GENERAL AGREEMENT ON TARIFFS AND TRADE

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MINUTES OF MEETING

Held in the Centre William Rappard on 26 January 1983

Chairman: Mr. H.V. Ewerlöf (Sweden)

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1. Action Programme resulting from the Ministerial Meeting (L/5424, SR.38/9, page 2, W.38/3, C/W/407)

The Chairman stated that it would be appropriate for the Council, at its first meeting following the Ministerial meeting, to make the necessary dispositions for implementing the decisions taken by Ministers (L/5424, SR.38/9). To facilitate the work of the Council and to provide a framework for the discussion on various points, he had circulated a Note (C/W/407) listing the matters upon which decisions had been taken by Ministers. He said that with respect to each of the points, he would propose what seemed to him the most appropriate action for the Council to take, based on the results of his informal consultations with delegations. In his view, it was very desirable - indeed essential - that the process of implementing the decisions taken by Ministers go forward smoothly and without any unnecessary delay. He emphasized that at the present meeting the Council should deal in one way or another with all the items before it, and stressed that at this stage the Council would not be considering the underlying substantive issues, but rather the procedural or mechanical steps necessary to put the Ministerial Declaration into motion.

He said that in respect of paragraph 7(i) of the Ministerial Declaration (L/5424, page 3) his informal consultations had suggested that in the view of many delegations it would be necessary to provide some review of the performance by governments of the undertakings therein. It was his understanding that delegations would want to consult informally in the forthcoming weeks on the question of the review.

The Council then considered the list of points in document C/W/407, as follows:

(a) Safeguards (L/5424, pages 4-5; SR.38/9, page 2)

The Chairman proposed that the Council take note of the decision on Safeguards (L/5424, pages 4 and 5) and of the statement by the Chairman of the Ministerial meeting in his summing up, which stressed the urgency which Ministers attached to the negotiation of a comprehensive understanding on Safeguards (SR.38/9, page 2). He proposed that the Council also take note that an interim report on this subject was requested, of his intention to convene informal consultations on this matter very shortly, and that the Safeguards Committee would be convened after these consultations had taken place.

It was so agreed.

(b) GATT Rules and Activities Related to Developing Countries (L/5424, pages 5-6, 15-16)

The Chairman proposed that the Council take note that the Committee on Trade and Development would take the necessary action for the implementation of the decision by Ministers under GATT Rules and Activities Relating to Developing Countries and the Annex to that decision (L/5424, pages 5-6, 15-16).

It was so agreed.

(c) Dispute Settlement Procedures (L/5424, pages 6-8)

The Chairman proposed that the Council take note of the decision adopted by Ministers on Dispute Settlement Procedures (L/5424, pages 6-8) and in particular of its sub-paragraphs (i), (ii) and (vii), under which the Council would receive information and would be called upon to take action on specific cases, and of sub-paragraph (viii), which provided for periodic reviews by the Council of action taken pursuant to recommendations or rulings of the CONTRACTING PARTIES.

It was so agreed.

(d) Trade in Agriculture (L/5424, pages 8-9)

The Chairman proposed that the Council take note of the decision on Trade in Agriculture (L/5424, pages 8-9) and agree that the Committee on Trade in Agriculture be constituted. The Committee would conduct its first meeting on 2-4 March 1983. It would be the Committee's responsibility to designate its Chairman.

It was so agreed.

(e) Tropical Products (L/5424, page 9)

The Chairman proposed that the Council take note of the work on liberalization of trade in tropical products that had been carried out by the Committee on Trade and Development and agree that the Committee should make arrangements for carrying out the consultations and appropriate negotiations aimed at further liberalization of trade in tropical products as envisaged in the relevant decision by Ministers (L/5424, page 9) including the establishment of such special group or body as may be considered necessary for this purpose.

It was so agreed.

(f) Quantitative Restrictions and Other Non-Tariff Measures (L/5424, page 10)

The Chairman proposed that the Council take note of the decision on Quantitative Restrictions and Other Non-Tariff Measures (L/5424, page 10), and agree that the Group on Quantitative Restrictions and Other Non-Tariff Measures be constituted, open to all contracting parties, to carry out the task described in paragraph 1 of the decision and to report to the Council as prescribed in paragraph 2. The Group would conduct its first meeting on 10-11 March 1983. It would be the Group's responsibility to designate its Chairman.

It was so agreed.

(g) Tariffs (L/5424, page 10)

The Chairman proposed that the Council take note of the decision on Tariffs (L/5424, page 10) and request the Committee on Tariff Concessions and the Committee on Trade and Development to give prompt attention to the problem of tariff escalation and to make appropriate recommendations on action directed towards its elimination or reduction.

