# GENERAL AGREEMENT ON TARIFFS AND TRADE

## MINUTES OF MEETING

Held in the Building of the International Télécommunications Union on 2 March 1977

Chairman: Mr. C. DE GEER (Sweden)

<table>
<thead>
<tr>
<th>Subjects Discussed</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Morocco - Request for status of observer</td>
<td>2</td>
</tr>
<tr>
<td>2. Italy - Monetary measures</td>
<td>2</td>
</tr>
<tr>
<td>3. South Africa - Import deposit</td>
<td>3</td>
</tr>
<tr>
<td>4. Balance-of-payments import restrictions</td>
<td></td>
</tr>
<tr>
<td>(i) Consultation with Israel - Temporary surcharge</td>
<td>3</td>
</tr>
<tr>
<td>(ii) Consultation with Portugal - Import surcharges and import deposits</td>
<td>4</td>
</tr>
<tr>
<td>(iii) Consultation with Yugoslavia - Temporary import surcharge</td>
<td>4</td>
</tr>
<tr>
<td>(iv) 1976 consultations with Bangladesh, Ghana, Greece and Tunisia</td>
<td>5</td>
</tr>
<tr>
<td>(v) Arrangements for consultations in 1977</td>
<td>5</td>
</tr>
<tr>
<td>5. Trade with Romania</td>
<td>5</td>
</tr>
<tr>
<td>6. Caribbean Common Market</td>
<td>6</td>
</tr>
<tr>
<td>7. Agreement between Finland and the German Democratic Republic</td>
<td>7</td>
</tr>
<tr>
<td>8. International Trade Centre - Joint Advisory Group</td>
<td>7</td>
</tr>
<tr>
<td>9. Papua New Guinea-Australia Agreement</td>
<td>10</td>
</tr>
<tr>
<td>10. Arab Common Market</td>
<td>11</td>
</tr>
<tr>
<td>11. Brazil - Renegotiation of Schedule</td>
<td>11</td>
</tr>
<tr>
<td>12. Tax legislation</td>
<td></td>
</tr>
<tr>
<td>(a) United States tax legislation (DISC)</td>
<td>12</td>
</tr>
<tr>
<td>(b) Income tax practices maintained by France</td>
<td>12</td>
</tr>
<tr>
<td>(c) Income tax practices maintained by Belgium</td>
<td>12</td>
</tr>
<tr>
<td>(d) Income tax practices maintained by the Netherlands</td>
<td>12</td>
</tr>
<tr>
<td>13. Erosion of salaries</td>
<td>18</td>
</tr>
<tr>
<td>14. Finland - Article XIX action on women's panty hoses (tights)</td>
<td>21</td>
</tr>
<tr>
<td>15. (i) United States - Import restrictions on beef</td>
<td>22</td>
</tr>
<tr>
<td>(ii) Canada - Import restrictions on beef</td>
<td>22</td>
</tr>
<tr>
<td>16. United States - Imports of footwear</td>
<td>23</td>
</tr>
<tr>
<td>17. Brazil - Import restrictions</td>
<td>23</td>
</tr>
<tr>
<td>18. Committee on Budget, Finance and Administration</td>
<td>23</td>
</tr>
<tr>
<td>19. EEC - Import deposits for animal feed proteins</td>
<td>24</td>
</tr>
<tr>
<td>20. EEC-Canada - Withdrawal of tariff concessions</td>
<td>24</td>
</tr>
<tr>
<td>21. Working Party on Bangkok Agreement</td>
<td>25</td>
</tr>
</tbody>
</table>
1. **Morocco - Request for status of observer**

The Chairman informed the Council that a letter had been received by the Director-General from the Permanent Representative of Morocco asking for observer status in the Council and regular GATT committees and working parties for the Government of Morocco. At present Morocco was invited to be represented by observers at the sessions of the CONTRACTING PARTIES.

The Council agreed that the Director-General should respond favourably to the request of the Government of Morocco.

2. **Italy - Monetary measures**

The Chairman recalled that the Council had established a working party to examine the monetary measures introduced by Italy.

Mr. Iranzo (Spain), Chairman of the Working Party, stated that the Working Party had examined in particular the deposit requirement for purchase of foreign currency, introduced in May 1976, and the special tax of 7 per cent on the purchase of foreign currency, introduced in October. The Working Party had also consulted with the International Monetary Fund in this respect.

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 General Agreement. 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 had been extended, but a scheme for its phasing out (L/4353/Add.2) had been adhered to by his authorities. He pointed out that the rate of deposit was at present 10 per cent after the latest reduction on 26 February. It was the intention of his authorities to eliminate completely the deposit requirement on 15 April 1977.

As regards the tax of 7 per cent for the purchase of foreign currency, introduced on 23 October 1976, he said that his authorities reduced the tax by 50 per cent on 27 December 1976. Then, on 3 January 1977, the tax was reduced by 0.5 per cent every week until 7 February and it was completely abolished on 18 February 1977. This had been made possible by an improvement in the Italian balance of payments, particularly as a result of the repatriation of private capital. He mentioned that the foreign exchange market had reacted in an orderly way to the elimination of the tax and to the gradual reduction of the deposit. While the value of the lira, as compared to other currencies, had declined, this decline could
be controlled. Italy's balance-of-payments deficit had in 1976 amounted to Lit 1,044 billion, a figure which still caused concern in the light of Italy's debt service. He emphasized, finally, that in spite of the monetary measures Italy's imports had increased in 1976 by 44 per cent in value and by 17 per cent in volume.

