Australia Agreement (C/M/119, 120, 123)

At its meeting on 2 March 1977 the Council established a working party for the examination of the provisions of the Agreement on Trade and Commercial Relations between Australia and Papua New Guinea. The Working Party met in October 1977.

At its meeting on 11 November 1977 the Council considered the report of the Working Party (L/4571). The report showed that the representative of Australia had drawn attention to the fact that already a Decision of 24 October 1953 (BISD, 2S/18) had enabled preferential treatment to be given by Australia to imports from the territory of Papua New Guinea for purposes of economic development. The present agreement ensured that Papua New Guinea would not be placed in a less advantageous position, as far as trade with Australia was concerned, than that enjoyed prior to its independence. The Australian authorities were expected to take formal action to disinvoke the 1953 waiver shortly. The Australian position also was that although Papua New Guinea would not be extending any reverse preferences to Australia under the Agreement, substantially all the trade between Australia and Papua New Guinea was covered by the Agreement and the requirements of Article XXIV:5(b) had been met. This also implied that there was no obligation for Australia to make regular reports on developments under the Agreement. However, without prejudice to the status of the Agreement under the provisions of the GATT, Australia was prepared to submit a report on the operation of the Agreement for the information of the CONTRACTING PARTIES within a period of two years.

Some representatives had expressed doubts in the Working Party about the conformity of the Agreement with the provisions of Article XXIV, since no reciprocal reduction of duties by Papua New Guinea was required. The Agreement, in their view, did not provide for a significant further liberalization of trade between the parties, but rather continued for the most part a situation for which waivers had been granted by the CONTRACTING PARTIES. They furthermore considered that in the light of the decision of the CONTRACTING PARTIES to establish a calendar for the examination, every two years, of reports on preferential agreements (BISD, 18S/38) a regular biennial reporting procedure should be adopted.

At the discussion in the Council the representative of Australia stated that although there was no obligation, in his view, to make a report, Australia was prepared to submit a report on the operation of the Agreement within a period of two years. He hoped that when this report was presented contracting parties would be able to reassess their position in this regard.

A number of representatives stressed that under the decision of the CONTRACTING PARTIES regular biennial reports were required. The representative of the European Communities, without taking a position in the case under discussion, pointed out that from a legal point of view there was, in his opinion, no reporting obligation in the case of customs unions and free-trade areas which had been fully completed.

The Council adopted the report and agreed that the question of biennial reporting would be further considered at a later meeting. The Council noted that Australia had agreed to present a report within a period of two years, which would be in October 1979.

8. Trade arrangements between Egypt, India and Yugoslavia (C/M/123)

At the meeting of the Council on 11 November 1977 the representative of India presented the eighth annual report on the operation of the Trade Expansion and Economic Co-operation Agreement on behalf of the three participating States (L/4565).

He pointed out that the statistics for the year 1975-76 showed that the Agreement had continued to have a modest impact in creating new and additional opportunities for trade in non-traditional products between the three partners and had not caused any harm to the trade interests of other contracting parties. It was, furthermore, the declared intention of the three governments to use their best endeavours during the next round of trade negotiations among developing countries to multilateralize, as far as possible, trade concessions exchanged among them.

The Council took note of the report and also noted that the Decision of 13 November 1973 was due to expire by the end of March 1978, so that the Council would have to address itself to this matter at an appropriate time.

9. Waivers under Article XXV:5

(a) Brazil - Renegotiation of Schedule (C/M/119)

Under the Decision of 26 November 1975 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 of and conclusion of appropriate renegotiations. The waiver was due to expire on 31 March 1977.

At its meeting on 2 March 1977 the Council considered a request by Brazil for an extension of the waiver by one year (L/4473).

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

The Decision was adopted on 31 March 1977 (L/4484).

(b) India - Auxiliary duty of customs (C/M/121, 122)

By Decision of 15 November 1973, as extended by the Decision of 30 July 1976, the CONTRACTING PARTIES had waived until 30 June 1977 the application of the provisions of paragraph 1 of 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 16 June 1977 the Council received a request by the Indian Government for an extension of the waiver in order to enable the continuation of the application of the auxiliary duty of customs for nine months with effect from 1 July 1977. The Council agreed to revert to this matter at its next meeting.

