GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED
C/M/166
30 March 1983
Limited Distribution

COUNCIL
9 March 1983

MINUTES OF MEETING

Held in the Centre William Rappard on 9 March 1983

Chairman: Mr. H.V. Ewerlöf (Sweden)

Subjects discussed:

		Page
1.	India - Auxiliary duty of customs - Extension of waiver	2
2.	United States tax legislation (DISC) - Follow-up on the report of the Panel	2
3.	Consultation on trade with Romania - Report of the Working Party	5
4.	United States - Import duty on Vitamin B12 - Follow-up on the report of the Panel	6
5.	United States import restrictions on agricultural products - Report of the Working Party	7
6.	Problems of Trade in Certain Natural Resource Products	9
7.	MTN Agreements and Arrangements	9
8.	Aspects of Trade in High-Technology Goods	10
9.	Accession of Greece to the European Communities - Report of the Working Party	11
10.	Japan - Measures on imports of leather - Recourse to Article XXIII:2 by the United States	14
11.	Trade in Textiles (a) Report of the Textiles Committee (b) Annual Report of the Textiles Surveillance Body	15
12.	Committee on Budget, Finance and Administration - Report of the Committee	16
13.	Status of work in panels - Statement by the Director-General	17
14.	EEC sugar régime	20

1. India - Auxiliary duty of customs
- Extension of Waiver (C/W/413, L/5463 and Add.1)

The Chairman recalled that by the Decision of 15 November 1973 (BISD 20S/26), the CONTRACTING PARTIES had waived application of the provisions of Article II of the General Agreement to the extent necessary to enable the Government of India to apply its auxiliary duty of customs on certain items included in its Schedule XII. The waiver, which had been extended a number of times, was due to expire on 31 March 1983. The delegation of India had submitted a request for a further extension of the waiver (L/5463 and Add.1). The Chairman drew attention to the text of the draft decision contained in document C/W/413.

The representative of India said that the special circumstances which had obliged it to maintain its auxiliary duty on customs the previous year continued to exist. Even after additional taxation, India's overall budgetary deficit was estimated to be nearly 15.5 billion rupees. The Government was anxious to keep the deficit as low as possible to avoid creating inflationary conditions. In applying for a further extension of the waiver, his delegation wished to point out that the Government had not allowed a 5 per cent general increase in the overall rates of auxiliary duty to affect GATT bound items, for which the auxiliary duty remained unchanged, and the exemptions granted in earlier years also remained unchanged. India continued to consider that these duties would not have an adverse effect on imports within the framework of India's GATT obligations. He said the auxiliary duty was not intended to be a measure of protection designed to restrict imports. India stood ready to consult with any contracting party which might consider that serious damage to its interests was caused or imminently threatened by the application of auxiliary duties.

The representative of the United States said his delegation was concerned that one of the steps taken by India to address its budgetary situation was to increase the auxiliary duty by 5 per cent on some imports, which was a step backward from India's admirably stated goal of trade liberalization. The United States hoped that if India's economy improved considerably over the next year, the auxiliary duty of customs could be lifted earlier than April 1984.

The Council approved the text of the draft decision extending the waiver until 31 March 1984, and recommended its adoption by the CONTRACTING PARTIES by postal ballot.

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

The Chairman recalled that at the meeting of the Council on 7 May 1982, the representative of the European Communities had proposed that the Council adopt a draft decision (C/M/157, page 16). At the Council meeting on 21 July 1982, the European Communities had proposed that the Council adopt an additional draft decision (C/W/392). The Council had considered this item further at its meetings on 1 October 1982 and 26 January 1983, when it had agreed to revert to this item at the present meeting.

The representative of the United States said he was pleased to report that the U.S. Cabinet had approved a general proposal to replace the DISC legislation, and that the proposal had been presented to Congress. The proposal would (1) exempt from taxation that portion of export income earned as a result of economic activities outside U.S. territory; (2) meet the principle of arm's-length pricing in transactions between related parties; and (3) establish an exemption rather than a deferral to avoid double taxation of foreign income. He said the Administration's proposal was consistent with the territorial tax systems of the United States' European trading partners and, more importantly, conformed to the General Agreement, and to the letter and spirit of the Council's decision of 8 December 1981 adopting with certain understandings the Panel reports on DISC and tax practices of certain other countries (L/5271). He could not promise that the new legislation would be enacted before the next Council meeting; but the Administration would urge Congress to enact it as quickly as possible, and his delegation would report to the Council on results.