Several representatives expressed satisfaction at the improvement in the Italian situation and noted that the special purchase tax on foreign currency had been phased out and the deposit requirement would be phased out on 15 April.

The Council noted that the Working Party on Italian Measures would continue to be available if necessary and adopted the report.

3. South Africa - Import deposit (BOP/R/92, L/4383/Add.1)

The Chairman recalled that 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.

Mr. Jagmetti (Switzerland), Chairman of the Committee, stated that the Committee had consulted with the International Monetary Fund in this respect. The Committee had reiterated the view that adjustment of balance-of-payments disequilibria through the use of trade measures should be avoided. He added that in accordance with its undertaking to the Committee South Africa had terminated the measure as of 2 February 1977 (L/4386/Add.1).

The Council adopted the report.

4. Balance-of-payments import restrictions

(i) Consultation with Israel - Temporary surcharge (BOP/R/90)

Mr. Jagmetti (Switzerland), Chairman of the Committee on Balance-of-Payments Restrictions, said the consultation with Israel had included an examination of the temporary import surcharge. 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. The Committee had regretted, however, that Israel, because of its economic situation, could not give any indication as to when the surcharge may be removed. The Committee had invited Israel to pursue the more fundamental policy measures referred to in the report, which should make a further liberalization of trade possible.

The Council adopted the report.
(ii) Consultation with Portugal - Import surcharge and import deposits
(BOP/R/93)

Mr. Jagmetti stated that the consultation with Portugal had included an examination of the import surcharges introduced in May 1975, the rates of which had been increased and which had been extended until March 1977. The Committee had also examined certain new measures of restriction introduced by Portugal, among which an import deposit introduced in October 1976. The Committee had recognized the serious problems facing the Portuguese economy but 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. The Committee invited Portugal to give careful consideration to the adoption of a comprehensive programme of domestic policies and external measures to achieve the required adjustment in its balance of payments.

The representative of Portugal informed the Council that new measures had recently been introduced, which would be notified to the CONTRACTING PARTIES as soon as details were available.

The Council adopted the report.

(iii) Consultation with Yugoslavia - Temporary import surcharge (BOP/R/91)

Mr. Jagmetti stated that the consultation with Yugoslavia had also included an examination of the temporary import surcharge. 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.

Some representatives expressed disappointment that, as recently notified (L/4474), the special import surcharge continued to be applied in 1977 and the equalization tax on imports had been increased from 5 to 6 per cent. As Yugoslavia's balance-of-payments prospects were improving they regretted that Yugoslavia had found it necessary to take these measures, which in their view was contrary to the recommendations of the Committee.

The representative of Yugoslavia said that his Government intended to pursue its policy of trade liberalization when the country's balance-of-payments situation, growth and stability so permitted. He pointed out that since the consultations had taken place, Yugoslavia's balance-of-payments situation had deteriorated, as a result of which it had been decided to continue temporarily the application of the import surcharge. This, in his view, was fully consistent with the conclusions of the Committee, which referred to the relaxation and eventual removal of the surcharge at the earliest appropriate time.

The Council adopted the report.
(iv) 1976 consultations with Bangladesh, Ghana, Greece and Tunisia (BOP/R/89)

Mr. Jagmetti said that under the simplified procedures for consultations under Article XVIII:12(b) the Committee had considered written statements submitted by Bangladesh, Ghana, Greece and Tunisia. The Committee had decided that a full consultation with these countries was not desirable in 1976. He further stated that since the simplified procedures had been introduced twenty-four such consultations had been held, of which five had led to full consultations. This showed that in certain circumstances contracting parties wished to examine more closely the use of trade restrictions for balance-of-payments adjustments.

The Council agreed, as recommended by the Committee, that Bangladesh, Ghana, Greece and Tunisia 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.

(v) Arrangements for consultations in 1977 (C/W/284)

The Chairman drew attention to document C/W/284 containing a note on the arrangements for consultations in 1977.

The representative of Argentina enquired about the date for the consultation with Argentina.

The Director-General said that the beginning of the series of consultations would be in May, and a second round would be held in the autumn. The exact dates for the individual consultations would be determined in consultation with the countries concerned.

The Council took note of the arrangements for consultations in 1977 (C/W/284) and requested the secretariat to make the necessary arrangements in consultation with the countries concerned and with the International Monetary Fund for the carrying out of the consultations in the course of the year.

5. Trade with Romania (L/4469)

The Chairman recalled that at its meeting in February 1975 the Council had established a working party to carry out the consultation to be held every two years between Romania and the CONTRACTING PARTIES pursuant to paragraph 5 of the Protocol of Accession of Romania.
Mr. Bier (Brazil), Chairman of the Working Party, pointed out that the Working Party had noted the satisfactory developments in trade between Romania and the contracting parties and that Romania had fulfilled its import commitment under the Protocol of Accession. The Working Party considered it useful and appropriate that before the next consultation the interested parties should seek, taking into account the provisions of the Protocol of Accession, ways and means to speed up solution of the problems raised at the consultation, in particular with respect to their bilateral implications.

The representative of Romania expressed his appreciation for the work carried out by the Working Party and he hoped that this would help in establishing a normal relationship between Romania and the other contracting parties.

The Council adopted the report.

6. Caribbean Common Market (L/4470)

The Chairman recalled that in October 1974 the Council had established a working party to examine the provisions of the Treaty establishing the Caribbean Community and Common Market.