At the meeting of the Council on 26 July 1977 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 readiness to consult with any contracting party that considered that serious damage to its interests had been caused or threatened by the auxiliary duty of customs.

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

The Decision was adopted by postal ballot on 31 August 1977 (L/4546).

(c) Indonesia - Renegotiation of Schedule (C/M/123)

Under the Decision of 13 November 1973 the Government of Indonesia had been authorized to apply the rates of duty contained in its new customs tariff, to the extent that they exceeded bound rates, pending the completion of negotiations under Article XXVIII for the modification of concessions in the Indonesian schedule. The waiver had been extended until 31 December 1976.

On 22 November 1976 the CONTRACTING PARTIES granted Indonesia a new waiver to conduct negotiations in conformity with the principle of Article XXVIII, while the detailed procedural requirements of this Article would not apply.

At the meeting of the Council on 11 November 1977 the representative of Indonesia explained that since April 1977 negotiations were being carried out with a number of interested contracting parties and significant progress had been achieved. It would however not be possible to reach agreement with the various contracting parties before the expiry of the time-limit of 31 December 1977 provided for in the waiver. The representative of Indonesia therefore asked for an extension of the time-limit for another year.

The Council approved the text of a draft decision, extending the waiver until 31 December 1978, and recommended that the draft decision (reproduced in Annex I) be adopted by the CONTRACTING PARTIES by means of a ballot taken at the thirty-third session.

(d) Pakistan - Renegotiation of schedule (C/M/123)

At its meeting on 11 November 1977 the Council considered a request from the Government of Pakistan for a waiver from the provisions of Article II of the General Agreement to the extent necessary to enable the Government of Pakistan to maintain in force the rates of duty provided in its revised Custom Tariff. The representative of Pakistan explained the difficult economic situation in his country which had led to increasingly heavy budgetary deficits. As the customs duties constituted the largest source of public revenues in Pakistan, the Government had found it necessary to revise the customs duties on a number of items in an effort to reduce the budgetary deficit, to contain inflationary pressures in the economy and to mobilize additional domestic resources to meet essential expenditures, including capital outlays on development projects.

The Council approved the text of a draft decision (reproduced in Annex II) and recommended that the draft decision be adopted by the CONTRACTING PARTIES by means of a ballot taken at the thirty-third session.

(e) Turkey - Stamp duty (C/M/123)

At the meeting of the Council on 11 November 1977 the representative of Turkey drew attention to the fact that the waiver relating to the maintenance by Turkey of the Stamp Duty would expire by the end of the year. He stated that the question of the stamp duty was presently being considered by his authorities, but no decision on an eventual prorogation of the legislation concerned had yet been taken. His delegation therefore was not in a position at this moment to make a request for a possible extension of the waiver. As his authorities were likely to take a decision in this regard before the next meeting of the Council he asked that the question be referred directly to the Committee on Balance-of-Payments Restrictions which would carry out a consultation with Turkey in January 1978.

The Council agreed that if there was not to be a meeting of the Council before the expiry of the waiver, the question of the Turkish Stamp Duty should be referred directly to the Committee on Balance of Payments, so that the Council could consider the matter in due course, in the light of the Committee's report.

10. Reports under waiver

United States - Imports of automotive products (C/M/120)

At its meeting on 23 May 1977 the Council took note of the tenth annual report by the Government of the United States under the Decision of 20 December 1965 (L/4495).

11. Renegotiations under Article XXVIII:4

(i) Finland (C/M/122)

At the meeting of the Council on 26 July 1977 the representative of Finland said that new legislation was being prepared by his Government to bring the Finnish import levy/customs duty system for agricultural products in line with that of Finland's trading partners. The proposed changes were of a technical nature and implied only minor changes in the level of protection. The main feature of the revision was the transformation of a number of specific import levies into ad valorem duties.

The Council agreed to grant Finland the authorization for the renegotiation.

(ii) Sweden (C/M/120, 121)

At the meeting of the Council on 23 May 1977 the representative of Sweden presented a request for authorization under the provisions of Article XXVIII:4 to enter into negotiations for the modification of an item in its Schedule.

