INCOME TAX PRACTICES MAINTAINED BY BELGIUM

Statement by the Belgian Representative

In its report of 2 November 1976 (L/4424) the GATT Panel came to the conclusion that Belgian tax practices had effects which were not consistent with Belgium's obligations under Article XVI.4

Belgium wishes to repeat its reservations already expressed at the meeting of the Council on 12 November 1976 against the conclusions of the Panel.

In order to arrive at its conclusions, the Panel has examined in economic terms the effects of the income tax practices maintained by Belgium and found that Belgium allows some part of export activities to remain outside the scope of Belgian taxes (see paragraphs 34 and 37 of the report). The Panel has based its reasoning on the consideration that export activities are part of an economic process commencing in the country of origin and it has incorporated in the export activities the transactions effected in foreign countries by the branches and subsidiaries of Belgian enterprises.

Belgium is of the view that the conclusions of the Panel are based on a broad interpretation of the term "export activities". It is clear that export activities end the moment that the foreign importer takes possession of the exported products. All further activities take place at the level of the importer, whether the importer is a fully independent company, or a branch or subsidiary company. Such activities do not enter into the framework of export operations and therefore fall outside the scope of Article XVI.4.
This being so, Belgium holds the view that an examination of the Belgian tax practices under criticism raises two previous questions in respect of which Belgium would like to have additional information from the Panel itself, considering that the Panel has all the relevant elements at its disposal.

- What is the scope of the concept of "export activities" which the Panel has maintained in its examination of the case which has been referred to, in the light of the General Agreement?

- Does the Panel really intend to view the concept of "export activities" in a wider sense than that which covers the operations between the Belgian exporter and the foreign importer?

In any case, Belgium reserves the right to put forward before the Panel, if necessary, all its arguments of a fiscal nature. If necessary, Belgium is prepared to provide the Panel with its arguments in a separate document.