He proposed that the Council also take note of the elements in the decision related to the introduction of a common system for classifying products for tariff and statistical purposes.

It was so agreed.

(h) MTN Agreements and Arrangements (L/5424, page 11)

The Chairman proposed that the Council take note of the decision on MTN Agreements and Arrangements (L/5424, page 11) and that he would continue informal consultations with delegations on this matter as to how the review could most effectively be carried out, and agree to revert to this point at the next meeting of the Council.

It was so agreed.

(i) Structural Adjustment and Trade Policy (L/5424, page 11)

The Chairman proposed that the Council take note that the work to be done on Structural Adjustment and Trade Policy in fulfilment of the decision (L/5424, page 11) would fall to the existing Working Party. He also proposed that the Council designate Mr. Henrikson (Sweden) Chairman of the Working Party and take note that the Committee would hold its next meeting on 1 March 1983.

It was so agreed.

(j) Trade in Counterfeit Goods (L/5424, page 11)

The Chairman proposed that the Council take note of the decision on Trade in Counterfeit Goods (L/5424, page 11) and that the Council had been instructed therein to examine this question. He also proposed that the Council take note that for the purposes of the examination of this question the Director-General would hold consultations with the Director-General of WIPO with the intention to report back to the Council within the following two or three months.

It was so agreed.

The representative of the United States said that depending on the results of the Director-General's consultations, his delegation might ask the Council at a later stage to establish a working party to examine the results of the consultations.

The Council took note of the statement.

(k) Export of Domestically Prohibited Goods (L/5424, page 11)

The Chairman proposed that the Council take note of the decision on the Export of Domestically Prohibited Goods (L/5424, page 11) and that the secretariat would be expected to make the necessary arrangements.

It was so agreed.

The representative of the United States asked that the secretariat, in making the necessary arrangements, begin the process as promptly as possible in the light of the considerable amount of work entailed in carrying out the decision.

The Council took note of the statement.

(l) Export Credits for Capital Goods (L/5424, page 12)

The Chairman proposed that the Council take note of the decision on Export Credits for Capital Goods (L/5424, page 12) and that the Director-General would be consulting contracting parties as requested.

It was so agreed.

(m) Textiles and Clothing (L/5424, pages 12-13)

The Chairman proposed that the Council take note of the decision on Textiles and Clothing, and that the secretariat be asked to produce documentation covering the study referred to in the first paragraph of the decision - parts (i), (ii) and (iii) - with such assistance as it needed from delegations. Once this documentation was available, the Council would make further arrangements by setting up a working group as necessary for finalizing the study and carrying out the examination of the modalities for further liberalization envisaged in the second paragraph of the Ministerial decision.

The representative of the United Kingdom, speaking on behalf of Hong Kong, expressed the view that the secretariat should finalize the study referred to in paragraph 1 of the decision before any working group was established to examine it under paragraph 2.

The representative of the United States agreed with the Chairman's proposal, and said that he did not subscribe to the view expressed by the representative of the United Kingdom, speaking on behalf of Hong Kong.

The representative of Mexico, speaking as an observer, said that it was the understanding of his delegation that all parties to the Arrangement Regarding International Trade in Textiles (BISD 21S/3) would participate actively in the implementation of the decision by Ministers.

The representative of Brazil shared the view expressed by the representative of the United Kingdom, speaking on behalf of Hong Kong, since paragraph 1 of the decision called for a study, paragraph 2 for the examination of the results of that study, which would accordingly have to be completed beforehand, and paragraph 3 called for completing the work. He suggested that the Chairman's proposal be amended to follow more closely the wording of the decision itself, on the grounds that it was essential that nothing be added to or subtracted from the text here or elsewhere in the Ministerial Declaration.

The representative of India supported the statement by the representative of Brazil and considered that the Chairman's proposal should not refer to finalizing the study but rather to completion of the work.

The representative of Canada referred to the sequential aspect of the matter. He pointed out that in the decision the CONTRACTING PARTIES had decided to carry out a study, and that there was no mention of a study to be carried out by the secretariat, followed by the establishment of a working party.

The representative of the United Kingdom speaking on behalf of Hong Kong, suggested that the Chairman's proposal be amended to provide for "a working group as necessary for completing the work called for in the decision."

Following the discussion, the Council took note of the decision on Textiles and Clothing (L/5424, pages 12-13) and requested the secretariat to produce documentation covering the study referred to in the first paragraph thereof - parts (i), (ii) and (iii) - with such assistance as it needed from delegations. Once this documentation was available, the Council would make further arrangements by setting up a working group as necessary for completing the work called for in the decision. The Council also took note of the statements by representatives.

