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GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL
15 July 1981

MINUTES OF MEETING

Held in the Centre William Rappard on 15 July 1981

Chairman: Mr. D.S. McPHAIL (Canada)

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The Chairman stated that Item 6 of the proposed agenda (C/W/365), Australia - Article XIX action on certain works trucks and stackers, should be deleted from the agenda at the request of the interested delegations.

1. Africa, Caribbean and Pacific Group of States (ACP Group) - Request for observer status

The Chairman informed the Council that the Director-General had received a letter from the Secretary-General to the African, Caribbean and Pacific Group of States, requesting that the General Secretariat of the ACP Group be granted observer status at sessions of the CONTRACTING PARTIES and at the meetings of the Council of Representatives. The letter stated that the ACP Group Secretariat considered it very important to be kept well informed on the activities of GATT, since the major emphasis of the ACP Group was on trade co-operation and trade promotion.

The representative of Nigeria supported the request for observer status.

The Council approved of the request.

2. Tax Legislation

(a) Income tax practices maintained by France (C/114, L/4423)

(b) Income tax practices maintained by Belgium (C/115 and Corr.1, L/4424)

(c) Income tax practices maintained by the Netherlands (C/116, L/4425)

(d) United States tax legislation (DISC) (L/4422)

The Chairman said that it was his understanding that consultations were still in progress and that, according to his information, it would not be possible for the Council to arrive at conclusions at the present meeting.

The representative of the Netherlands said that, according to his instructions, he had to ask the Council to adopt the report on the Netherlands tax-practices with a qualification which would clarify the interpretation of the terms "export activities" in terms of Article XVI:4. In view of the Chairman's introductory statement, however, he understood that it would not be possible to deal with this matter at the present meeting. He expressed the regret of his authorities that it would again be necessary to postpone this matter to the next Council meeting.

The Council took note of the statements and agreed to revert to these matters at its next meeting.

3. Spain - Measures concerning domestic sale of soyabean oil - Report of the Panel (L/5142, L/5161)

The Chairman recalled that in January 1980 the Council had agreed to establish a Panel to examine the complaint by the United States. The Report of the Panel had been circulated in document L/5142 and Corr.1. In addition, a communication from the United States had been circulated in document L/5161.

Mr. A. Moerzinger (Uruguay), speaking on behalf of Mr. J.J. Real (Uruguay), Chairman of the Panel, noted that the Report contained four chapters, viz. an introductory chapter, a second chapter summarizing the purely factual aspects of the Spanish measures in question, a third chapter setting out the main arguments presented to the Panel by the parties to the dispute, and a fourth chapter with the findings and conclusions reached by the Panel. He said that in November 1980, and in accordance with the "Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance" (BISD 26S/210), the Panel had presented its findings and conclusions to the parties and had invited them to inform the Panel by the end of January 1981 whether they thought it possible to arrive at an agreement on the basis of bilateral consultations. Following such consultations, this did not prove to be possible. Accordingly, the Panel had submitted its Report for consideration by the Council. In conclusion, he stated that the Panel had reached its findings and conclusions unanimously.

The Chairman said that he understood that the two parties to this dispute had requested that consideration of the Panel's Report be deferred until a future meeting of the Council in the autumn.

The representative of Spain said that his authorities' decision not to discuss this matter at the present meeting naturally did not imply their agreement with the written comments of the United States (L/5161). He said that Spain reserved all its GATT rights in this matter.

The Council took note of the statements, and agreed to defer this item to a future meeting in the autumn.

4. European Communities - Refunds on exports of sugar (C/M/148, L/5175)

The Chairman recalled that in March 1981 the Council had considered the report by the Director-General on the discussions in a working party with the European Communities under Article XVI:1 on the possibility of limiting the subsidization of exports of sugar. The Council had adopted the report, had noted that the complaints were maintained, had taken note of the intention of the European Economic Community to notify to GATT as soon as they were adopted the new sugar regulations as well as the 1981/82 sugar intervention prices, had decided that as soon as these notifications were received the Council

would promptly review the situation, and had decided to maintain this item on its agenda. Further discussions had taken place at the meeting of 11 June 1981, and the Council had agreed to revert to this matter at the present meeting. The new Community regulations and intervention prices on sugar had been adopted on 30 June 1981. The Chairman said that the European Economic Community had meanwhile sent this information, which was available in document L/5175.