In the discussion which followed, many delegations expressed satisfaction with the statement of the representative of the United States, although they would wait to see whether the final legislation would conform to the General Agreement. They expected the United States to keep the Council informed of developments.

The representative of the European Communities proposed that the Council establish a working party to evaluate the injury resulting from application of the DISC legislation over a period of time to be decided upon; this would be in pursuance of the draft decision contained in document C/W/392. The working party could also be the first instance where contracting parties would be informed of what was happening as a result of the initiative taken by the U.S. Administration.

The representative of Canada said his delegation expected to have an opportunity to comment in the Council, including special meetings dealing with notification and surveillance, on whether the new legislation would make the DISC compatible with the General Agreement. Canada would nevertheless suport the EEC request for a working party to examine trade damages caused by the DISC. However, such a working party should not have any broader mandate than examining the questions of trade damages; any monitoring of the new U.S. legislation should be carried out by existing GATT bodies.

The representative of Australia said his delegation recognized that approval of the proposed U.S. legislation might be a drawn-out process. Australia did not believe it was timely to set up a working party now to examine this matter.

The representative of Finland, speaking on behalf of the Nordic countries, expressed their satisfaction with the U.S. initiative to modify the DISC legislation. They expected to be informed of the exact contents of the legislation as soon as possible, and might wish to discuss it bilaterally with the United States.

The representative of Switzerland said GATT could not interfere with the domestic procedures of a contracting party by expressing an opinion on legislation which had not yet been officially notified and which was not yet in force.

The representative of Brazil opposed any idea of the GATT monitoring the legislative process in the U.S. Congress, as this was a domestic matter within a sovereign State. However, if the Council agreed to establish a working party to assess trade damage caused by DISC, Brazil might be interested in participating in this exercise.

The representative of Spain said it would not be known what subtleties or major differences might be introduced in the draft U.S. legislation before it became applicable law.

The representative of Argentina said his Government had always been concerned over assessment of injury caused by actions incompatible with the General Agreement, and if the Council decided to set up a working party, his delegation would be interested in participating.

The representative of Chile said it would be premature to set up a working party on this matter.

The representative of India said that a working party to examine the adequacy of the proposed U.S. legislation was untimely, but he considered it important that the Council concern itself with a speedy solution of this problem, which should be periodically and automatically on the Council agenda. As for examination of injury, if the EEC insisted on asking for a working party, the GATT Council would, according to its tradition, have to agree to this, and India would be interested in participating.

The representative of Singapore said the proposed U.S. action on DISC was commendable and should serve as an example for other contracting parties which might be found in similar situations. He considered it untimely to set up a working party to examine this question.

The representative of the European Communities said that the proposed working party on evaluation of injury would be without prejudice to the Council's eventual decision on compensation. While the working party could also constitute a forum for discussion of progress on DISC legislation, the special Council review session on dispute settlement might be equally appropriate. In the light of the discussion, he said he was not seeking a decision for a working party at the present meeting, but hoped that action would be taken at the next Council meeting.

The representative of the United States believed that the Community's request should be seen in two parts. First, the proposed working party would look at the GATT conformity of what the United States had proposed to Congress and, second, it would examine the

question of what the United States called "back damages". With regard to the first element, it was not customary in GATT to have a working party on legislative proposals, which would be an infringement on sovereignty. Moreover, the U.S. system was transparent; and his Government fully intended to report to the Council periodically on the progress of the new legislation. With regard to the second element in the Community's proposal, i.e. assessing alleged past damages resulting from DISC, this was something which GATT had not done under Article XXIII even in cases where there had been a clear finding that a measure conflicted with GATT obligations. These damages would be difficult to compute in the case of DISC, even if such a calculation were justified, because the minimal ad valorem effect on products would have to be further reduced, since income tax deferred on activities conducted abroad was not a subsidy, and deferred taxes that did not result in dual pricing were not inconsistent with the General Agreement. The United States believed that the Community's proposal for a working party was counter-productive in terms of the U.S. legislative process, and unwarranted under the circumstances or under GATT rules, procedures or precedents.