At its meeting on 16 June 1977 the Council agreed to grant Sweden the authorization requested.

12. Provisional accessions

(a) Provisional accession of the Philippines (C/M/123)

At its meeting on 11 November 1977, the Council considered a request by the Government of the Philippines for an extension of the period of validity of the Declaration on its Provisional Accession (BISD, 20S/8) and of the Decision of 9 August 1973 (BISD, 20S/18) inviting the Philippines to participate in the work of the CONTRACTING PARTIES.

The Council agreed to the extension of the provisional accession until 31 December 1979, approved the text of the Second Procès-Verbal Extending the Declaration and agreed that the Procès-Verbal be opened for acceptance by the parties to the Declaration. The Council approved the text of the Decision extending the invitation to the Philippines to participate in the work of the CONTRACTING PARTIES (reproduced in Annex III) and recommended its adoption by the CONTRACTING PARTIES.

(b) Provisional accession of Tunisia (C/M/123)

At its meeting on 11 November 1977, the Council considered a request by the Government of Tunisia for a further extension of the period of validity of the Declaration on its Provisional Accession (BISD, 8S/15) and of the Decision of 12 November 1959 (BISD, 8S/14) inviting Tunisia to participate in the work of the CONTRACTING PARTIES.

The Council agreed to the extension of the provisional accession until 31 December 1979, approved the text of the Eleventh Procès-Verbal Extending the Declaration and agreed that the Procès-Verbal be opened for acceptance by the parties to the Declaration. The Council approved the text of the Decision extending the invitation to Tunisia to participate in the work of the CONTRACTING PARTIES (reproduced in Annex IV) and recommended its adoption by the CONTRACTING PARTIES.

13. Hungary - Consultations on trade (C/M/120, 123)

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.

At its meeting on 23 May 1977 the Council set up a working party to conduct the second consultation with the Government of Hungary. At its meeting on 11 November 1977 the Council was informed of the nomination of the Chairman of the Working Party.

14. Poland - Consultations on trade (C/M/120, 123)

The Protocol for the Accession of Poland provides for annual consultations. At its meeting on 15 July 1976 the Council established a working party to conduct the ninth annual consultation and to re-examine the question of the establishment of a date for the termination of the transitional period.

The Council considered the report of the Working Party (L/4483) at its meeting on 23 May 1977. The Working Party had noted that discriminatory quantitative restrictions were still maintained in five customs areas. However, a number of these restrictions had been relaxed and the discriminatory element in certain other restrictions had been reduced since the last consultation. The Working Party had also noted that Poland had considerably exceeded its import commitment under its Protocol of Accession. Finally, the Working Party had examined for the sixth time the question of the establishment of a terminal date for the abolition of discriminatory restrictions, but had not been able to reach agreement on this point.

The representative of Poland expressed regret that no agreement had been reached with Poland's trading partners as to the terminal date for the transitional period and emphasized that this could have an impact on the practical aspects of the balance of rights and obligations between Poland and contracting parties.

The Council took note that the Working Party was not in a position to agree on a recommendation with regard to the establishment of a terminal date for the transitional period. In accordance with the provisions of Poland's Protocol of Accession, this question would therefore be re-examined at the Tenth Annual Review.

The Council adopted the report.

At its meeting on 11 November 1977 the Council established a working party to conduct the tenth annual consultation and to re-examine the question of the establishment of a date for the termination of the transitional period.

15. Romania - consultations on trade (C/M/119)

The Protocol for the Accession of Romania provides for consultations to be held biennially between Romania and the CONTRACTING PARTIES in order to carry out a review of the development of reciprocal trade between Romania and the contracting parties.

At its meeting in February 1975 the Council set up a working party to carry out the second consultation with the Government of Romania. In consultation with the contracting parties mainly concerned the consultations had, for technical reasons, been delayed until January 1977 (SR.32/1).

The report of the Working Party (L/4469) was presented to the Council at its meeting on 2 March 1977. The Working Party had noted the satisfactory development in trade between Romania and the contracting parties and that Romania had fulfilled its import commitment under the Protocol of Accession. The Working Party had considered it useful that before the next consultation interested parties should seek ways and means to speed up solution of the problems raised at the consultation, in particular in respect of their bilateral implications.