The representative of the European Communities affirmed that the EEC had honoured its commitment to notify the new regulations governing the Community sugar policy. As those regulations were very complex and the Council needed time to study them, he suggested that discussion on this item be deferred to the next meeting of the Council.

The representative of Brazil said that significant developments had taken place since this item had most recently been considered by the Council. He stated that between 10 June and 8 July, five more tenders had been granted by the Community, involving 414,000 tons of white sugar and 11,000 tons of raw sugar for which export licences had been granted. This meant that since 1 April 1981 over one million tons of white sugar and nearly 33,000 tons of raw sugar had been the object of export licences, for which the total amount of subsidies granted surpassed US$160 million. He said that his delegation could not agree to a postponement of the review, particularly since the Council had decided in March 1981 that as soon as the notifications were received it would promptly review the situation. He then proposed that, for technical reasons, the review should not be carried out by the Council itself, but rather by a body set up by the Council. In his view, the same situation existed now as in March 1981, except that an essential element, namely the notification by the EEC of the measures adopted, had now been made available. Therefore, it was most appropriate to reconvene the Working Party.

The representative of Australia supported the views expressed by the representative of Brazil. He said that the review should, in keeping with the decision of the Council, be undertaken promptly.

He then outlined the development of events which had led to the present situation, pointing out that the Working Party had been a mechanism to conduct discussions between the EEC and the CONTRACTING PARTIES on the possibility of limiting the subsidization of Community sugar exports. He said that during the discussions in the earlier Working Party on the possibility of limiting Community subsidies on sugar exports the representative of the European Communities had himself explained the proposed EEC sugar régime. The representative of Australia then cited a number of extracts from the report of the Working Party (L/5113) to illustrate the detailed attention which had been given by the Working Party to what had, at that time, been a

proposal for a new EEC sugar régime. He stressed the following points: (1) Discussion of the proposed new Community régime for the next five years had been a fundamental part of the Working Party proceedings. (2) Discussion of that régime had been introduced by the representative of the European Communities as a significant factor in terms of the EEC's limiting the subsidization of its sugar exports. (3) It had been pointed out by the representative of the European Communities in the discussions that the régime was subject to the acceptance by the Council of Ministers, and that the discussion in the Working Party could not be final since the proposed régime had not at that time taken effect.

The representative of Australia continued by stating that since the new régime had now come into effect, it would be appropriate to resume the earlier discussions in the Working Party. His delegation believed that in adopting the report of the Working Party, the Council had in mind that the discussion of this matter was not yet final.

The representatives of Cuba, the Dominican Republic, the Philippines, Peru, Nicaragua, Colombia, Argentina, India, Hungary, United Kingdom on behalf of Hong Kong, New Zealand, Uruguay and Chile supported the statements made by the representatives of Brazil and Australia.

The representative of the European Communities said that the EEC was ready to give explanations of the new regulations, bilaterally or plurilaterally on an informal basis. In his view, the earlier Working Party, having fulfilled its task, was no longer in existence. In any case, at the level of the Council discussion of this matter should be postponed in order to allow delegations sufficient time to study the new regulations.

In reply to a suggestion by the representative of the European Communities that the interested parties could ask for consultations on the new regulations, the representative of Brazil said that it was no longer the moment for consultations, as the situation had evolved and the matter was now before the Council.