Mr. Tomić (Yugoslavia), Chairman of the Working Party, pointed out that, in the course of the discussions in the Working Party, the parties to the arrangement had emphasized the importance of the process of integration among Commonwealth Caribbean countries. The main features of the Caribbean Common Market were trade liberalization, a common protective policy, rights of establishment as between member States, co-ordination of economic policies and development planning, and special measures for less-developed countries within the Community. 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 representative of Jamaica, speaking on behalf of the member Governments, stated that the Caribbean Community and Common Market would be instrumental in promoting the expansion and diversification of trade in the region and with the rest of the world, and would thereby contribute to the economic development of the small economies of the area.

The Council adopted the report and agreed that the Caribbean Common Market be added to the calendar for the examination, every two years, of reports on developments under regional agreements. The contracting parties concerned would thus be invited to submit a report in April 1979.
7. Agreement between Finland and the German Democratic Republic (L/4471)

The Chairman recalled that the Council had established a working party to examine the provisions of the Agreement between Finland and the German Democratic Republic.

Mr. Tan (Singapore), Chairman of the Working Party, said that in the examination so far attention had been given to the issue of the compatibility of the Agreement with Article XXIV, taking into account, inter alia, the fact that the German Democratic Republic was a centrally-planned economy state-trading country which did not maintain a customs tariff. The Working Party had dealt with such issues as trade coverage, the means provided by the economic system of the German Democratic Republic which had a bearing on the access of Finnish goods, foreign exchange-rate questions, quantitative restrictions, safeguard measures and export measures, including pricing mechanisms.

He stated that the Working Party had limited itself to an interim report since detailed trade statistics and precise information on certain elements of the foreign trade régime of the German Democratic Republic were not available. The delegation of Finland would provide in due course relevant information.

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

8. International Trade Centre - Joint Advisory Group (ITC/AG/X/52)

Mr. Kahono Martchadinegoro (Indonesia), Chairman of the Joint Advisory Group, introduced the Report on the Tenth Session of the Joint Advisory Group on the International Trade Centre UNCTAD/GATT (ITC/AG/X/52). He said that the Group had reviewed the current activities of ITC and, having regard to the steady expansion of the Centre's total activities, had noted with satisfaction that ways of improving administrative procedures, working methods and rates of programme implementation were being studied. The Group recognized the importance and effectiveness of integrated assistance projects at the country level and emphasized the need to intensify assistance to the least developed developing countries in this connexion. The Group attached great importance to the training of government and business sectors personnel in trade promotion and export marketing. High priority should furthermore be given to the market development activities of the Centre, because of their impact in terms of increased exports. The Group also attached importance to exploiting market opportunities for developing countries resulting from the GSP and the MTN, as well as from the efforts to expand trade among developing countries. As regards the promotion of trade among developing countries and Socialist countries the Group felt that ITC should do more to develop trade
contacts between these two groups of countries. The Group appreciated the actions taken in evaluating technical assistance projects and felt that such actions needed to be built into the regular activities of the Centre. Referring to the Import-Export Co-operative Programme which was conducted on an experimental basis, the Group recommended an extension of this activity for another year. The Group also indicated that priority attention should be given to sub-regional training projects devoted to building up the training capacity in developing country institutions, to the use of functional advisers in specialized fields of assistance and to training in import techniques. The Group also felt that the services of the Centre should be made better known amongst UNDP field staff and the ministries concerned in developing countries and it recommended that governments should raise in the UNDP Governing Council the question of allocation of funds for trade promotion activities. The Group had noted with satisfaction that ITC had considerably developed its co-operation with other United Nations bodies concerned with the expansion of trade. 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. Another important issue discussed by the Group was the question of possible changes in ITC's consultative machinery, the Joint Advisory Group and its Technical Committee. It was agreed to consult governments by means of a questionnaire on the desirability of such changes.

The representative of India pointed out that in connexion with the recommendations made in the report, additional funds had to be found by the Centre. While expressing appreciation for the voluntary contributions it was clear that the current level of contributions would not be sufficient to meet the additional expenses.

The representative of Norway, speaking on behalf of the Nordic countries, also expressed concern at the financial structure of the Centre which relied heavily on voluntary contributions from a number of small donor countries for its technical assistance activities, while the regular budget resources appeared to be insufficient to backstop the expanding technical assistance programme. It was most desirable that a better balance should 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 and a stronger backstopping capacity in the Centre's headquarters.

The representative of Egypt expressed his Government's appreciation for the activities of the Centre. He also expressed concern at the stagnation of UNDP funds, so that the Centre relied heavily on voluntary contributions from a number of industrialized countries. He hoped that voluntary contributions from other developed countries could be increased.
The representative of Argentina also expressed concern that while the programme of the ITC became more ambitious certain essential basic activities of the Centre were increasingly dependent on voluntary contributions.

The representative of Uruguay expressed his satisfaction with the contribution made by the Centre to Uruguay in the form of an integrated assistance project which was now completed. He stated that his Government hoped that this project could continue. He expressed particular concern at the fact that the product marketing research programme, which was indispensable to the effective implementation of assistance projects in market development, had been reduced.

The representative of Singapore referred to the Import-Export Co-operative Programme of the Centre which was planned as a self-financing operation. He therefore felt that this Programme, in the light of the funding problems, should be endorsed.

Mr. Santiapillai, Director of the International Trade Centre, stated that the ITC headquarters organization was financed mainly from assessed contributions from the United Nations and GATT and that it was necessary to bear in mind the current budgetary constraints common to most international organizations. The Centre had therefore initiated action to improve its internal working methods in order to ensure the optimum utilization of existing staff and it had initiated discussions with the United Nations administration with a view to streamlining financial and personnel administration which would result in staff economies. Satisfactory results had been achieved with respect to financial administration and a decision on personnel administration was to be expected shortly. Provision also had been made in the regular budget proposals for 1978/1979 for a modest increase in resources at headquarters. He expected that these actions would increase the capacity of the Centre to provide backstopping to an expanding technical assistance programme.