The representative of Canada said he was not certain what principle the representative of the United States was referring to when he suggested that one could not look back at the impact of a subject that had been under discussion for a decade, when all along the rights of individual contracting parties had been reserved.

The representative of the United Kingdom, speaking on behalf of Hong Kong, fully agreed with the representative of Canada, and also that a contracting party had a right to the automatic establishment of a working party or panel to assess damage resulting from actions inconsistent with the General Agreement.

The representative of Hungary supported the statements made by the representatives of Canada and of the United Kingdom speaking on behalf of Hong Kong.

The Council took note of the statements, noted that the proposals by the European Communities (C/M/157, page 16 and C/W/392) were maintained, noted the request made by the European Economic Community to establish a working party to evaluate damage as a result of the DISC legislation, and agreed to revert to this item at a future meeting of the Council.

3. Consultation on Trade with Romania
- Report of the Working Party (L/5464)

The Chairman recalled that the Council had established a Working Party in October 1982 to carry out the fourth consultation with the Government of Romania, as provided for in the Protocol of Accession (BISD 18S/5), and to report to the Council. The report of the Working Party had been cirulated in document L/5464.

Mr. Villar (Spain), Chairman of the Working Party, introduced the report and said that the Working Party had heard how the general economic crisis had affected Romania's foreign trade with contracting parties. The Romanian delegation had noted with satisfaction that most discriminatory quantitative restrictions against its exports had been further reduced, and had reiterated its request for removal of those still maintained. The Working Party had examined Romania's exports; aware that its ability to import from other contracting parties was linked to the level of its exports, some members of the Working Party had indicated areas in which measures could be taken by the Romanian authorities to improve their exports. Examining Romanian imports, there had been a broad exchange of views on compensation trade, transparency in statistics, information about Five-Year plans and bilateral trade agreements with centrally-planned economies. Divergent views expressed on these questions were reflected in the report.

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

4. United States - Import duty on Vitamin B12
- Follow up on the report of the Panel (L/5331)

The Chairman recalled that at its meeting on 1 October 1982 the Council had adopted the report of the Panel which had examined the complaint by the European Communities concerning United States import duty on vitamin B12 (L/5331). At that meeting, the Chairman had reaffirmed that any representative would have the right in future to bring to the notice of the Council any fact related to the adoption of the report.

The representative of the European Communities said that at the Council meeting in October 1982, the EEC had asked whether the United States was prepared to put into effect the recommendation in sub-paragraph 22(h) of the Panel's conclusions, i.e. to advance the implementation of its Tokyo Round concession rate on feedgrade vitamin B12; but the United States had not been prepared to do this. He recalled that when the Panel report was adopted, the EEC had reserved its rights under the General Agreement. The EEC now wanted to exercise its rights under Article XXVIII:3(a) in order to redress the situation, and intended to increase customs duties by several points on imports of acetic acid (CCCN 29.14 A II a) in order to compensate for injury. The increased duty would be phased out over four years. Acetic acid had been chosen because the United States was virtually the sole contracting party supplier of this product to the EEC. The Community would send a written notice to contracting parties spelling out all details of the increased duty, which would enter into force after the thirty days stipulated in Article XXVIII:3(a).

The representative of the United States denied that the EEC had any Article XXVIII rights in this case, since the Panel report had stated very clearly that the United States had infringed no obligations under the General Agreement or in the 1979 bilateral Understanding with the

EEC concerning ASP Chemical Products. He recalled that even though the Panel had found that the United States had not infringed any obligations in this case, it had nevertheless felt that the Council could invite the United States to make certain conciliatory actions to meet the EEC's concerns. The Council had not taken any action to extend such an invitation. If the Community believed this sort of panel finding served as a basis for demanding compensation, he asked whether the Community also thought that contracting parties had a right to compensation or retaliation in a case where a panel report had found that measures involving, for example, sugar, were at fault and had caused "serious prejudice" to the interests of other contracting parties. He also asked whether, if the Community thought that compensation or retaliation was justified after a panel had found no breach of obligations, he could assume that the Community would believe that compensation or retaliation was obviously even more justified when a panel had been unable to decide whether or not there had been a breach of obligations. He hoped that the Community would reflect further before taking the proposed action which, in the view of the United States, would constitute a clear and patent violation of the Community's GATT obligations.