The Council adopted the report.

16. Application of Article XXXV to Japan (C/M/123)

At the meeting of the Council on 11 November 1977 the representative of Japan welcomed the fact that since the last session of the CONTRACTING PARTIES the Government of Kenya had found it possible to disinvoke Article XXXV in respect of

Japan. He regretted that there remained three contracting parties which had not yet found it possible to disinvoke Article XXXV in respect of his country and expressed the hope that these governments would soon find it possible to do so. His delegation intended to raise this matter at the forthcoming session of the CONTRACTING PARTIES.

The Council took note of the statement.

17. International Trade Centre - Joint Advisory Group (C/M/119)

At its meeting on 2 March 1977 the Council considered the report of the Joint UNCTAD/GATT Advisory Group on its tenth session (ITC/AG/X/52). The Group had recognized the importance and effectiveness of integrated assistance projects at the country level and had emphasized the need to intensify assistance to the least developed countries. The Group attached great importance to the training of government and business sectors personnel in trade promotion and export marketing. It felt that high priority should be given to the market development activities of the Centre and to the exploitation of market opportunities for developing countries resulting from the GSP and the MTN. The Group indicated that priority attention should be given to sub-regional training. It also recommended that governments should raise in the UNDP Governing Council the question of allocation of funds for trade promotion activities. Finally, the Group unanimously expressed its appreciation for the generous voluntary contributions which would permit the Centre to continue the expansion of its trade promotion co-operation programme.

A number of representatives spoke on different issues referred to in the report. They expressed, in particular, concern at the financial structure of the Centre, which relied heavily on voluntary contributions from a number of small donor countries. They considered it most desirable that a better balance be established in the financing of the Centre from the point of view of a fair sharing of the technical assistance expenses between member States.

The Council approved the recommendations of the Joint Advisory Group and adopted the report.

18. Arrangement regarding international trade in textiles

- Annual review (C/M/120)

The provisions of Article 10:4 of the Arrangement Regarding International Trade in Textiles required the Textiles Committee to review the operation of the Arrangement once a year and to report thereon to the Council.

The Council considered at its meeting on 23 May 1977 the report of the Textiles Committee on this review which was contained in paragraphs 20 to 36 of document COM.TEX/8. A number of representatives addressed themselves to the crucial question of the extension, modification or discontinuation of the Arrangement, which issue is still before the Textiles Committee.

The Council adopted the report.

19. Training activities

At the meeting of the Council on 11 November 1977 the Director-General presented a report on the activities of GATT in the field of training (L/4550). He stated that the commercial policy courses organized by GATT every year constituted one of the activities to which contracting parties and, in particular, developing countries, members and non-members of GATT, attached considerable importance. The increasing number of requests for admission for each course was proof of the continuing interest of governments in this activity. The practical value of the courses was greatly enhanced by the study tours and the useful contacts which the participants were able to make with public and private sectors in the countries visited. The Director-General was grateful to UNDP and to UNCTAD, as the executing agent of UNDP, for providing fellowships for these courses and to all governments concerned for their continuing interest in these training activities, as well as for the hospitality extended to the participants during their visits.

The Council took note of the report.

20. Status of Protocols (C/M/123)

At its meeting on 11 November 1977 the Council considered the report of the Director-General (C/W/293) on the status of the Protocols upon which some action was still required by one or more contracting parties. The Council noted that the Protocol introducing Part IV was in force among all contracting parties with the exception of France and Gabon.

The Council agreed to recommend to the CONTRACTING PARTIES that the closing date for the acceptance of this Protocol be extended until the close of the thirty-fourth session. The Council approved the text of a draft decision (reproduced in Annex V) and recommended its adoption by the CONTRACTING PARTIES.

21. Administrative and financial questions

(a) Committee on Budget, Finance and Administration (C/M/119, 123)

At its meeting on 2 March 1977 the Council agreed upon the Chairmanship and membership of the Committee on Budget, Finance and Administration.

The Committee met in June 1977 and in October 1977. Its reports (L/4510 and L/4583) were presented to the Council at its meeting on 11 November 1977.