In response to questions raised by the representatives of the United States and Australia, the Chairman said that the existence of a working party was related to its terms of reference. In normal GATT practice, when a working party fulfilled its mandate, it ceased to exist when the Council adopted its report. However, when adopting a report, the Council could nevertheless decide to continue the existence of a working party with new or modified terms of reference. He recalled that, in the instance under discussion, the Director-General had been invited to organize discussions in a working party and to submit a report to the Council within a stated time period, which had been accomplished. He said that while the Council might not be able to revive a defunct working party in the strictly legal sense, clearly it could decide to establish a new working party with similar or identical terms of reference.

The representative of Australia considered that this was not the ordinary type of working party. He recalled that in this case the CONTRACTING PARTIES had invited the European Communities to discuss with them the possibility of limiting subsidization. Furthermore, the Director-General had been invited to organize such discussions in a working party. In his view, those discussions had not been completed, and he was requesting that the Director-General resume them.

The Chairman said that it was up to the Council to decide what it meant by an earlier decision. Whereas nothing would prevent the Council from establishing a new working party to perform the same work, the Council could also interpret its earlier decision so as to continue the mandate of the old Working Party.

The representative of Canada said that all representatives which had spoken had agreed that the new EEC sugar régime should be given serious consideration, but that there existed differences of opinion as to the body in which this should take place. He proposed that the Council establish a new working party with the same terms of reference as previously, so that there would be no difference in the way in which the work proceeded.

The representative of the European Communities recalled that, in the view of the Community, the latter had fulfilled all its obligations under Article XVI:1 of the General Agreement, moreover, the EEC had duly notified its new sugar regulations, as required by the decision taken by the Council in March 1981. Therefore, his delegation could not support the reconvening of the working party or the establishment of a new one.

The representative of the United States sought clarification on the following points: (1) In dealing with matters of a highly technical nature, had it been the practice of the Council to establish working parties? (2) If one or several contracting parties asked for the establishment of a working party, was it in the tradition of GATT to grant such a request?

The Chairman replied that it had been the practice of the Council to establish working parties when dealing with matters of a highly technical nature, as well as in some cases with matters of a more general nature. As for the establishment of a working party, he stated that this was closely linked to the issue of the terms of reference for that working party.

The representative of the United States said that, in view of these clarifications, his delegation would support the proposal made by the representative of Canada to establish a working party with the same or similar terms of reference as those of the previous Working Party.

The representative of Jamaica stated that the central issue in this case was whether contracting parties felt that their interests were threatened or prejudiced. He said that the new Community sugar regulations had to be

seen in the light of any evidence that they prejudiced the interests of other contracting parties. Since the sugar regulations had only entered into force on 1 July, some time would be necessary before it became clear whether there existed a prejudice or a threat of prejudice to the interests of other contracting parties.

The representative of Brazil stated that he was willing, in the spirit of compromise, to support the Canadian proposal for a new working party with the same terms of reference as those of the earlier Working Party.

The representative of the European Communities regretted that the various interested contracting parties had not understood or had not been willing to listen to the message patiently expressed by the Community, namely that the new policy decided by the EEC represented in fact a limitation of the subsidy. Under the new régime there were no subsidies being paid out of the Community budget, as all exports of sugar took place under the financial responsibility of the sugar producers. He recalled his statement in the Working Party that the Community had respected its obligations under Article XVI:1, to the letter, and he repeated his suggestion that the Council review the situation in the near future.

The representative of Australia said that the claim just made by the representative of the European Communities - namely, that for a working party to examine the internal policy of one contracting party would represent a dangerous precedent and raise questions concerning the sovereignty of States - was fallacious. The internal policies of contracting parties were continually being examined in bodies established by the Council, such as working parties and dispute settlement panels, as well as by the Council itself. If the policies of a contracting party could not be so examined, then why was there a dispute settlement procedure in the GATT? He said that the General Agreement itself represented a voluntarily accepted limitation on the sovereignty of all those nations - including the ten member States of the EEC - which were signatories to it. In his view, the only "dangerous precedent" being established was the veto of the establishment of a working party by the European Communities. There was no doubt that it was normal GATT practice to establish a working party in cases such as the present one. While Australia would prefer to reconvene the earlier Working Party, it would, as a compromise, accept the proposal to establish a new working party with the same terms of reference as the earlier one.