The representative of the European Communities said that when the Panel report was adopted, the EEC had clearly challenged what it considered to be the Panel's contradictory conclusions in sub-paragraphs 22(f), (g) and (h). The Community had also made clear that it would exercise its rights, but first had wanted to know if the United States would follow up on the recommendation in sub-paragraph 22(h). Article XXVIII provided for a six-month waiting period before a contracting party could act on such a case; that period was now drawing to a close, and this was why the Community was raising the matter at the present meeting.

The representative of the United States said that there was no mention of compensation in the Panel report, and that sub-paragraph 22(h) contained an invitation rather than a recommendation. The United States had made clear its willingness to negotiate with the EEC on this case, perhaps in return for some other concessions from the Community.

The Council took note of the statements and agreed to revert to this matter.

5. United States Import Restrictions on Agricultural Products - Report of the Working Party (L/5461)

The Chairman recalled that the Council had established a Working Party in June 1982, to examine the 24th annual report submitted by the United States under the Decision of 5 March 1955 (BISD 3S/32) and to report to the Council. The report of the Working Party had been circulated in document L/5461.

Mr. Inan (Turkey), Chairman of the Working Party, introduced the report and said that discussion had focussed on (i) the reasons advanced by the United States for maintaining the waiver; (ii) the measures taken by the United States to meet the conditions it accepted when the waiver was granted; and (iii) the possibility of making use of GATT-consistent alternative measures to cope with the problems of agricultural surpluses in the United States. The Working Party had also devoted special attention to the issue of termination of the waiver in the light of the recently adopted Ministerial Declaration (L/5424). He noted that several members of the Working Party felt that the information contained in the report submitted by the United States was still incomplete, despite the additional material provided by the U.S. delegation in the course of the Working Party's proceedings; and that these members had requested that, in future, delays in the presentation of annual reports should be avoided. The U.S. representative had expressed the willingness of his authorities to comply fully with the procedures established under the waiver.

The representative of Australia said the latest examination of the U.S. waiver had reinforced Australia's concerns on this issue. As had been noted by several members of the Working Party, it had never been the intention of the CONTRACTING PARTIES that the waiver should continue to operate for 27 years, and the time had come when serious consideration must be given to its termination. He said that the newly-established Committee on Trade in Agriculture should examine the U.S. waiver and make recommendations with a view to achieving greater liberalization in trade in agricultural products. Australia expected that the Council would continue to review the operation of the waiver, with a further Working Party being established later in 1983 to examine the next annual report by the United States. Australia would review its position on this matter in the light of the next U.S. report on the waiver, and in the light of regular progress reports to the Council by the Committee on Trade in Agriculture.

The representative of New Zealand considered the report was satisfactory as far as it went; but some fundamental issues had not been adequately addressed and certain questions remained unanswered. New Zealand looked forward to the development of future possibilities for eventually terminating the waiver, and asked the United States to take note of the dissatisfaction among contracting parties, as reflected in the Working Party report, with the continued lack of recognition by the United States that circumstances had greatly changed since the waiver had been granted in 1955.

The representative of Canada said it was never intended that the waiver should be permanent, and it was a strongly held view that no compensation should be paid for removal of the waiver. He expected the waiver to be taken up in the Committee on Trade in Agriculture and that the Council would continue to make its annual examination of the reasons for maintenance of the U.S. restrictions.

The representative of Argentina said he would like to believe that the United States was showing its goodwill to consider this matter in a more favourable way. He appealed to the United States, within the framework of the Committee on Trade in Agriculture, to ensure that this issue be quickly resolved.

The representatives of Pakistan and of the European Communities looked forward to this issue being taken up in the Committee on Trade in Agriculture.

The representative of Chile hoped that finally it would be possible to put an end to a situation that had lasted far too long. There could be no question that contracting parties should be required to enter into negotiations for termination of the waiver.

The representative of the United States said his delegation had already indicated the probability that the waiver would be among subjects to be examined in the Committee on Trade in Agriculture. The United States had no objections to this, as it considered that the difficulties encountered in agriculture were such that no country could solve the problems alone.

