12. All members of the Working Party with the exception of the United States agreed that the Japanese practices were in full accord with the provisions of GATT, its established interpretation as well as established practice of the GATT. They also agreed that, should the court decision be upheld finally and if countervailing duties were imposed, the imposition of such duties would be in contravention of the provisions of the GATT including Article VI:1 and the note to Article XVI, and would constitute a prima facie case of nullification or impairment of Japan's rights under the General Agreement. They further shared the view that the United States Customs Court decision and the subsequent United States action was already in violation of the GATT and was causing a serious adverse trade impact upon Japanese exports to the United States.

13. The United States representative took note of the views expressed by other members of the Working Party. He informed the other members that the decision was being appealed expeditiously by this administration and that a decision of the United States Court of Customs and Patent Appeals, was expected sometime between mid-summer and early fall. With respect to the view expressed that the export rebate or remission of Japanese commodity taxes was consistent with the GATT, ./.
the United States representative noted that Article XVI said "The exemption of an exported product from duties or taxes borne by the like product when destined for domestic consumption, or the remission of such duties or taxes in amounts not in excess of those which have accrued, shall not be deemed to be a subsidy". He noted but declined to comment on the view that the suspension of liquidation on entries of Japanese electronic products currently in effect and any eventual assessment of countervailing duties was a nullification or impairment of benefits accruing under the General Agreement. He also noted the view that the suspension of liquidation and any eventual imposition of countervailing duties was a violation of the General Agreement, but stated that it would be inappropriate for him to comment thereon at this time.

The Working Party expressed serious concern regarding the implications of the United States Customs Court decision and its consequences for world trade and the GATT system itself. In this connexion, similar concern was also expressed about the possible proliferation of action of this kind affecting other products and other contracting parties.