On 12 January the GATT Council adopted the report of the Working Party on the Danish temporary import surcharge and its conclusions, a copy of which is attached.

The Council noted that the Working Party will, under its terms of reference, continue to be available for consultations as necessary. The matter is to be kept on the Council agenda.

The surcharge, which was introduced on 20 October 1971, is initially at the rate of 10 per cent. It is to be reduced to 7 per cent on 1 July 1972, and to 4 per cent on 1 January 1973, and is to be abolished on 1 April 1973.
The Working Party took note of the findings of the International Monetary Fund and recognized that Denmark was in a serious balance-of-payments situation.

Denmark, taking into account the findings of the International Monetary Fund, considered that, although the implementation of an import surcharge was not explicitly covered by any provision of the GATT, such action had been taken in the spirit of Article XII:2(a). Quantitative restrictions provided for in Article XII would have had a more serious effect on the interests of its trading partners. A number of other contracting parties had taken similar actions when confronted with situations of this kind.

The Working Party noted that the surcharge, to the extent that it raised the incidence of customs charges beyond the maximum rates bound under Article II, was not compatible with the provisions of the General Agreement.

The Working Party, noting the contrary views of the Danish delegation, expressed its concern that Denmark had chosen to introduce the 10 per cent import surcharge at this time, given the present delicate international trade and monetary situation which should induce extreme caution in order to avoid the spreading of the present crisis. The Danish representative pointed out that the timing was heavily influenced by circumstances outside the control of the Danish Government.

In view of the situation faced by the Government of Denmark, some members considered that recourse to the surcharge was not inappropriate. Some other members were of the view that the measure was not appropriate. Still other members expressed doubts as to the need to have recourse to the measure at the time when it was taken.

The Danish Government was urged to remove the surcharge at an earlier date than that provided in the relevant legislation, if improved conditions, including those in the international monetary field, should so warrant.

Without prejudice to the legal issues involved, the Working Party noted that, as from the introduction of the Danish general preference scheme on 1 January 1972 products included in that scheme would be exempted from the surcharge when imported from members of the Group of Seventy-Seven. Several members of the Working Party welcomed this decision of the Danish Government noting that this had been one of the recommendations of the Group of Three. Other members of the Working Party expressed concern that the exemption did not extend to all developing countries. Some other members said that the discrimination created by these exemptions gave their delegations cause for concern. Denmark emphasized the moral obligation which it had undertaken as part of the Generalized System of Preferences to allow free entry for the products covered by the scheme.
Some beneficiary developing countries expressed the hope that if and when it appeared that exports of particular products not included in the general preference scheme were, in fact, adversely affected as a result of the surcharge, Denmark would give sympathetic consideration to specific requests for exemption of such products from the surcharge.

It was understood that these conclusions in no way prejudiced the rights of contracting parties under the General Agreement.