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

6. Problems of trade in certain natural resource products (C/W/410, C/W/411, C/W/412, L/5424)

The Chairman recalled that this matter had been before the Council at its meeting on 26 January 1983. The Council had then taken note that informal consultations were taking place and that the secretariat would prepare draft terms of reference which would permit the Council to take action at the present meeting. The Chairman said that since the 26 January meeting there had been informal consultations between the secretariat and interested delegations on the proposed terms of reference for the studies of problems of trade in non-ferrous metals and minerals, forestry products and fish and fishery products. Since these consultations were continuing, he proposed that consideration of this item be deferred until the next meeting.

It was so agreed.

7. MTN Agreements and Arrangements (L/5424)

The Chairman recalled that at the Ministerial Meeting in November 1982, the CONTRACTING PARTIES had decided to review the operation of the MTN Agreements and Arrangements, taking into account reports from the Committees or Councils concerned, with a view to determining what action, if any, was called for, in terms of their decision of November 1979 (BISD 26S/201). The CONTRACTING PARTIES had further agreed that, for this purpose, the review should focus on the adequacy and effectiveness of these Agreements and Arrangements and on the obstacles to the acceptance of them by interested parties (L/5424, page 11). At

its meeting on 26 January, the Council had taken note of the Ministers' decision on this subject and had agreed that the Chairman would hold informal consultations with delegations on how the review could most effectively be carried out. The Council had agreed to revert to this item at the present meeting.

The Chairman added that following his informal consultations with delegations and with the secretariat on this matter, he now proposed that the Council invite the MTN Committees and Councils to take account of this Ministerial decision in their annual reports, and to transmit these reports to the Council, so that the Council could assist the CONTRACTING PARTIES in the review called for in that decision, in the light of these reports and of observations by delegations. The Council would then report to the CONTRACTING PARTIES at their thirty-ninth session in November 1983 on the results of its discussions. For this purpose, these reports by the MTN Committees and Councils would need to be in circulation and available to members of the Council not later than 10 October 1983, i.e. well in advance of the Council's meeting on 1 November 1983 at which the Council would discuss the matter.

The representative of the United States saw two different elements in the Chairman's proposal; first, acceptance of the MTN Agreements and Arrangements, and second, their adequacy and effectiveness. He proposed that the Chairman of the Council might invite each of the relevant Committees and Councils to set aside time at their forthcoming meetings for presentations by non-signatories concerned with the obstacles that they saw in accepting one or other of the MTN instruments; in other words the non-signatories should indicate what the obstacles were, not the signatories.

The representative of Colombia supported the U.S. proposal that non-signatories could give their views at meetings of the MTN Committees and Councils.

The representative of New Zealand questioned whether the three weeks between 10 October and 1 November would be enough for delegations to consider the reports by the MTN bodies, in preparation for a discussion in the Council.

The representatives of Brazil and Australia suggested that the text of the Chairman's proposal be circulated before the Council took a decision on this matter.

The Council agreed that the text of the Chairman's proposal would be circulated, and that following further consultations the Council would revert to this item at its next meeting.

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

The Chairman recalled that at the Ministerial Meeting in November 1982, it had been agreed to refer the question of trade in high-technology goods to the Council for further consideration (SR.38/9, page 2). At its meeting on 26 January, the Council had taken note of

this decision as well as of a proposal by the United States in document C/W/409. The Council had also taken note that there would be further consultations on this matter, and had agreed to revert to it in due course.

The representative of the United States said that his delegation had consulted with a large number of other delegations concerning the proposal in document C/W/409 and that the consultations were continuing. He suggested that further consideration of this item be deferred until the next Council meeting and urged all interested delegations to provide their comments, so that the United States could present a revised proposal which could be adopted at the next Council meeting.

The representative of the European Communities said that the decision by Ministers on this issue did not have the same scope as the other decisions which figured in the Ministerial Declaration itself. However, it was a decision, and the Community remained open to discussion in the Council: anything was possible, everything remained open at this stage, and the Community did not wish to prejudge anything.

The Council took note of the statements and agreed to revert to this item at its next meeting, while noting that consultations would be carried out in the meantime.

9. Accession of Greece to the European Communities
- Report of the Working Party (L/5453)

The Chairman recalled that in November 1979, the Council had established a Working Party to examine the provisions of the documents concerning the accession of Greece to the European Communities and to report to the Council. The report of the Working Party had been circulated in document L/5453.