Following a statement by the Chairman that no consensus was apparent in respect of the reconvening of the earlier Working Party, the establishment of a new one, or the deferral of discussion to a future meeting, the representative of Australia expressed concern that the Chairman had held there to be no consensus, even on the establishment of a new working party. The representative of Australia referred to paragraph 10 of the

Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/210). He noted that while the reference in that paragraph to the establishment of a working party was in the context of Article XXIII:2, the principle was, in his view, nevertheless clear: CONTRACTING PARTIES would decide to establish a working party if this were requested by a contracting party. This view was supported by past GATT practice.

The representative of India endorsed the Australian view and said that it would set a very bad precedent if the Council decided not to set up a working party when a serious request for doing so had been made. He stressed that this would have a particularly adverse impact for contracting parties not possessing retaliatory power.

The representative of Hungary also believed that, especially in cases involving prejudice or threat of prejudice to the interests of contracting parties, the Council should establish a working party. Although he was willing to give the accused party the benefit of the doubt in regard to the question of prejudice, he shared the concern expressed by other representatives about the consequences of one party resorting to the concept of sovereignty in such instances and thus depriving other parties from the opportunity to make their case. Speaking as a small country, which must necessarily rely heavily on legal procedures, he called upon the goodwill of all contracting parties to co-operate in the resolution of disputes within the GATT.

The representative of the United Kingdom, speaking on behalf of Hong Kong, suggested that the Council should meet in the near future in order to conduct the review of this matter.

After a recess, and following consultations among the delegations principally concerned, the Council:

Noted with appreciation the notification by the European Economic Community of its new sugar regulations as well as the 1981/82 sugar intervention price (L/5175);

Took note of the statements made;

Recalled its decision of 10 March (C/M/146, pages 20-21)[1];

Decided to promptly review the situation in accordance with this decision at a meeting of the Council after the summer recess.

The representative of Australia said that his Government continued to be extremely dissatisfied with the EEC position on the Panels' findings in relation to Article XVI:1, and with the Community's refusal to allow the Working Party to be reconvened to examine its new sugar régime. Australia could not indefinitely accept a situation in which the EEC interpreted the GATT and Council decisions one way, and contracting parties affected by EEC policies interpret them another way, with the result that complaints remain unresolved both in terms of the GATT and world sugar trade. Australia's interpretation of the situation which would be reviewed by the Council at its next meeting was as follows: the Panels' findings of serious prejudice were still valid. As noted in the Working Party report and subsequent discussions, the EEC had not satisfied Australia and other interested contracting parties that it had taken any steps that would effectively limit its subsidization or remove or limit its system's prejudicial effects; that until such time as the Community took such steps, its subsidy system was in breach of the GATT; the Working Party's report was inconclusive and, as decided at the Council meeting on 10 March 1981, this item was being kept on the Council agenda; as recognized in the Council decision of 10 March 1981 the Australian complaint was maintained. Australia's complaint did not require further consultations under Article XXII or Article XXIII; the purpose of the next Council meeting would be to review the new Community sugar régime and intervention price in the context of the findings of the Panels in relation to Article XVI:1; this issue would be the only item on the agenda of the Council.

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[1] "With regard to the report by the Director-General on the Working Party established by a decision of the Council on 10 November 1980 and by a decision of the CONTRACTING PARTIES at their thirty-sixth session on 25 November 1980 to discuss with the European Economic Community the possibility of limiting subsidization of sugar exports, the Council:

Hereby adopts the Report;

Notes that the complaints are maintained;

Takes note of the intention of the European Economic Community to notify to GATT as soon as it is adopted the new sugar regulations as well as the 1981/82 sugar intervention price;

Decides that as soon as these notifications are received the Council will promptly review the situation;

Decides to maintain this item on its agenda."