He also pointed out that he had held discussions with UNDP headquarters with a view to expanding UNDP participation in the financing of trade promotion assistance and involvement in inter-regional and regional technical assistance activities. At the country level, while it was the responsibility of each developing country to allocate UNDP funds to national technical assistance projects, UNDP headquarters had recognized that a better understanding of trade promotion needs and problems in UNDP field offices could be helpful to governments in allocating their UNDP resources. UNDP had, therefore, agreed to ITC participation in training programmes for UNDP field staff with a view to better acquainting the latter of the needs of the developing countries in trade promotion as well as of the scope of technical assistance in this field. As concerns voluntary contributions he said that he had initiated discussions with prospective new donors of trust funds with a view to augmenting ITC trust fund resources so that the recommendations of the Joint Advisory Group concerning the technical assistance programme could be realized.
The Council approved the recommendations of the Joint Advisory Group and adopted the Report.

9. Papua New Guinea-Australia Agreement (L/4451 and Add.1)

The representative of Australia introduced the text of the Papua New Guinea/Australia Trade and Commercial Relations Agreement circulated in document L/4451/Add.1. He said that the Agreement, signed on 6 November 1976, established a free-trade area consisting of Papua New Guinea and Australia. It replaced the Memorandum of Understanding, which covered the period between Papua New Guinea's independence and the conclusion of a long-term trade and commercial relations agreement between the two countries.

He pointed out that substantially all the trade between Australia and Papua New Guinea was already free of restrictive duties and regulations of commerce. The new Agreement would provide for a continuation of this situation and it ensured that Papua New Guinea would not be placed in a less advantageous position in relation to its trade with Australia than that which it had obtained prior to attaining independence.

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

Terms of Reference:

To examine, in the light of the relevant provisions of the General Agreement, the provisions of the Agreement on Trade and Commercial Relations between Australia and Papua New Guinea, and to report to the Council.

Membership:

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

Chairman:

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

The Council also agreed that Papua New Guinea should be invited to be represented by observers at the meetings of the working party and at meetings of the Council at which the Papua New Guinea/Australia Agreement would be discussed.
The Council agreed furthermore that contracting parties wishing to submit questions in writing relating to the Agreement should send in such questions by 15 April 1977 at the latest and that replies to the questions should be supplied six weeks after receipt of the questions.

10. Arab Common Market (L/4462)

The Chairman said that a report on progress achieved in the Arab Common Market had been communicated by Egypt under the regular biennial reporting procedures on developments under regional arrangements.

The representative of Egypt recalled that tariff reductions and measures to liberalize trade among member States had been adopted since 1 January 1965 and that all customs duties on agricultural and animal products and natural resources had been abolished among member States by 1 January 1969. 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.

He pointed out that other Arab States were in the process of joining the Arab Common Market. On the monetary side an Arab Monetary Fund had been established in April 1976 which would, inter alia, facilitate the settlement of payments and thereby stimulate trade between member States. A further step was the adoption of a programme for the establishment of a customs union. Under this programme customs legislation would be unified and a common external tariff system would be set up towards non-member countries. The latter should be achieved in the period 1978-81.

He concluded by pointing out that 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.


The Chairman said that 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 and conclusion of appropriate renegotiations. The waiver was due to expire by the end of this month.

The representative of Brazil said that, for technical reasons, the consultations under the waiver could not be concluded before 31 March 1977. His delegation therefore had to ask for an extension of the waiver by one year.
The representative of the United States said that his delegation supported the extension of the waiver. He added that his delegation had submitted requests to the Brazilian delegation and he expected that compensation would be negotiated promptly within the period covered by the extension of the waiver.

The representative of the European Communities said that his delegation had not yet initiated the negotiations because of a lack in documentation. He expressed the hope that the necessary statistics and the tariffs in force would soon be submitted. He supported the extension of the waiver.

The representatives of Japan and Canada, in supporting the extension of the waiver, expressed the hope that the negotiations would be brought to a speedy conclusion.

The Council approved the text of a draft decision (C/W/285), and recommended its adoption by the CONTRACTING PARTIES by postal ballot. Representatives having authority to vote on behalf of their governments were invited to do so at the close of the meeting. Ballot papers would be sent by mail to contracting parties not represented at the meeting.

12. Tax legislation

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

The representative of the European Communities, stressed that these were four different items of the agenda and addressed himself to the first item, the report of the panel on the United States tax legislation (DISC). He stated that the avowed purpose of the DISC legislation and the recognized effect of its application were to increase exports. He recalled that in order to qualify as a DISC a United States corporation should be a domestic corporation established in the territory of the United States; that 95 per cent of its gross receipts for each taxable year should consist of export receipts; and 95 per cent of its assets at the close of the taxable year should be export assets. The DISC legislation covered the taxation of profits made by the companies concerned as a result of their export activities from United States territory. It had the effect of a partial remission of taxes "in relation to exports" or of a partial exemption "in respect of exported goods" as referred to in points (c) and (d) of the 1960 indicative list of prohibited practices. He pointed out that the DISC legislation, which was created specifically to increase exports, covered a very important volume of trade and affected the interests and rights of a great number of contracting parties. This was illustrated by recent figures presented to the
United States Congress in the International Economic Report of the President, in which it was stated that the DISC legislation had benefited exporters since its inception and had proved an effective stimulus to United States exports. The report also stated that 9,090 DISC's had been formed by 30 September 1976 and approximately 75 per cent of United States exports in fiscal 1976 had been channelled through DISC's. According to the Report current estimates indicated that in fiscal 1976 the DISC had increased United States exports by more than $8,000 million at a revenue cost of approximately $1,300 million.