(n) Problems of Trade in Certain Natural Resource Products (L/5424, page 13)

The Chairman proposed that the Council take note of the decision on Problems of Trade in Certain Natural Resource Products. He also proposed that the Council take note that informal consultations were taking place among delegations on terms of reference, time frame and procedures, and that the secretariat would endeavour to draft terms of reference which would permit the Council to take action at its next meeting. He proposed that the Council agree to revert to this matter at its next meeting and that, in the meantime, in areas where there existed substantial agreement, the secretariat could begin some of the technical work.

The representative of Finland, speaking on behalf of the Nordic countries, said that they were prepared to proceed with the studies without delay, if this could be done without disturbing the work to be done on the priority items for which the Ministers had fixed clear deadlines. He wished to draw attention to the following considerations: first, the Nordic countries would find it logical to start the studies by requesting the secretariat to provide the necessary factual documentation without fixing an absolute deadline for its presentation, but with the expectation that the secretariat proceed as speedily as it could. Second, they would prefer to postpone any decision of the procedures to be applied until the documentation was ready. It was probable that working parties would be needed; but the Nordic countries would expect to have a look at the documentation prepared by the

secretariat before a final decision on the establishment of working parties. Third, the Nordic countries did not find it timely to fix the final deadline for the studies before having the documentation in hand. The deadline should be fixed at the same time as the procedural decisions related to the finalization of the studies.

The representative of Canada said that the Ministerial Declaration contained a wide range of elements of greater or lesser priority to the different governments, which had accepted all of them in the spirit of compromise and consensus-forging which animated the GATT as an institution. Representatives now had the clear responsibility to follow through on the Ministers' decisions. Canada considered that one of the most attractive elements in the work programme was the commitment to undertake systematic work on trade in fisheries products. His delegation had held consultations with other delegations and the secretariat concerning terms of reference for implementing this work, in the course of which Canada had attempted to take into account the interests of some of its trading partners by making reference to the economic zone, which was drafted so as to be limited to the trade effects. It had not been possible to agree on terms of reference before the present meeting of the Council. He said that under the circumstances Canada remained flexible as to the inclusion of reference to the economic zone, but stressed that Ministers had taken a decision on the inclusion of fisheries and other resource-based products in the work programme, and said that the Council should be encouraged not to allow the decision to be thwarted through procedural disagreements.

The representative of Chile said that the products in question should be dealt with separately, and not as a group, and said that the secretariat should proceed with work in those areas where there was consensus.

The representative of New Zealand supported the proposal by the Chairman.

Following the discussion, the Council took note of the decision on Problems of Trade in Certain Natural Resource Products (L/5424, page 13). The Council also took note that informal consultations were taking place on terms of reference, time frame and procedures, and that the secretariat would prepare draft terms of reference which would permit the Council to take action at its next meeting. The Council agreed to revert to this matter at its next meeting and that, in the meantime, in areas where there existed substantial agreement, the secretariat could begin some of the technical work. The Council also took note of the statements by representatives.

(o) Exchange Rate Fluctuations and their Effect on Trade (L/5424, page 14)

The Chairman proposed that the Council take note of the decision on Exchange Rate Fluctuations and their Effect on Trade (L/5424, page 14), and that the Director-General would consult the Managing Director of the International Monetary Fund, as requested, in the near future and would report back to the Council on the results of these consultations.

It was so agreed.

(p) Dual Pricing and Rules of Origin (L/5424, page 14)

The Chairman proposed that the Council take note of the decision on Dual Pricing and Rules of Origin (L/5424, page 14) and that delegations be invited to send to the secretariat any comments or suggestions they may have on these subjects and on the manner in which these studies should be carried out.

It was so agreed.

(q) Services (L/5424, page 14)

The Chairman proposed that the Council take note of the decision on Services, including the recommendation and invitation to contracting parties, that the Council would revert to this matter at a later stage, and that consultations were taking place concerning certain points related to the decision.

The representative of the United States said that with reference to the consultations which were taking place on certain points, his authorities remained keenly interested in this subject and intended to hold informal consultations with any interested contracting parties with regard to the Ministerial decision, particularly paragraph 2.

The representative of Colombia said that his delegation hoped to participate as actively as possible in the consultations. Speaking on behalf of the Informal Group of Developing Countries in GATT, he said that for the majority of those delegations the Ministerial decision was very clear, and that it would not be possible to go beyond what had been decided.

The Council took note of the decision on Services (L/5424, page 14), including the recommendation and invitation to contracting parties. The Council agreed to revert to this matter at a later stage and noted that consultations were proceeding concerning certain points related to the decision. The Council also took note of the statements by representatives.