The representative of Brazil said that his delegation was satisfied that a right decision had been reached, and that he understood this decision as follows: the date of the Council meeting should be known in advance so that adequate preparations could be made by the interested parties and by the secretariat; it was implicit in the Decision that this Council meeting would be devoted only to the review of this situation and to no other item of business; and it was important that adequate facilities would be assured for the meeting for as long as it lasted.

The representative of the European Communities expressed regret that the item had not been concluded in a spirit of co-operation. He said that the statement by the representative of Australia had not been foreseen, and that his delegation rejected the statement in its entirety.

The Chairman said that at the end of the present meeting he would announce the date for the next meeting, and that the secretariat would make adequate preparations for it, in consultation with the principally concerned delegations. He said that in following its normal practice, the Council would allow for as much time as necessary at the next meeting for discussion of this item.

5. International Trade Centre
- Report of the Joint Advisory Group (ITC/AG(XIV)/75)

Mr. García Reynoso (Mexico), Chairman of the Joint Advisory Group on the International Trade Centre UNCTAD/GATT, introduced the report of the Group on its fourteenth session. He said that the total value (excluding support costs) of the Centre's technical co-operation programme in 1980 had been $14.83 million, which represented an increase of 8.5 per cent over the 1979 programme, and had mainly been financed through extra-budgetary trust funds (71.9 per cent as against 75.5 per cent in 1979) and UNDP financing (28.1 per cent as against 24.5 per cent in 1979). He gave an account of the shares of the various regions, and of inter-regional projects in the total programme. He said that, when reviewing the Centre's technical co-operation programme, the Group had paid particular attention to the difficult task the Centre would have in attempting to expand its programme while facing the zero growth which had been imposed on its regular budget resources, and the very low expansion of its extra-budgetary resources; the declining share of Africa in the Centre's overall programme, particularly in view of the gravity of the problems facing African countries; the importance and usefulness of the specialized trade promotion services offered by the Centre; the qualitative and quantitative improvement in the resource situation concerning the Training Service which should be achieved in 1981 to enable the Centre to attend to the pressing needs for training by developing countries; and the Centre's programme of technical co-operation in import operations and techniques.

He said that the second Medium-Term Programme (MTP) 1981-1983, with its ten programme areas, had been carefully considered by the Group and found to be a useful framework within which the ITC could develop its activities over the coming year, although it had been recognized that the financial requirements for the implementation of the second MTP would call for an enlargement in the number of trust fund donors and a greater utilization by developing countries of UNDP resources. The Group had noted the request by the United Nations Secretariat that the ITC submit proposals for an MTP covering the period 1984-1989, not later than end of January 1982. The Group had decided therefore to reconvene during the next session of the Technical Committee in January 1982, to consider this matter.

He said that the Group had decided to reconsider at its 1982 session whether the Centre should seek Executing Agency status with the UNDP or continue as the implementing agency, through UNCTAD, of trade promotion components of UNDP-financed programmes. The Group had supported the recommendations made by a joint ITC/UNDP evaluation team on the institutional infrastructure for trade promotion at the national level, which had been discussed at the tenth session of the Technical Committee of the Group. The Group had also discussed the work of the Centre relating to economic and technical co-operation among developing countries, technical co-operation with State-trading organizations, and trade between developing countries and the socialist countries of Eastern Europe. He said that the Group had expressed concern regarding the resource situation of the Centre, noting that the traditional source of funds for the Centre's technical co-operation programme, i.e. trust funds from major donor governments, had levelled off and that the Centre had not, despite great efforts, been able to acquire new donors. Also, although UNDP financing had been slowly expanding in recent years, it was not yet sufficient to enable the Centre to respond to all requests received from developing countries at a time when the economic development process of the developing countries depended greatly on their trade promotion efforts.

The Council adopted the report (ITC/AG(XIV)/75).

6. European Economic Community - Production subsidies on canned fruit (L/5167)

The Chairman recalled that this matter had been placed on the Council agenda for the meeting in June 1981 at the request of Australia, and that the Council had agreed to revert to it at the present meeting.