Mr. Jayasekera (Sri Lanka), Chairman of the Working Party, drew attention to the last paragraph of the report which said that "as the Working Party could not reach any unanimous conclusions as to the compatibility of the provisions of the documents concerning the accession of Greece to the European Communities with the provisions of the General Agreement, it considered that it should limit itself to reporting the opinions expressed to the Council".

The representative of Australia said that the only substantive basis on which the CONTRACTING PARTIES could conclude this matter was to note that they had not been able to determine that the accession of Greece to the European Communities conformed to the member States' obligations under the General Agreement. This conclusion should come as no surprise, given that the CONTRACTING PARTIES had never determined that the Rome Treaty establishing the European Economic Community, the

agreements providing for the enlargement of the Community in 1972/73 and the EEC's preferential arrangements, which had now been assumed by Greece, conformed with the General Agreement. In these circumstances, the CONTRACTING PARTIES could hardly conclude that any further accession agreements did so. He said that in paragraph 18 of the report the Community had suggested it was always possible for any country to seek to resume discussions of these questions in a more appropriate context. Australia would be prepared to take up this possibility, provided that the EEC undertook to provide all the information required by other contracting parties, and that it would not block the work or conclusions of such a review. On the question of blocking conclusions, the fundamental view expressed by Australia at the Working Party over the relevance of the inconclusive considerations of previous EEC arrangements had not been included: this omission was regrettable and meant that the report's conclusions did not fully convey the basic positions of all members of the Working Party. Australia also questioned whether some of the recent non-tariff measures adopted by Greece, particularly on agricultural products, conformed with the General Agreement. Greece's protective trade régime before it accession to the EEC, and that of the EEC itself before and after enlargement, were complex and in Australia's view not transparent, particularly in respect of agricultural products. Previous examinations of this issue had been largely futile. It was a poor reflection on the GATT itself that a significant proportion of world trade could not be confirmed to be conducted in accordance with the General Agreement. Australia would be willing to join other contracting parties in taking up the broad issue of the conformity of the European Communities with the relevant provisions of the General Agreement in some other context, if a satisfactory basis could be found to ensure that such work would lead to a substantive conclusion.

The representative of Chile appealed to Greece to bring into conformity with the General Agreement certain of its import restrictions, in particular quantitative restrictions. Chile fully reserved all its GATT rights.

The representative of Hungary called attention to paragraph 56 of the report containing the EEC's view that the criterion for examining the GATT conformity of the accession was the examination of the general incidence of the effects of the creation of a customs union, and that implications of the accession for a particular contracting party were not relevant under Article XXIV. Hungary considered this interpretation to be dangerous and not in conformity with the objectives of the General Agreement, because it could lead to the introduction of barriers to trade between contracting parties not legalized under any provision of the General Agreement. He said that the invocation of Article XXIV did not automatically waive the other provisions of the General Agreement, including Articles XI and XIII. His Government's view and judgment of the accession was based on the principle set out in Article XXIV:4, according to which the purpose of a customs union should be to facilitate trade between the constituent territories and not to raise barriers to trade of other contracting parties with such territories.

He said that the accession of Greece to the EEC had seriously worsened the trade between Hungary and Greece. Hungary wished to reiterate its view that Greece's accession to the EEC did not conform with the General Agreement, and therefore it fully reserved its GATT rights.

The representative of New Zealand registered his delegation's disappointment that the Working Party had not been able to reach agreed conclusions.

The representative of Czechoslovakia reiterated his delegation's position that the accession of Greece to the European Communities did not conform with Article XXIV, and that some provisions of the relevant documents were contrary to the provisions of Articles XI and XIII. Czechoslovakia therefore fully reserved its rights under the General Agreement.

The representatives of Austria, Spain and of Finland speaking on behalf of the Nordic countries, reiterated their position that they considered the accession of Greece to the European Communities to conform with Article XXIV of the General Agreement.

The representative of the United States shared some of the concerns expressed by other members of the Council, particularly those expressed by the representative of Australia. The accession of Greece to the EEC existed, as did a number of other arrangements and trade practices, in a grey area; and it would be helpful if agreed understandings on the pertinent articles of the General Agreement could be achieved.