(r) Aspects of Trade in High-Technology Goods (SR.38/9, page 2, C/W/409)

The Chairman drew attention to document C/W/409 containing a communication from the United States related to this matter.

He proposed that the Council take note of the decision on Aspects of Trade in High-Technology Goods (SR.38/9, page 2) as well as the proposal by the United States (C/W/409), and that there would be further consultations on this matter, and agree to revert to it in due course.

It was so agreed.

(s) Trade in Tropical Agricultural Products - Proposals by the Ivory Coast (SR.38/9, page 1, W.38/3)

The Chairman proposed that the Council take note that the Committee on Trade and Development would examine, at its next session, the proposals on Tropical Agricultural Products presented by the Ivory Coast (SR.38/9, page 1, W.38/3) with a view to determining further action that might be taken.

It was so agreed.

(t) General considerations

The representative of the European Communities believed that the Ministerial Declaration and its accompanying observations constituted a whole which must be implemented as such, without reopening the discussions of the preparatory phase. He felt that the implementation of the Ministerial decisions was to be approached as a long-term effort; a work programme had been established for the rest of the 1980s, which must be carried out harmoniously. With reference to the 1984 deadline in many decisions, he expressed caution since he feared that all the issues involved might not be resolved by that date. He also said that the multiplication of additional organs should be avoided: a proliferation of bodies would make it difficult for delegations, in particular the smaller ones, to carry out their work. In this context he referred to the decisions related to tropical products, to natural resource products and to textiles and clothing.

He was concerned by a tendency to want to decide for the secretariat on how it should carry out the tasks assigned to it. In his view, the secretariat should assume its own responsibilities, develop working hypotheses and consult with delegations as necessary. If the secretariat were required to obtain the permission of all the contracting parties in respect of the details involved in carrying out its tasks, then it could no longer be expected to feel responsible for its own work.

Turning to some specific subjects, while his delegation favoured pushing forward in the work on Trade in Counterfeit Goods as quickly as possible, he considered that the consultation process should proceed at the appropriate pace. While his delegation was favourably disposed towards the position expressed by the representative of the United States in this respect, he felt that it was premature to consider at this stage what steps should be taken after the Director-General had completed his consultations with the Director-General of WIPO. In respect of Textiles and Clothing, although the decision did not specify whether the study was to be carried out by the secretariat or by a working party, he considered that the secretariat was fully capable of dealing with all three points in paragraph 1 without the need for a working party. He proposed that it be left to the Director-General to implement the decision as diligently as possible and to consult with

delegations as appropriate. He proposed that it be left to the secretariat to decide how it would tackle the problem. In respect of Services, his delegation fully shared the view expressed earlier by the representative of Colombia, and did not want the implementation of the decision to be used as a pretext to question in any way the compromise which had been reached. There should be no dilatory measures on the one hand and no undue haste on the other. No attempt should be made to add to the text of the Ministerial Declaration, while delegations were nonetheless free to begin consultations.

The representative of Poland agreed that informal consultations were the proper channel for pursuing the compromise on some of the outstanding problems, but urged that a proper balance be maintained between the informal and formal procedures in carrying out the work.

The Chairman expressed the hope that interested delegations would take the initiative in bringing to his attention their views on particular matters.

The representative of Brazil referred to the earlier statements by the representatives of the European Communities and of Colombia, and said that the Ministerial Declaration could only be changed by the CONTRACTING PARTIES themselves. Nothing could be added to or subtracted from it, either by the Council or any other GATT organ, including the Committee on Trade and Development, or by the secretariat. This applied to all parts of the Declaration, notably the Ministers' declaration proper in the first part of the document and the so-called operational decisions which followed. These decisions should be interpreted as constituting the normal work programme in GATT; and existing mechanisms should be utilized to the greatest extent possible. His delegation had noted that informal consultations would be held on some points in the operational decisions.

Following the discussion, the Chairman expressed satisfaction that at its first meeting following the Ministerial meeting, the Council had been able to deal with all the decisions contained in the Ministerial Declaration and had set into motion the follow-up work in a constructive spirit. In his view, this was very promising for the further work of the Council.

The Council took note of the statements.

2. Committee on Balance-of-Payments Restrictions

(a) Notes by the Committee (BOP/R/127, 130)

Mr. Feij (Netherlands), Chairman of the Committee on Balance-of-Payments Restrictions, said that at its meeting on 11 October 1982 the Committee had agreed that the secretariat should prepare, in addition to reports on balance-of-payments consultations, notes on the Committee's discussions of any "other business", in particular follow-up action on previous consultations and on notifications of trade measures taken for

balance-of-payments purposes made under the Declaration on Trade Measures Taken for Balance-of-Payments Purposes. He drew attention to the two Notes on the meeting of October 1982 (BOP/R/127) and on the meeting of December 1982 (BOP/R/130).