He further stated that the conclusions of the Panel showed the inconsistency of the DISC legislation with the principles and provisions of the General Agreement. The European Communities now requested the Council to discuss the report and to draw therefrom the appropriate conclusions, namely to make a recommendation under the provisions of Article XXIII:2 that the United States repeal the DISC legislation which had been implemented in the beginning of 1972.

The representative of Canada stressed the importance of the report of the Panel on the United States DISC legislation and noted that the Panel had found that the DISC programme represented subsidies which in some cases were contrary to the provisions of Article XVI. These subsidies applied to a large proportion of United States exports and had adverse effects inter alia on Canadian interests. His delegation expected that in the light of this report the United States would give serious consideration to an early termination of the DISC. He considered that the Council should endorse the panel's conclusions and call for an early termination of the practice.

The representative of the United States, pointing out that in his view the four issues were linked, addressed himself to the agenda item in its entirety. He recalled that at the earlier meeting of the Council his delegation had expressed disappointment that the Panel on DISC had found the DISC to be inconsistent in some respects with the provisions of Article XVI, but his delegation had been pleased that the panels had accepted the United States alternative contention that if the DISC was inconsistent, then the comparable practices of France, Belgium and the Netherlands were also inconsistent.

As the United States delegation had continually stressed, he considered the findings of the four panels to be closely linked, in substance and in form. They had been linked from the outset in the consideration of this matter in GATT and in fact the tax practices of other countries was one of the background elements involved in the United States legislation on DISC. The panels had come to the conclusion that all the tax practices in question were subsidies inconsistent with Article XVI and each report contained cross references to the other practices.
His delegation believed that the appropriate procedure for the Council now was to adopt the reports of the four panels. This would be a good basis for the Council's further work in considering appropriate recommendations or findings as envisaged in Article XXIII:2.

The representative of the European Communities firmly rejected the linking of four matters which, in his view, were clearly distinct, as there were four countries involved and there had been four panels which had made four different reports. The United States created a precedent by linking the outcome of one claim to that of other claims which were distinct. One could not link matters simply because they were all fiscal matters. He further stated that the reports did not indicate that the panels had accepted the United States alternative contention that if the DISC was condemned other matters should also be condemned. He considered that in connexion with the conciliation procedure on the DISC a series of regrettable precedents had been set by this linking.

The representative of Japan stressed the importance attached by his delegation to the issues that had been raised in connexion with the reports on tax legislation. He added that, in his view, in the light of the findings of the Panel, the earliest possible termination of the DISC would appear desirable.

The representative of France stated that the question of income tax practices maintained by France was a separate item on the agenda, and recalled that the present French tax system had been in existence since 1917. He further stated that his Government maintained its strong reservations and did not follow the Panel in its conclusions. His Government would submit a memorandum setting out in detail the technical reasons of this position, but before doing so it considered it necessary first to ask a question relating to the concept of "export" or "export activity". On the basis of the report his authorities believed that the Panel had had an extremely wide interpretation of the concept of export or export activity, which went well beyond the concept under the GATT. In the GATT sense export constituted the sale of a product to another country. The process included several steps but in any case the exportation ended upon passing over the customs frontier of the importing country. The activities of foreign branches and subsidiary companies of French corporations, therefore, did not relate to exports but to operations which were internal trade activities in the importing country. The Panel had concluded that the French practices concerning taxation of such activities, in certain circumstances, constituted an export subsidy because it had considered that the concept of exports encompassed such activities. However, if one stuck to the concept of exportation prevailing in GATT,

The text of the statement has been distributed in document C/97.
which was the only permissible one, it was clear that the putting in doubt of
the French practices which were beyond this concept, was unfounded. He further
stated that the conclusions of the Panel would lead to discrimination in the
country of destination between integrated trading companies and independent
enterprises. He noted that the largely applied taxation system based on the
territoriality principle could not lead to any discrimination in the importing
country. As the French Government did not share the Panel's conceptions it could
not accept the Panel's conclusions and was convinced that the Council would endorse
this position.

The representative of the United States stated that the Council would have
to set up a special procedure if it were to discuss technical fiscal details.
He recalled that the Council had charged a group of competent experts to deal
with this matter and that both trade and fiscal experts were represented on the
Panel. He therefore regretted that the results of this detailed and thorough
technical work were now brought into question and was uncertain as to how matters
now stood. His delegation would of course, report what he just heard to his
authorities and would be prepared to comment further on this matter at the next
meeting on the basis of expert advice. He considered that the Council could
still adopt the four reports even if the French Government had certain reservations
on the report relating to the French practices. There were precedents of the
CONTRACTING PARTIES having adopted reports with certain reservations attached.
He recognized that the French basic tax legislation might have been in existence
for a long time, but he pointed out that the Panel had examined the French tax
system as it was operative at present. The report brought out that the examina­
tion of the French practices had taken into account recent developments and
modifications. Furthermore, it was not only a matter of examining basic legis­
lation, but also the way the legislation was being implemented.

The representative of Belgium stated that the question of tax practices
maintained by Belgium was a separate item on the agenda. He repeated the
reservations already expressed at the earlier meeting of the Council against the
conclusion of the Panel that the Belgian tax practices had effects which were not
consistent with Belgium's obligations under Article XVI:4.