In introducing the reports the Chairman of the Committee drew special attention to the high level of outstanding contributions. He mentioned that in the case of a few countries the arrears went back as far as 1966 and even, in one case, to 1963. He made an earnest appeal to the governments concerned to make at least some effort towards fulfilling their financial obligations. He stated that the Committee had not encountered any difficulties in its examination of the 1978 budget estimates, which could not be solved, and recommended the approval of the revised budget estimates for 1978 for the GATT and those for 1978-1979 for the International Trade Centre.

He also referred to the survey of the International Civil Service Commission of General Service staff salaries in Geneva and mentioned that the Chairman of the Staff Council had addressed the Committee on this subject and had argued in great detail that anomalies had occurred at many stages of the survey.

With the permission of the Council a representative of the Staff Council addressed the Council on the question of the General Service staff salaries in Geneva. He stated that the recommendations of the ICSC were unacceptable to the staff. He stressed the anomaly that the working conditions of the General Service staff in Geneva were subject to decisions taken in New York on the basis of often insufficient information. This led to insecurity in their contractual situation. He appealed to the representatives to act as an intermediary between Geneva staff and member governments, so that decisions on this question would not be taken in New York based on insufficient knowledge of the matter.

The Council approved the recommendations made in the reports of the Committee and recommended the adoption by the CONTRACTING PARTIES, at their thirty-third session, of the reports (L/4510, L/4583), including the recommendations contained therein and the Resolution on the expenditure of the CONTRACTING PARTIES in 1978 and the ways and means to meet such expenditure.

(b) Erosion of salaries (C/M/119, 120)

At the meeting of the Council on 2 March 1977 the Director-General recalled that the Council had established in November 1974 an informal tripartite Contact Group to study all aspects of the question of erosion of salaries of professional staff resulting from the fall in the accounting rate of the US dollar since 1971. The Council had recognized the seriousness of the situation and had invited him to put forward proposals aimed at resolving or alleviating the problems that had arisen. The proposals he had made were that for 1974 a partial indemnity be made

to the eligible GATT staff in respect of the losses sustained, and that for 1975 and future years the internal accounting rate be blocked at a certain level for salary payments purposes in order to protect the salaries and allowances from future currency fluctuations. Pending the Council's decision in this respect an amount of Sw F 515,610 had been set aside from the 1974 surplus in a suspense account. He stated that as from 1 January 1976 an interim adjustment for professional staff without dependents had come into effect which reduced their losses by about a third, but he noted that no provision for losses had been made for the years 1971 to 1975 and no adjustment had been made for staff with dependents. New adjustments made with effect from 1 January 1977 restored about 60 per cent of the losses experienced by staff without dependents, but no compensation was provided for past losses and the professional staff with dependents continued to receive no compensation. He urged the Council to consider the justice of compensating the staff and now **proposed that a partial compensation** be made to all staff in the professional and higher category for losses sustained in 1974 only, the cost of which would be covered by the amount held in the Suspense Account.

A number of representatives opposed the proposal, while some other representatives expressed support.

The representative of Yugoslavia presented a compromise proposal allowing for compensation, in the form of an ex gratia payment, of losses sustained by staff members without dependents in the years 1974 and 1975, on the basis of the interim adjustment which had entered into effect for the year 1976.

At its meeting on 23 May 1977 the Council continued the discussion on the basis of the Yugoslav proposal.

A number of representatives stated their reasons for not being able to support the proposal, which they felt could not be accommodated within the common system and therefore would have the effect of eroding the common system. Several other representatives supported the proposal.

As there was no consensus in support of the Yugoslav proposal the Council reaffirmed the decision taken on 24 November 1974, that the balance of the 1974 surplus account be transferred to the Building Fund.

(c) Final position of the 1976 budget of GATT (C/M/122)

At its meeting on 26 July 1977 the Council considered the report on the final position of the 1976 budget of GATT (L/4520). The Council authorized the necessary increases in the appropriations in respect of certain excess expenditures and approved the proposed financing.