The Council took note of documents BOP/R/127 and 130.

(b) Consultation with Israel (BOP/R/129)

Mr. Feij said that at the consultation with Israel in November 1982 the Committee noted that in November 1980 the Israeli Government had terminated the import deposit scheme introduced in November 1979. The Committee had also noted that, to reduce its widening current account deficit, Israel had extended the coverage of its list of quantitative restrictions and had introduced a three per cent temporary surcharge on all imports. The Committee believed these additional restrictive measures could have been avoided through a strengthening of more fundamental adjustment policies which the Israeli authorities were already pursuing. The report of this consultation was contained in document BOP/R/129.

The Council took note of the statement and adopted the report.

(c) Consultation with Bangladesh, Ghana and the Philippines (BOP/R/128)

Mr. Feij said that in November 1982 the Committee had held consultations with Bangladesh, Ghana and the Philippines in accordance with the simplified procedures. In its report contained in document BOP/R/128 the Committee had concluded that full consultations by Bangladesh and the Philippines were not desirable and had decided to recommend to the Council that these countries be deemed to have fulfilled their obligations under Article XVIII:12(b) for 1982. The Committee had also noted that over a decade had elapsed since the last full consultation with Ghana and that a number of changes had been introduced in Ghana's import régime which warranted a more detailed review by the Committee. For these reasons the Committee had decided that a full consultation should be held with Ghana in 1983.

The Council took note of the statement and adopted the report. The Council agreed that Bangladesh and the Philippines be deemed to have consulted with the CONTRACTING PARTIES and to have fulfilled their obligations under Article XVIII:12(b) for 1982, and agreed that a full consultation should be held with Ghana in 1983.

(d) Arrangements for consultations in 1983 (C/W/406)

The Chairman drew attention to document C/W/406 containing a note by the secretariat on the consultations to be carried out in 1983.

The Council took note of the information contained in document C/W/406.

3. United States tax legislation (DISC)
- Follow-up on the report of the Panel (C/M/157, page 16; C/W/389 and Suppl. 1; C/W/391; C/W/392; L/4422; L/5271)

The Chairman recalled that at its meeting on 1 October 1982 (C/M/161), the Council had agreed that it might revert to this item at a meeting after its meeting on 2 November 1982.

The representative of the European Communities asked if the United States delegation could report any new developments on this subject.

The representative of the United States replied that since the Council meeting in October 1982, there had been intensive efforts in Washington to develop a proposal for amending the DISC legislation, which would be submitted by the U.S. Administration to Congress in order to address the concerns expressed by the members of the GATT Council. He added that since October, there had been three Cabinet meetings and many consultations with the U.S. business community to find an acceptable alternative to DISC that all affected parties could support. Substantial progress had been made toward reaching agreement on the basic principles for inclusion in a DISC alternative, but more work needed to be done on the details of such a proposal. His delegation anticipated that a final proposal would have been developed by the next Council meeting in March 1983.

The representative of the European Communities said this issue had been pending for a long time, and that all the Council had heard from the representative of the United States at the present meeting was a promise. His authorities believed that the Council should decide upon the draft decision submitted by the EEC six months previously in document C/W/392. He said that as time went by, the economic damage caused to the EEC by the DISC system was worsening, so it was legitimate for the Council to authorize the EEC, at the present meeting, to take steps to offset that injury. He added that the EEC had not pressed adoption of the draft decision in late 1982 because of preparation for the November 1982 Ministerial session; but the EEC believed that adoption of the draft decision now would help to speed up the U.S. legal process towards changing the DISC system. If the injured party did nothing and did not demand compensation, maybe yet another year would go by without action.

The representative of Canada said his delegation was encouraged by the statement of the representative of the United States. Canada would, however, reserve its judgment on whether the U.S. proposal would serve as an adequate basis on which the DISC legislation could be brought into conformity with U.S. obligations under the GATT. He said Canada was sympathetic to the EEC's views on this question. Canada continued to support that part of the proposed decision (C/M/157, page 16) which called on the United States to take appropriate action without delay to bring the DISC into conformity with the General Agreement.

The representatives of Australia, Sweden (on behalf of the Nordic countries), Japan, Spain and Brazil expressed sympathy with the EEC's views on this issue, and recalled their support over the years for moves to have the United States make the DISC system conform with its GATT obligations. They welcomed the statement by the representative of the United States that new steps would be taken in the very near future, and said they expected to hear an account at the next Council meeting of what progress the United States had made on this question.