The representative of Australia said that his delegation had raised this matter under the provisions of Article XXIII, and drew attention to the request by his Government for consultations with the EEC under Article XXIII:1, which had been circulated as document L/5167. He expressed confidence that a mutually satisfactory date for such consultations would be arranged.

The Council took note of the statement.

7. Italy - Deposit requirement for purchases of foreign currency (L/5162)

The Chairman recalled that the representative of Italy had raised this matter at the meeting of the Council on 11 June 1981. Thereafter, a communication from the delegation of Italy had been circulated in document L/5162.

The representative of Italy confirmed that at the end of May 1981 the Italian authorities had decided that all purchases in Italian lire of foreign currency for payments abroad by residents would be subject to the lodging with approved banks of a prior deposit in lire. The measure was to remain in force until 1 October 1981 and was designed to control disequilibria caused by inflation, i.e. to meet an exceptional aggravation of Italy's balance-of-payments deficit and contribute to reduce monetary circulation.

A good part of the surplus liquidity existing in the market had been mopped up as a result of the measure. At the same time, the balance of payments had also benefited from new foreign short-term trade credits. In addition, monetary measures adopted at the beginning of the year had already considerably reduced bank credit possibilities and the new government was currently making considerable reductions in public expenditure.

He was convinced that no interpretation of GATT or no legal or even logical provision implied that a purely passive attitude should be taken in a situation characterized by a shift from a surplus of $5,200 million in 1979 to a deficit of nearly $10,000 million in 1980. That deficit had worsened still further in the first five months of 1981.

In his view, the measures were monetary in both origin and character and could not be said to be trade measures, at least in the technical sense; moreover, they had not created and were not creating any protectionist barrier in the sense that no sector was exempted from the deposit requirement. Nor was there any discrimination, since the measures were applied even to EEC countries.

The representative of the European Communities said that the Commission of the European Communities had examined the measure in detail under Article 108.1 of the Treaty of Rome. It had made recommendations to the Italian authorities and was following developments closely.

The representative of the International Monetary Fund stated that the Italian authorities had notified the Fund of the advance deposit requirement for payments abroad imposed on 28 May 1981. He said that the measure introduced by the Italian authorities constituted a restriction on current international transactions, under Article VIII, Section 2(a), of the Fund's Articles of Agreement, and as such required approval by the Fund. The Executive Board of the Fund had met on 8 July 1981 to examine the measure in the light of Italy's present economic circumstances and, in view of the Italian authorities' stated intention to apply it for a period of about four four months only, had adopted a decision granting approval to the exchange restriction until 30 September 1981.

He reiterated to the Council the willingness of the Fund to co-operate fully with the GATT, as in the past, in whatever decision the Council were to adopt on this matter.

The representative of the United States said that, although his Government sympathized with Italy in its efforts to resolve its economic difficulties, the United States regretted that Italy had chosen a measure that could not fail to have a restrictive impact on trade. His authorities believed the matter should be examined by the Committee on Balance-of-Payments Restrictions as soon as practically possible, and hoped that the necessary documentation for this examination could be prepared rapidly, preferably by mid-August.

The representative of Canada associated himself fully with the remarks of the representative of the United States. In his view, the Committee on Balance-of-Payments Restrictions should address these measures as soon as practicable, and preferably before their scheduled expiry date.

The representative of Romania stated that the Italian measures had affected and continued to affect the trade relations between Romanian exporting firms and their Italian counterparts. His delegation wished to request the Italian authorities to examine the feasibility of removing this measure before 1 October 1981, and supported the proposal for an examination in the Committee on Balance-of-Payments Restrictions.

The representative of Sweden recalled that his Government had on a number of occasions expressed serious reservations of principle with regard to the use of import deposits as a trade policy instrument, noting that their use in a developed country went against the spirit of the OECD "Trade Pledge" as well as the GATT Declaration on Trade Measures taken for Balance-of-Payments Purposes (BISD 26S/205). Consequently, although Sweden recognized the Italian balance-of-payments difficulties, his Government deeply regretted that Italy had decided to introduce import deposits, and hoped that they would be rapidly abolished, if possible by 1 October 1981.