The representative of the European Communities said it had been alleged that protectionist measures taken by Greece were getting worse. However, the EEC's view was that Greece had made a great effort at liberalizing its trade; the average level of its duties before accession, for example, had been about 18 per cent; after accession the level was 4 per cent. Bindings had been increased three-fold. Greece had done away with 200 quantitative restrictions when it acceded to the EEC and the remainder of its quotas concerned a negligible number of exports. There were few other examples in the history of GATT of such mass liberalization undertaken so quickly. Also, it should be remembered that Greece's industrial imports accounted for 80 per cent of its total imports. Consequently, the EEC considered that the balance sheet was positive for the other contracting parties.

The representative of Israel said that in view of the figures quoted by the representative of the European Communities, there could be no doubt that the accession of Greece conformed with the General Agreement. Article XXIV was quite clear in saying that the only obligation of members of any agreement was to follow any recommendation which might be made under Article XXIV:7; unless such a recommendation was made, any agreement under Article XXIV could not be challenged as belonging to a grey area.

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

10. Japan - Measures on imports of leather
- Recourse to Article XXIII:2 by the United States (L/5462)

The Chairman drew attention to document L/5462 in which the United States requested the CONTRACTING PARTIES to establish a panel under Article XXIII:2 to review Japanese measures on imports of leather.

The representative of the United States recalled that his delegation had brought the same basic complaint to a GATT panel several years earlier. That proceeding had been terminated in March 1979 on the basis of a bilateral settlement, with both parties reserving their GATT rights (L/4789). Unfortunately, the bilateral agreement had proved ineffective in meeting U.S. objectives and it had not proved possible to reach a new bilateral agreement acceptable to the United States. He did not doubt the good faith of Japan in these consultations, but it did not appear that further efforts on a purely bilateral basis would have much prospect of success. The United States therefore asked for a panel to be set up at the present meeting to examine this matter and was prepared to continue bilateral efforts to find a solution while the panel was being established and during its work.

The representative of Pakistan said that his country had traditionally supported requests for establishment of panels as a matter of principle. In this case, Pakistan had a substantial trading interest as an exporter of leather to Japan, and thus supported the U.S. request.

The representative of Australia said that his country had a bilateral leather arrangement with Japan from October 1979 until September 1982. Australia had not been satisfied with this arrangement. While Australia recognized the particular problems of the Japanese leather industry, it was looking for improved access to the Japanese market and, therefore, supported the U.S. request. Australia intended to make a submission to such a panel in the event it was established.

The representative of Canada supported the U.S. request for a panel. Canada had not decided whether to make a presentation to such a panel, but reserved its right to do so.

The representative of Japan said that in response to U.S. proposals, his country had undertaken bilateral consultations on this matter under Article XXIII:1, during which Japan had fully explained the socio-economic background which had given it no choice but to maintain the restrictions in question. In order to reach a practical and satisfactory resolution of this problem, Japan had made clear its willingness to enter a second round of consultations on receipt of written, concrete comments by the United States on Japan's proposals.

In view of the above, and also in the light of the Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/210), it was important to try to achieve a satisfactory resolution through bilateral consultations. Consequently, Japan considered it reasonable that instead of proceeding under Article XXIII:2, the two parties should continue consultations under Article XXIII:1 and, if necessary, discuss the matter at the next Council meeting.

The representative of the European Communities said that the EEC was a significant exporter of certain types of leather to Japan, and was thus affected by the Japanese restrictions. The Community reserved its right to present its views to such a panel in the event it was established.

The representative of the United States said his authorities had provided the written and detailed responses referred to by the representative of Japan.

The Chairman proposed that the Council take note of the statements, agree to revert to this item at its next meeting, and request the parties concerned to conduct further bilateral consultations in the meantime.

The representative of Pakistan emphasized the need for maintaining the most-favoured-nation principle in whatever quotas might be established.

The representative of the United States said his delegation could agree to the Chairman's proposal on the understanding that this issue was faced squarely at the next Council meeting, i.e., that the Council would agree to establish a panel if there had not been a successful bilateral solution of the matter by then. The United States would keep informed all delegations who wished to be informed on the United States side of these consultations.