The representative of the European Communities said that he wished to make clear that both draft decisions (C/M/157, page 16 and C/W/392) remained before the Council. The two draft decisions had different objectives, and that was why they were both still maintained. He asked whether the U.S. Administration intended to submit its proposal to Congress before the next Council meeting in March.

The representative of the United States said that he understood that the Administration intended to complete its work on a proposal which would be submitted to Congress within the next several weeks. Whether the proposal would actually be submitted to Congress before the March Council meeting depended largely on the liaison between the executive and legislative branches of the United States. So far as he knew, it was the intention of the Administration to proceed as quickly as possible; and he anticipated that a final proposal would have been developed by the time of the Council meeting in March.

The representative of the European Communities said he had listened to and accepted the advice of the delegations that had spoken on this issue. His delegation would not insist that the Council adopt either of the draft decisions at this meeting, but it did expect this item to be on the agenda of the next Council meeting in March, and that there would be a decision at that meeting authorizing the EEC to take compensatory measures.

The Council took note of the statements and that the two proposals by the European Communities were maintained, and agreed to revert to this item at its next meeting.

4. Poland - Suspension of most-favoured-nation treatment by the United States (C/W/401, L/5390, L/5396 and Adds.1-3)

The Chairman recalled that this matter had been considered by the Council at its meeting on 2 November 1982, at which the delegation of Poland had submitted a draft decision in document C/W/401. Thereafter, the matter had been raised at the thirty-eighth session. After discussion at the session, the Chairman of the CONTRACTING PARTIES had stated that this matter would be considered further by the Council (SR.38/1, pages 8-10).

The representative of Poland noted that three months had elapsed since the United States had suspended most-favoured-nation tariff treatment to Poland. He said that Poland continued to challenge the legal, procedural and substantive aspects of the U.S. action, and

regretted there had been no developments to alter Poland's initial assessment of the case, or to alleviate its concern about the implications which the U.S. action had for the bilateral United States-Poland trading relationship and for the GATT itself. Poland stood by its view that the U.S. initiative had been motivated primarily by political considerations unrelated to the legitimate commercial interests of contracting parties, and that it had severely distorted the fundamental GATT rule of non-discrimination. He said there had also been a clear failure to conduct prior bilateral consultations as envisaged by the letter and the practice of GATT.

He added that economic losses sustained and likely to be sustained by Polish commercial entities as a result of the U.S. action were estimated at tens of millions of dollars. The commercial interests of a number of U.S. firms also seemed to be affected. The United States had formally justified its action by referring to Poland's import performance during the most recent years, whereas, over a longer period of time, Poland had substantially overfulfilled the rates of imports provided for under the Protocol of Accession (BISD 15S/46). While emphasizing that Poland's import commitment had been undertaken on a global basis and related to no particular country, imports from the United States had done relatively well despite the recent decline in Polish purchases abroad. Poland wished to raise a question of plain economic logic: how to reconcile the U.S. action and other forms of economic harassment with the requirement that Poland should increase its imports? He said that at this point it might be appropriate to consider a longer-term perspective, where the question of the viability of Poland's present quantitative commitment under the Protocol - which had been undertaken under drastically different economic conditions in the international market and in Poland - might be approached again in a search for a more equitable solution.

Poland hoped that now, after some passage of time and after the declarations made at the Ministerial Meeting, including the commitment to "abstain from taking restrictive trade measures for reasons of a non-economic character"[1], the Council could tackle this issue with fresh hope of progress at the present meeting and, if need be, at subsequent meetings and in other consultations.

The representative of the United States recalled that this issue had been discussed in detail at the Council meeting on 2 November 1982. Nothing had changed since then, and he did not propose to repeat at length the U.S. position. In summary, however, the United States firmly believed that it had acted within its rights under paragraph 7 of the Protocol of Accession, and that Poland had not honoured its obligations under its GATT Schedule; paragraph 7 of the Protocol clearly gave the United States the right, in these circumstances, to suspend the application to Poland of such concessions or other obligations under the General Agreement as the United States considered "necessary". The United States believed there was no justification for the proposed decision in document C/W/401, which sought to over-ride the

[1] L/5424, paragraph 7(iii).

Protocol of Accession. The United States continued to recognize that Poland also had rights under paragraph 7, which it was free to invoke should it so choose; but the proposed decision was not in line with those rights.

The Council took note of the statements and agreed to revert to this item at a future meeting.

5. United States - Imports of certain automotive spring assemblies - Report of the Panel (C/W/396, C/W/400, L/5333)

The Chairman recalled that in December 1981 the Council had established a panel to examine the complaint by Canada. The Panel had submitted its report in document L/5333, which had been before the Council at the meetings on 29-30 June 1982, on 21 July, on 1 October and again on 2 November 1982. At that meeting the Council had agreed to revert to this item at the present meeting.