The representative of Chile and India, in noting that the Italian measures had been adopted in view of that country's balance-of-payments difficulties, supported the proposal to submit the matter to the Committee on Balance-of-Payments Restrictions.

The representatives of Italy said that, in the opinion of his Government, the rules applying to trade measures for balance-of-payments reasons did not apply to the measure which had been taken by Italy, since this was of a monetary nature. For the time being, his authorities had discerned no physical slackening of imports. Italy was nonetheless fully prepared to continue the discussion on the matter. In his view, the collection of statistics for an investigation of the trade impact of the measure would require at least two or three months. It seemed most unlikely, therefore, that discussion could be resumed before October.

The Council took note of the statements and agreed that this matter should be taken up by the Committee on Balance-of-Payments Restrictions as soon as possible. It further agreed that informal consultations could take place concerning the date of that meeting.

8. Dates for the thirty-seventh session of the CONTRACTING PARTIES (C/120)

The Chairman recalled that at their thirty-sixth session the CONTRACTING PARTIES had agreed that the thirty-seventh session should be held in the week beginning 23 November 1981, and that the Council should be authorized to fix the opening date and the duration of the session in the course of 1981.

The Council agreed that the thirty-seventh session should be opened on Monday, 23 November p.m., and that the duration should be fixed at three to four days. The Council would be free to reconsider this date if circumstances should so require.

9. Agreement between the EEC and Yugoslavia
- Designation of the Chairman of the Working Party

The Chairman recalled that in December 1980 the Council had established a Working Party to examine the Agreement between the EEC and Yugoslavia, and had authorized the Chairman of the Council to nominate the Chairman of the Working Party in consultation with the delegations principally concerned.

He informed the Council that, following such consultations, Mr. Hochhörtler (Austria) had been designated Chairman of the Working Party.

The Council took note of the nomination.

10. United States - Imposition of countervailing duty without injury criterion/Industrial fasteners imported from India

The representative of Australia, speaking under "Other Business", referred to the Panel established by the Council in November 1980 to examine the complaint by India. He informed the Council that his authorities intended to make both a written and an oral submission to the Panel at the appropriate time. He said that he understood that such a request would be favourably entertained by the Panel.

The Council took note of the statement.

11. United States - Agricultural Adjustment Act

The representative of New Zealand, speaking under "Other Business", recalled the debate at the Council meeting on 10 March 1981, when the Council had before it the twenty-third annual report on the waiver granted to the

United States on 5 March 1955. At that meeting the Council had noted the statements and had requested the United States to provide additional information. He said that his delegation wished to remind all contracting parties of that request.

The Council took note of the statement.

12. Japan - Measures on edible fats containing milk fat

The representative of New Zealand, speaking under "Other Business", recalled that on a number of occasions New Zealand had drawn attention to reports that the Japanese authorities were proposing to take measures which would restrict imports of prepared edible fats containing milk fat. He said that consultations between Japan and New Zealand had resulted in agreement on the development of trade over the period 1981 to 1984. He added that New Zealand retained its rights to bring the matter before the GATT again, should this become necessary.

The Council took note of the statement

13. United States - Import duty on vitamin B12
- Recourse by the European Economic Community

The Chairman, speaking under "Other Business", recalled that in June 1981 the Council had agreed to establish a Panel to examine the complaint by the EEC, and had authorized the Chairman of the Council, in consultation with the parties concerned, to draw up appropriate terms of reference and to nominate the Chairman and members of the Panel.

He informed the Council that the Panel would have the following terms of reference:

"To examine, in the light of the relevant GATT provisions, the matter referred to the CONTRACTING PARTIES by the European Economic Community in documents L/5157 and L/5129 and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations and rulings provided for in Article XXIII:2."

He said that consultations on the composition of the Panel were still in progress, but that as soon as agreement had been reached in this respect, the Panel would commence its work.

The Council took note of the terms of reference of the Panel.