(d) Legal requirements at the new headquarters (C/M/122)

At the meeting of the Council on 26 July 1977 the Director-General said that because of the GATT's move to new headquarters certain aspects of the legal status of GATT in Switzerland had to be reviewed and regularized. So far the GATT had no formal status and there existed only a recognition by the Swiss federal authorities on a provisional basis of ICITO, based on a decision taken in 1948. Therefore discussions had been held with the Swiss federal authorities with the intention of preserving for the GATT, on a more permanent basis, the privileges and immunities which so far had been granted on a provisional basis only to ICITO. These discussions had led to the proposal that the GATT should enter into an agreement with the Swiss federal authorities in the form of an exchange of letters, as set out in document C/100.

The Council approved the text of the proposed letter and authorized the Director-General, acting in the name of and on behalf of the CONTRACTING PARTIES, to confirm to the Swiss federal authorities his agreement with the letter.

(e) Pension problems in Geneva (C/M/122, 123)

At the meeting of the Council on 26 July 1977 the Director-General referred to the problems that had arisen for retired GATT staff whose pensions in terms of Swiss francs had been seriously eroded with the decline in the value of the dollar in relation to the Swiss franc. He said that an adjustment scheme had been drawn up last year, but that the Advisory Committee on Administrative and Budgetary Questions (ACABQ) had recommended that a decision on this matter should be postponed for two years, a recommendation that was accepted by the United Nations General Assembly. The situation of pensioners in Switzerland thus remained serious and no effort should be spared to find ways of alleviating it. He further said that ICITO/GATT so far had only observer status on the United Nations Joint Pension Board and was now seeking a separate seat on the Board. When this would have been obtained it would be necessary to set up a Staff Pension Committee on which there would be representatives of the CONTRACTING PARTIES, the administration and the staff.

The Council took note of the statement.

At its meeting on 11 November 1977 when considering the report of the Committee on Budget, Finance and Administration (L/4583), the Council approved, as recommended by the Committee, the formation of the ICITO/GATT Pension Committee and the nomination of the member and alternate member to represent the CONTRACTING PARTIES on that Committee.

(f) Revision of salary scales (C/M/120)

At its meeting on 23 May 1977 the Council considered the revised scales of the professional salary system, effective since 1 January 1977, as approved by the General Assembly, including the revised scales as they would be applicable to ungraded posts (L/4487). The Council authorized the Director-General to apply the revised scales of salary and post adjustments as from 1 January 1977.

(g) Terms of appointment of the Director-General (C/M/118)

At its meeting on 10 January 1977 the Council adopted the proposal by the Chairman of the CONTRACTING PARTIES that the terms of appointment of the Director-General, which was due to expire on 5 May 1977, would be extended for a further period of three years (C/96).

22. Arrangements for the thirty-third session (C/M/122)

At its meeting on 26 July 1977 the Council agreed that the thirty-third session of the CONTRACTING PARTIES should be opened on Tuesday, 29 November, and that its duration should be limited to two or three days, if possible.

23. Observer status (C/M/119)

The Council agreed at its meeting on 2 March 1977 to grant observer status in the Council and regular GATT committees and working parties to the Government of Morocco.

ANNEX I

INDONESIA - ESTABLISHMENT OF A NEW SCHEDULE XXI

Extension of Time-limit

Draft Decision

Considering that the CONTRACTING PARTIES, by Decision of 22 November 1976 suspended the application of the provisions of Article II of the General Agreement to the extent necessary to enable the Indonesian Government to maintain in force its new Customs Tariff, subject to certain specified conditions;

Considering that among the conditions mentioned above was the obligation to conduct negotiations or consultations in conformity with the principles of Article XXVIII, while the detailed procedural requirements of this Article would not apply, and to terminate such negotiations and consultations before 31 December 1977;

Considering that the Government of Indonesia has notified that it will not be possible to conclude these negotiations and consultations by the date specified and has requested an extension of the time-limit for their conclusion by one year,

The CONTRACTING PARTIES, acting pursuant to the provisions of paragraph 5 of Article XXV of the General Agreement,

Decide that the time-limit provided for in paragraph 1 of the Decision of 22 November 1976 shall be extended until 31 December 1978.

ANNEX II.