He expressed the view that it would be desirable to conclude the consideration of this item, which had been brought repeatedly before the Council. He suggested that he consult informally with the two parties and other interested delegations with a view to seeing how the matter could be resolved at one of the next meetings of the Council, and if possible, at its next meeting.

The representative of the United States said the Chairman's proposal would be acceptable to his delegation from a pragmatic viewpoint, and because delegations might not have had enough time to focus on this matter since the Ministerial meeting. He asked that delegations study the communications in documents C/W/396 and C/W/400 prior to the next meeting of the Council.

The representative of Canada said his delegation would have no objection to the procedure suggested by the Chairman.

The Council took note of the statements and agreed to the proposal by the Chairman.

6. Canada - Article XIX actions on leather and non-leather footwear - Notice of suspension of concessions by the European Communities (L/5263/Adds. 8 and 9, L/5351/Adds. 5 and 6)

The Chairman drew attention to documents L/5263/Adds. 8 and 9 and to documents L/5351/Adds.5 and 6 which contained communications from the European Communities and Canada. He said the parties concerned had reached a satisfactory resolution of this matter, and that the European Communities had withdrawn the notification in L/5263/Add.8 and L/5351/Add.5.

The Council took note of this information.

7. Committee on Budget, Finance and Administration

(a) Appointment of a new Chairman

The Chairman informed the Council that Mr. Williams (United Kingdom), Chairman of the Committee on Budget, Finance and Administration, had been assigned by his Government to new responsibilities and had left Geneva. On behalf of the Council, he asked the United Kingdom delegation to convey their appreciation and thanks to Mr. Williams for the very valuable service he had given to the CONTRACTING PARTIES for the past two and one-half years since his appointment as Chairman of the Committee in June 1980.

The Council agreed to appoint Mr. Rigault (France) as the new Chairman of the Committee.

The Director-General referred to the action taken by the Council earlier in the meeting under Item 1 of the Agenda concerning the implementation of the decisions taken by Ministers. He said that in December 1982, shortly after the Ministerial meeting, the Committee on Budget, Finance and Administration had considered, in the first instance, supplementary budget proposals for 1983 (L/5428) which had become necessary in the light of additional requirements arising from the decisions by Ministers. In the light of the comments and suggestions made at that meeting and upon careful further consideration, revised supplementary budget estimates had been circulated to the Committee, which had been reconvened for 14 February 1983 to consider the matter further and hopefully to approve the new estimates. The Council might thus expect to receive the Committee's Report for consideration at the next meeting of the Council.

The Council took note of this information.

(b) Assessment of additional contribution to the 1982 Budget and advance to the Working Capital Fund (L/5410)

The Chairman drew attention to document L/5410 in which it was proposed that following the accession of Thailand to the GATT on 20 November 1982, a contribution to the 1982 Budget as well as an advance to the Working Capital Fund be assessed on Thailand.

The Council adopted the assessment proposed.

8. European Economic Community - Quantitative Restrictions on imports of certain products from Hong Kong

- Composition of the Panel

The Chairman recalled that in October 1982 the Council had established a panel to examine the complaint by the United Kingdom on behalf of Hong Kong and had authorized the Chairman of the Council to

designate the Chairman and members of the Panel in consultation with the parties concerned.

He informed the Council that following such consultation, the composition of the Panel was as follows:

Chairman: Mr. R. Hochörtler (Austria)

Members: Mr. A.J. Dumont (Argentina)
Mr. D. Greenfield (New Zealand)

The Council took note of this information.

9. Accession of Paraguay (L/5446)

The Chairman drew attention to document L/5446, which contained a communication from the Government of Paraguay concerning the formal decision of Paraguay to reinitiate procedures for its accession to the General Agreement on Tariffs and Trade. As indicated in that communication, the Government of Paraguay was prepared to begin the negotiation process as from the second quarter of 1983, through reactivation of the working party which had been established at an earlier date, and through contact with contracting parties interested in the exchange of concessions.

The Council agreed to reactivate the earlier Working Party on the Accession of Paraguay, established in November 1974, whose membership would be open to all contracting parties indicating their wish to serve on the Working Party, and agreed to authorize the Chairman of the Council to designate the Chairman of the Working Party in consultation with interested delegations.

