1. In May 1973, French tax practices were the subject of a complaint by the United States, which asserted that they constituted an export subsidy and therefore violated Article XVI:4 of the General Agreement.

2. The Panel established by the Council in July 1973 made its report in November 1976. The report concluded, inter alia, that "the particular application of the territoriality principle by France allowed some part of export activities, belonging to an economic process originating in the country, to be outside the scope of French taxes". The report added that in that way France had "created a possibility of a pecuniary benefit to exports in those cases where income and corporation tax provisions were significantly more liberal in foreign countries".

3. The French authorities did not accept the conclusions of that report. The conclusions are based on an excessively broad definition of the concept of export, since it embraces operations which, in GATT practice, are regarded as import operations under the sovereignty of the importing State.

   France's views on the subject are set forth in detail in document C/97 and its addendum.

4. When the matter was last discussed in the Council, in March 1978, the United States delegation indicated that it had developed certain ideas which could lead to a constructive solution.

   Those ideas became clearer in bilateral contacts, during which the United States recognized that it was for the country of origin to tax economic activities up to the point of export and that consequently the activities of the foreign importer should not be subject to the taxation of the country of origin.

5. What should be examined, however, is the case where a foreign importer is under the control of a French exporter and where the fear expressed by the Panel could materialize if prices were manipulated so as to show a profit in the country in which it would be taxed the least.
That fear is devoid of foundation. Article 57 of the General Tax Code provides that the price on which calculation of the profit taxable in France is based, is the sales price agreed on between independent enterprises acting at arm's length. The French Tax Administration sees to it that that Article is strictly enforced.

This principle of independence between a parent company and its branch, thus inscribed in our national legislation, is also incorporated in the Code on Subsidies (Illustrative List, footnote number 2, second paragraph).

7. In view of the above, the French delegation feels that there is no longer any point to the dispute considered by the Panel. It therefore proposes to the Council that the report should be adopted together with a statement to the effect that economic activities which take place after the export operation, and therefore outside of the country of origin, are not taxable by that country and cannot be regarded as an export activity within the meaning of the General Agreement.

The French delegation requests the Council to deal with this matter before the end of 1980.