He stated that in order to arrive at its conclusions, the Panel had based
its reasoning on the consideration that export activities were part of an
economic process commencing in the country of origin and it had incorporated in
the export activities the transactions effected in foreign countries by the
branches and subsidiaries of Belgian enterprises.

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1The text of the statement has been distributed in document C/98.
His delegation was of the view that the conclusions of the Panel were based on a broad interpretation of the term "export activities". It was clear that export activities ended the moment that the foreign importer took possession of the exported products. All further activities took place at the level of the importer, whether it was a fully independent company, or a branch or subsidiary company. Such activities did not enter into the framework of export operations and therefore fell outside the scope of Article XVI:

His Government therefore would like to have additional information from the Panel on the following two questions:

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

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

In concluding, he stated that his Government reserved the right to put forward a separate document on this matter.

The representative of the Netherlands said that his authorities having examined the report of the Panel on income tax practices maintained by the Netherlands, could not share the Panel's conclusions and fully reserved their position in the matter.

In the view of his authorities the Panel's conclusions had been based on an interpretation of the term "export activities" which, without being clearly defined, was far too wide.

The Panel had indicated where export activities began, but not where the term ceased to be relevant. While export activities were part of an economic process, the final stage of export activities in the proper sense was reached when the foreign importer disposed of the goods. Any profits accruing from subsequent transactions could not be ascribed to export activities and therefore fell outside the scope of the relevant GATT obligations. He pointed out that no country taxed profits made in another country on transactions of an independent importer and therefore no different practice should apply if the importer was dependent on the exporter as a foreign branch or subsidiary. He pointed out that the case of a dependent importer being charged prices lower than those charged to an independent importer, was fully covered as the exporter's profits were calculated on the basis of the "arm's length principle". It had been specifically

1 The text of the statement has been circulated in document C/99.
confirmed to the Panel by his delegation that the application of the arm's length principle was covered by the term "sound business practice", and there was no justification for the Panel to evince some doubt about this. If a country was of the opinion that in a given case the application of this principle was not fully observed the mutual agreement procedure provided for in the conventions for the avoidance of double taxation concluded by the Netherlands was applicable.

In concluding, he noted that the question of clarification of the term "export activities" was now before the Council and his delegation was ready to co-operate in the search for a procedure which should provide a reply without further delay. He added that in his view this question did not require the assistance of fiscal experts as had been suggested, since the CONTRACTING PARTIES were competent to determine the correct meaning of "export activities" in terms of the General Agreement. In the meantime there was no doubt in the mind of his delegation that their more limited interpretation of this concept would be confirmed and that therefore the United States complaint against the Netherlands was unjustified.

The representative of the United States considered it a serious matter that the delegations of France, Belgium and the Netherlands were objecting to the adoption of the reports by advancing arguments which had been rejected by the Panel. This brought into question the whole functioning of the dispute settlement procedures in GATT. He therefore urged that the reports be adopted so that one could consider how to deal with the matter in substance. Referring to the fact that the representative of Belgium had addressed specific questions to the Panel he stated that in his view the panels had completed their work and were no longer in existence.

The representative of Canada stated that his delegation would wish to consider carefully the points advanced by the delegations concerned. He stressed, however, the importance of not undermining the valuable and important work of the panels and of respecting their views.

The representative of Belgium said that his delegation would abide by the decision of the Council on how to deal with the questions raised by his delegation.

The Chairman stated that in view of the several important statements that had been made, he concluded that some further reflexion was needed by the members of the Council and suggested that the Council revert to the matter at a later meeting.
The representative of the European Community remarked that in his view the settlement of the item on DISC legislation had been prevented by the fact that the United States had made a link between settling this item and the other items which were, as he had indicated earlier, fully distinct matters.

The Council agreed to revert to the matter at a later meeting.

13. Erosion of salaries

The Chairman recalled that, when the Council in November 1976 considered the report of the Budget Committee, the Director-General had referred to the question still outstanding, of erosion of salaries of professional staff. The Council had agreed to revert to this matter when the decision of the United Nations General Assembly on this matter was known.

The Director-General said that the question of erosion of salaries for staff in the professional and higher categories first arose in 1971 after the adjustment of the United Nations accounting rate from Sw F 4.32 to Sw F 4.08 per dollar. At the end of 1974 the accounting rate had fallen by over 36 per cent to Sw F 2.74 per dollar. As a result of this fall, an average professional staff member without dependents was losing about Sw F 850 per month in salary and post adjustment and approximately Sw F 250 if he had dependents. He recalled that following these developments the Council had established in November 1974 an informal tripartite Contact Group composed of representatives of the Budget Committee, the secretariat and the staff to study all aspects of this question. He said that on the basis of the Budget Committee's report on this matter, and taking into consideration the findings of the Contact Group, 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, contained in document C/92 of 14 March 1975, were that for 1974 a partial indemnity be made to the eligible GATT staff in respect of losses sustained due to exchange rate fluctuations. His intention for 1975 and future years had been that for salary payment purposes the internal accounting rate be blocked at a certain level 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 said that he had not pressed for a Council decision in this respect pending the findings of the ICSC special study of the United Nations salary system. In the meantime an interim adjustment for professional staff without dependents had come into effect as from January 1976, which reduced their losses by about one third. However, no provision had been made for the losses suffered from 1971 to 1975 and no adjustment had been made for staff with dependents.
The Director-General continued by stating that the ICSC study had been finalized and its conclusions had been approved by the United Nations General Assembly to take effect from 1 January 1977. These adjustments had the effect of restoring about 60 per cent of the losses experienced by staff without dependents. Since the adjustments were not retroactive, no compensation was provided for past losses. Furthermore, the professional staff with dependents continued to receive no compensation for losses experienced since 1971. In recalling his dual responsibilities to the CONTRACTING PARTIES and to the staff he urged the Council to consider the justice and expediency of compensating the staff, if only partially, for some of the losses sustained. He therefore proposed that a partial compensation be made to all staff in the professional and higher category for losses sustained in 1974 only, the total cost of which was covered by the amount held in a suspense account.