PAKISTAN - RENEGOTIATION OF SCHEDULE

Draft Decision

Considering that the Government of Pakistan has notified the CONTRACTING PARTIES that it has found it necessary to revise Pakistan's Customs Tariff, under the Finance Act 1977, in view of the difficult financial position and the need to keep the budgetary deficit at as low a level as possible as well as to contain inflationary pressures in the economy and to mobilize additional domestic resources to meet essential development requirements;

Considering that the revision of Pakistan's Customs Tariff has involved deviations from some of the rates of duty bound in Schedule XV to the General Agreement;

Noting that the Government of Pakistan has explained that the tariff revision has been undertaken for fiscal reasons and that it has not been intended as a protective device or a trade measure;

Recognizing the desirability of maintaining a general level of mutually advantageous concessions that will favour high and expanding levels of trade;

The CONTRACTING PARTIES, acting pursuant to the provisions of Article XXV:5 of the General Agreement and in accordance with the procedures adopted by them on 1 November 1956;

Decide, in view of the exceptional circumstances, to suspend the application of the provisions of Article II of the General Agreement to the extent necessary to enable the Government of Pakistan to maintain in force the rates of duty provided in its revised Customs Tariff pending the completion of negotiations for the modification or withdrawal of concessions in Schedule XV, subject to the following conditions:

1. The Government of Pakistan will promptly enter into negotiations or consultations with interested contracting parties pursuant to paragraphs 1 to 3 of Article XXVIII.
2. Part IV of the General Agreement, including Article XXXVI:8, is applicable to the negotiations between Pakistan and the contracting parties which have accepted the Protocol amending the General Agreement on Tariffs and Trade to introduce a Part IV on Trade and Development; and other contracting parties, negotiating with Pakistan, likewise accept the principle enunciated in Article XXXVI:8, as applicable to the negotiations.

3. The negotiations or consultations mentioned above shall be completed not later than 31 December 1979.

4. Without prejudice to the final results of the negotiations or consultations mentioned above, the other contracting parties will be free to suspend concessions initially negotiated with Pakistan, bearing in mind the provisions of paragraph 2 of this Decision, as from 31 December 1978 (subject to the right of any third country having a principal supplying interest or a substantial interest therein to withdraw substantially equivalent concessions initially negotiated with such other contracting parties).

ANNEX III

PARTICIPATION OF THE PHILIPPINES IN THE WORK
OF THE CONTRACTING PARTIES

Further Extension of the Decision of 9 August 1973

Draft Decision

Considering that the parties to the Declaration of 9 August 1973 on the Provisional Accession of the Philippines to the General Agreement on Tariffs and Trade are taking steps, pursuant to paragraph 4 of that Declaration, to extend the period of validity of the Declaration:

The CONTRACTING PARTIES

Decide to extend the period of validity of the Decision of 9 August 1973, which provided for the participation of the Philippines in the work of the CONTRACTING PARTIES, until the Government of the Philippines accedes to the General Agreement under the provisions of Article XXXIII or until 31 December 1979, whichever date is earlier.

ANNEX IV

PARTICIPATION OF TUNISIA IN THE WORK
OF THE CONTRACTING PARTIES

Further Extension of the Decision of 12 November 1959

Draft Decision

Considering that the parties to the Declaration of 12 November 1959 on the Provisional Accession of Tunisia to the General Agreement on Tariffs and Trade are taking steps, pursuant to paragraph 6 of that Declaration, to extend further the period of validity of the Declaration:

The CONTRACTING PARTIES

Decide to extend further the period of validity of the Decision of 12 November 1959, which provided for the participation of Tunisia in the work of the CONTRACTING PARTIES, until the Government of Tunisia accedes to the General Agreement under the provisions of Article XXXIII or until 31 December 1979 whichever date is earlier.

ANNEX V

EXTENSION OF CLOSING DATE FOR ACCEPTANCE OF THE PROTOCOL
AMENDING THE GENERAL AGREEMENT TO INTRODUCE A PART IV
ON TRADE AND DEVELOPMENT

Draft Decision

Considering that the Protocol Amending the General Agreement to Introduce a Part IV on Trade and Development has not yet been accepted by all contracting parties:

The CONTRACTING PARTIES

Decide to extend the closing date for acceptance of the said Protocol until the close of their thirty-fourth session, and

Urge the contracting parties which have not yet accepted the said Protocol to make every effort to do so in the near future.