10. Trade restrictions affecting Argentina applied for non-economic reasons (C/M/162, L/5426)

The representative of Argentina referred to the earlier consideration of this item by the Council and to the Decision by the CONTRACTING PARTIES at the thirty-eighth session establishing procedures for the application of Article XXI (L/5426). He wished to recall the position of his delegation in respect of two points. First, paragraph 2 of the Decision referred to all the rights of an affected contracting party under the General Agreement. Accordingly, he reiterated the position of his Government as put forward at the meeting of the Council in June 1982, namely, that without prejudice to its request for an interpretation of Article XXI, Argentina reserved all its rights under Article XXIII in respect of any injury resulting from trade restrictions applied in the context of Article XXI. His Government reserved the right in the future to revert to Article XXIII and any other Article of the General Agreement especially Article XII, as pointed out by his delegation at the June 1982 meeting of the Council. Second, he recalled

that his delegation had asked that the secretariat begin preliminary work to prepare a note interpreting Article XXI. While delegations and the secretariat had been extremely busy at that time preparing for the Ministerial meeting, the Council had now begun to implement the decisions by Ministers. In his view, the time had come for the secretariat to think again about this problem, bearing in mind paragraph 7(iii) of the Ministerial Declaration (L/5424), and to begin preparing the background material for future work in this area.

The representative of the European Communities said that his delegation would wish to reserve its position on the statement made by the representative of Argentina, and might wish to revert to it at a later date when its purport was fully understood.

The representative of the United States wished to reserve the right of his delegation to respond to the statement by the representative of Argentina until it had had an opportunity to digest fully the purport of the statement.

The Council took note of the statements.

11. Japan - Promotion of external economic policies (L/5454)

The representative of Japan, speaking under "Other Business", said that following the letter and spirit of the Ministerial Declaration (L/5424) his Government had decided, one month after its adoption, on a series of measures for further opening the Japanese market, such as a substantial reduction of tariff rates, a relaxation of import restrictions, and an improvement of import-testing procedures including a comprehensive review of standards and certification systems. He referred to the aims and content of these measures, and drew attention to the communication from his delegation in document L/5454 entitled "Promotion of External Economic Policies of the Japanese Government including Tariff Changes in F.Y. 1983". He reaffirmed the determination of his Government to implement and follow up these measures effectively.

The Council took note of the statement.

12. European Economic Community - Import quota on softwood lumber products

The representative of Canada, speaking under "Other Business", drew attention to the establishment by the EEC of an import quota on softwood lumber products falling under tariff heading 44.05. It was the understanding of his delegation that the EEC would soon notify this measure, which related to imports into France, and that, as in a similar case in 1973, there would be a provision for consultations with affected parties.

The representative of the European Communities confirmed the intention of his authorities to notify the import measures in question, which had been taken by a member State as a result of a natural catastrophe.

The Council took note of the statements.

13. Canada - Customs valuation of imports of clothing from Hong Kong

The representative of the United Kingdom, speaking on behalf of Hong Kong under "Other Business", said that on 14 December 1979 the Canadian Minister of National Revenue had signed a prescription stipulating that, with effect from the same day, the value for duty of garments imported from Hong Kong was to be arbitrarily increased by 25 per cent. This ministerial prescription in respect of Hong Kong had been modified on 22 September 1980 by changing the arbitrary mark-up for customs valuation purposes from 25 per cent to 17 per cent. It was the view of his authorities that such discriminatory and arbitrary mark-ups were contrary to the provisions of Articles I and VII of the General Agreement and were, therefore, inconsistent with Canda's GATT obligations. Until now, Hong Kong had chosen not to raise the matter in the GATT because of its expectation that Canada would terminate such measures by 1 January 1985, and because it understood that by then Canada would have fully implemented on a non-discriminatory basis the Agreement on Implementation of Article VII of the GATT (BISD 26S/116). It had come to the Hong Kong Government's notice, however, that the proposition had been put forward to the Canadian Government by the staff of the Canadian Tariff Board that the absence of any objection under the General Agreement from suppliers affected by the ministerial prescriptions in question could be taken to imply that Canada's application of these mark-ups was in accordance with its rights under the GATT. He said that on several occasions his authorities had bilaterally and officially conveyed to the Canadian Government their view that the Canadian ministerial prescriptions were inconsistent with the General Agreement. To avoid any further misunderstanding on the part of the Canadian authorities, the Hong Kong Government felt that it was now necessary to put its view formally on the record in the GATT and to reserve Hong Kong's position under the General Agreement.

The representative of Canada said that he had taken note of the statement by the representative of the United Kingdom, speaking on behalf of Hong Kong, and that he would report to his authorities accordingly.

The Council took note of the statements.

14. Membership of the Council

The Chairman said that the Government of Thailand had asked to become a member of the Council.

On behalf of the Council, he welcomed the Government of Thailand as a new member.