Mr. Hanus, representative of the Staff Council referred to the arguments which had been used by members of the Budget Committee in opposing the proposal made by the Director-General, based inter alia on the existence of the Common System. He stated that there was probably not one organization in the Common System which had not made modifications to the System. Furthermore, the CONTRACTING PARTIES had in 1957 formally reserved a possibility of manoeuvre in the application of the System, which had been confirmed by the Budget Committee in 1975, as it noted that it was within the competence of the CONTRACTING PARTIES to adapt the system of remuneration to GATT's needs if it was considered desirable to do so. He pointed out that the GATT staff represented only 0.6 per cent of the total international staff so that one could not speak of a regrettable precedent which could have serious repercussions on the United Nations system.

He then cited some figures on the losses experienced by the individual GATT staff members, which showed that the losses of individual staff members were really heavy. He then spoke of the relationship between the CONTRACTING PARTIES and the secretariat staff, which was regulated by the adoption of the Staff Rules and Regulations of the United Nations and the decision to follow the Common System. While this decision had been welcomed by the staff at the time, the situation had changed completely since 1971. The CONTRACTING PARTIES had played an important rôle in the question of erosion of salaries which had led to the Chairman of the CONTRACTING PARTIES addressing a letter directly to the United Nations. The Staff Council in turn had played its rôle in the framework of the international staff organizations. This had enabled everyone to assess the slowness, heaviness and indecisiveness of the system, which had been incapable of providing any but very incomplete solutions to the problem with a long delay. This showed that there was undeniably a crisis in the system. This had recently been demonstrated once more by the indifference shown to the problems of the international organizations outside New York by carrying forward to 1979 a solution to the problem of pensions which had been studied since 1974.
He therefore urged that the Director-General's proposal be accepted, which would bring about a partial compensation for a loss which the United Nations had been able to redress only very incompletely and with great delay.

The representative of Spain stated his support for the proposal made by the Director-General.

The representatives of the United States, the United Kingdom, speaking on behalf of the member States of the European Economic Community, Canada, the Federal Republic of Germany and Australia opposed the proposal. They recognized that a real problem existed, which however showed an increased need to deal with the matter on an overall basis. They based their objections on the need to preserve the Common System which, in their view, operated to resolve problems such as the one to which the proposal was addressed. They further mentioned the fact that the CONTRACTING PARTIES had already decided about the allocation of the 1974 surplus and stated that they were opposed to any retroactive application. It would furthermore be difficult for them to accept the proposals at a time when the economic crisis and the fight against inflation had led the governments of many countries to slow down or freeze the evolution of salaries.

The representative of Yugoslavia said that his delegation could support the Director-General's proposal. If this, however, was not accepted by the Council he wished to put forward a compromise proposal. He recalled that on 8 December 1975, the United Nations General Assembly approved a resolution on interim changes in the post adjustment system with respect to professional staff members without dependents in order to compensate partially for losses in their take-home pay due to currency fluctuations, with effect from 1 January 1976. However, the question of compensation for losses in the years 1974 and 1975 had not been dealt with. He recalled that as far back as 1975, the Director-General had indicated that there were possibilities for making technical corrections that would not prejudice the Common System. The Director-General had then said that he considered that it was time for the CONTRACTING PARTIES to take the necessary steps to ensure an improvement in the administrative practices that were being applied to the staff.

In the circumstances and bearing in mind the compensation principle set out in the United Nations resolution of December 1975, the representative of Yugoslavia now proposed that the Council authorize the Director-General to make, in accordance with the Financial Regulations and Rules of the United Nations, an ex gratia payment to the staff on the basis of that resolution, it being understood that no change whatsoever be brought to the Common System. If this proposal was adopted it was his understanding that the total amount to be paid to the affected staff from the Suspense Account would be approximately Sw F 160,000,
which was less than one third of the total amount concerned. The Council could then dispose of the remainder of the amount in suspense as it deemed appropriate. He stressed that this proposal did not involve any additional contributions and did not represent a deviation from the Common System. Moreover, taking into account the very special situation of GATT having a budget fixed in Swiss francs, the proposal had the advantage of not having any precedential implications while trying to reduce some of the more striking disparities between staff members.

The delegations of Egypt, Uruguay, Nigeria, Switzerland, Peru, Trinidad and Tobago, Argentina, Singapore, Chile, Greece, Romania, Turkey, India, Jamaica, Sri Lanka and Brazil supported the compromise proposal made by Yugoslavia.

The representative of the United States declared that the compromise proposal called for close study in order to determine whether it was not inconsistent with the Common System and whether it was acceptable to the GATT staff.

The Council decided to refer this matter to its next meeting.

14. Finland - Article XIX action on women’s panty hoses (tights)

The representative of Singapore, raising a matter under Other Business, recalled that in December 1976 Finland had notified the GATT of its Article XIX action introducing a surcharge on the imports of item ex 60.04 - Women’s Panty Hoses (Tights), for a period of six months as from 27 December 1976 (L/4461). He stated that the action related to panty hoses priced lower than a basic price. He stated that Article XIX referred to "any product", and enquired whether the Finnish tariff differentiated between panty hoses below a basic price and above a basic price. He considered that the action was aimed at those developing countries which were able to produce and export at economically low costs. Finally, he considered that interested contracting parties should have been given an opportunity to consult in respect of the proposed action.

