GENERAL AGREEMENT ON
TARIFFS AND TRADE

COUNCIL
7 December 1981

ITEM 4 OF THE AGENDA

The following text has emerged from informal consultations between interested
delegations and is being circulated to the members of the Council for consideration.

The Council adopts these reports on the understanding that with respect to
these cases, and in general, economic processes (including transactions involving
exported goods) located outside the territorial limits of the exporting country
need not be subject to taxation by the exporting country and should not be regarded
as export activities in terms of Article XVI:4 of the General Agreement. It is
further understood that Article XVI:4 requires that arm's-length pricing be
observed, i.e., prices for goods in transactions between exporting enterprises and
foreign buyers under their or the same control should for tax purposes be the
prices which would be charged between independent enterprises acting at arm's length.
Furthermore, Article XVI:4 does not prohibit the adoption of measures to avoid
double taxation of foreign source income.

Following the adoption of these reports the Chairman noted that the Council's
decision pertains to the parties adhering to Article XVI:4 and does not mean that
these parties are forbidden from taxing the profits on transactions beyond their
borders, it only means that they are not required to do so. He noted further that
the decision does not modify the existing GATT rules in Article XVI:4 as they
relate to the taxation of exported goods. He noted also that this decision does
not affect and is not affected by the Agreement on the Interpretation and Application
of Articles VI, XVI and XXIII. Finally, he noted that the adoption of these
reports does not affect the rights and obligations of contracting parties under the
General Agreement.