The representative of Finland said that the Article XIX measure had been duly notified to the CONTRACTING PARTIES. He pointed out that under Article 1:6 of the Arrangement Regarding International Trade in Textiles a contracting party preserved the possibility to use its GATT rights. He also pointed out that consultations with contracting parties having a substantial interest as exporters of the product concerned had already taken place since March 1975 and his Government was prepared to continue these consultations. He explained the
reasons for this emergency situation which had led to measures which, in his
dелегации, взгляд, были полностью в соответствии с условиями статьи XIX.

The Council took note of the statements.

15. (i) United States - Import restrictions on beef
(ii) Canada - Import restrictions on beef

The representative of New Zealand, raising a matter under Other Business,
заявил, что хотя квоты были сняты, его делегация имела консультации по Статье XXII с Соединенными Штатами по ввозу баранины в Соединенные Штаты. Он отметил, что Соединенные Штаты не имели recourse to Article XIX, что по его убеждению, указывало на то, что требования статьи XIX по поводу ущерба не были выполнены. Он также подчеркнул, что в Соединенных Штатах нет национальной поддержки программы, которая могла бы оправдать действия, предпринимаемые по статье XI:2(c) ГАТТ. Его делегация утверждала, что условия в Соединенных Штатах мясного рынка второй половины 1976 года не оправдывали ограничение ввоза, что подтверждалось тем фактом, что квоты были установлены на уровне, достигнутом в результате вольuntary restraint agreements. Это показывало, по мнению его делегации, общую несогласованность между квотными условиями Соединенных Штатов Meats Import Law и обязательствами Соединенных Штатов по отношению к ГАТТ.

His delegation had also had consultations under Article XIX with Canada,
наговор с Канадой, хотя ограничения были сняты в конце прошлого года и достигнут соглашение с Канадой о уровне ввоза в рамках квотного периода. Его делегация выразила обеспокоенность тем, что количественные ограничения не имеют достаточной полезности. Эти действия подчеркнули необходимость международных мер для улучшения торговых условий для баранины.

The representative of Australia shared the concerns expressed by New
Заместитель поделился сопровождающими мнениями, что эти опасения не ограничиваются Соединенными Штатами и Канадой.

The representative of Canada said that in his view, the restrictions were
Заместитель подчеркнул, что на его взгляд, ограничения были оправданны по ГАТТ. Факт, что Канада была последним открытым рынком для баранины, создал неприемлемое давление на канадский рынок, что привело к канадскому действию.

The Council took note of the statements made.
16. United States - Imports of footwear

The representative of Uruguay, raising a point under Other Business, 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. He recalled that the previous President of the United States had decided not to impose import restraints in view of the fact that the United States footwear industry had shown a substantial increase in production and employment. The procedure now suggested for tariff quotas was to be based on a reference period, which would benefit more developed producers to the detriment of less developed ones. He hoped that, as a result of bilateral contacts, Uruguay's interests would be taken into account in the United States market. In conclusion, he drew attention to the fact that matters like the one mentioned occurred very often, which raised questions of consistency with the Tokyo Declaration.

The representative of the United States said that he would report the concern expressed by Uruguay to his authorities. He mentioned that the matter had been notified to the GATT (L/4477).

The Council took note of the statements made.

17. Brazil - Import restrictions

The representative of the United States, raising a point under Other Business, said that his authorities had been informed that Brazil had extended until the end of 1977 the surcharge, the import deposit and the suspension of import licences on certain products. It had, furthermore, extended the coverage of the import licences.

The representative of Brazil stated that the measures would be duly notified as soon as detailed information was available.

The Council took note of the statements made.

18. Committee on Budget, Finance and Administration

The Council agreed to the appointment of Mr. Feij (Netherlands) as new Chairman of the Committee on Budget, Finance and Administration, replacing Mr. Gates (Australia) who had been assigned to other functions by his Government.
The Council furthermore agreed to the membership of the Committee as follows:

Australia    Hungary    Sweden
Brazil       India       Switzerland
Canada       Israel      United Kingdom
France       Japan       United States

19. EEC - Import deposits for animal feed proteins

The Chairman recalled that the Council agreed in September 1976 to establish a panel in order 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. The Council had authorized the Chairman of the Council to nominate, in consultation and agreement with the parties concerned, the Chairman and the members of the panel. The Chairman informed the Council of the following composition of the panel:

Chairman: Mr. Kaarlehto (Finland)

Members: Mr. Barnett (Jamaica)
         Mr. Denis (Canada)
         Mr. Eberhard (Switzerland)
         Mr. Parman (Turkey)

The Council took note of the composition of the Panel.

20. EEC-Canada - Withdrawal of tariff concessions

The Chairman recalled that in November 1976 the Council agreed to establish a panel to examine the complaint by the EEC relating to the withdrawal by Canada of certain tariff concessions under Article XXVIII:3. The Council had authorized the Chairman of the Council to nominate the panel in consultation and agreement with the parties concerned. He now informed the Council of the following composition of the panel:

Chairman: Mr. Ukawa (Japan)

Members: Mr. Greig (New Zealand)
         Mr. Hagfors (Finland)

The Council took note of the composition of the Panel.
21. **Working Party on Bangkok Agreement**

The Chairman recalled that in November 1976 the Council established the Working Party on the Bangkok Agreement and authorized the Chair to nominate the Chairman of the Working Party.

He now informed the Council that Mr. Lemmel (Sweden) had been nominated as Chairman of the Working Party.

The Council took note of the nomination.