The Council took note of the statements, agreed to revert to this item at its next meeting, and requested the parties concerned to conduct further bilateral consultations in the meantime.

11. Trade in Textiles

(a) Report of the Textiles Committee (COM.TEX/31)

(b) Annual report of the Textiles Surveillance Body (COM.TEX/SB/811 and Add.1)

The Director-General, Chairman of the Textiles Committee, said the Committee had met in December 1982 to conduct the first annual review of the operation of the Arrangement Regarding International Trade in

Textiles (MFA)[1] as extended by the 1981 Protocol.[2] The report of that meeting was contained in document COM.TEX/31. The report prepared by the Textiles Surveillance Body to assist the Committee in its review was also before the Council in documents COM.TEX/SB/811 and Add.1. For the purpose of this review, the Textiles Committee had considered basic statistical data on production and trade in textile products, and an analysis of these statistics prepared by the secretariat. The Committee had also heard a report from the Chairman of the Sub-Committee on Adjustment on the progress made in this area, particularly concerning the collection of information relevant to the work of the Sub-Committee. He added that following the Textiles Committee meeting, the Technical Sub-Group on Adjustment had met in January 1983, and had agreed to invite participating countries to provide detailed and up-to-date information on measures taken, or policies adopted, relative to Article 1:4 of the MFA, as well as information on the current state of production and trade in textiles products, including any measures to facilitate adjustment relative to Article 10:2. He urged participating countries to respond to the relevant questionnaires without delay and in any event not later than 15 May 1983, so as to enable the Sub-Committee on Adjustment to carry out its task.

The representative of Brazil referred to statement by his delegation reflected in paragraph 19 of COM.TEX/31, that in spite of serious attempts to reach an understanding on safeguards in the context of the November 1982 Ministerial Meeting, the experience of bilateral textiles negotiations during 1982 had damaged any possiblity of success on the safeguards issue. He hoped this would not turn out to be true.

The Council took note of the statements and adopted the reports.

12. Committee on Budget, Finance and Administration
- Report of the Committee (L/5460)

Mr. Rigault (France), Chairman of the Committee, introduced the report (L/5460) on the Committee's examination of the supplementary budget estimates proposed for 1983 to cover additional expenditure resulting from the Ministerial Decisions . He said that the Committee had noted with satisfaction the Director-General's positive reaction to suggestions made at the Committee's December 1982 meeting. The requests or additional funds had been reduced substantially as compared to the initial proposal, and all the posts involved were now requested on a temporary assistance basis. He also mentioned that the Director-General had stressed the need for flexibility in the application of resources made available. The Director-General had also indicated that certain

---

[1] BISD 21S/3.

[2] BISD 28S/3.

requests for funds could be made again in the 1984 budget, in the light of experience during 1983. On the basis of its examination, the Committee recommended that the Council approve the revised supplementary budget estimates amounting to Sw F 1,078,000, as well as the corresponding supplementary appropriations to be financed by the assessment of additional contributions on contracting parties.

Mr. Rigault also referred to the continuing precariousness of the secretariat's financial position, and said that the Council would no doubt wish to make another urgent appeal for all contributions still outstanding, as well as for the additional contributions, to be paid as soon as possible.

The Chairman stressed the vital importance of the regular and timely receipt of contributions in order to maintain healthy cash management in the secretariat. He recalled that towards the end of 1982 there had been an increase in the level of outstanding contributions, and the secretariat's cash resources had sunk almost to zero. For these reasons, he entreated all contracting parties that had not already done so, to pay their outstanding, as well as their current contributions, as quickly as possible.

The representative of Pakistan said the Council should make sure that it did not stifle by penny-pinching the processes released by the Ministerial Meeting. He suggested there should be a mid-year review in 1983 of the budget estimates, after the various work plans had been finalized. His delegation considered there had not been adequate provision for technical assistance. Also, he appealed to the Director-General to make sure that the study on textiles was placed in the ablest hands.

The representative of New Zealand supported the proposal for a mid-year review of the budget estimates.

The representative of Spain said he wanted to place on record his delegation's approval of the Committee's proposals concerning the revised budget, including the additional contributions. As regards Spain's contribution, he said that in 1983 there would be temporary difficulty owing to the change of Government in his country which had led to delay in approval of the national budget.

The Council took note of the statements, approved the recommendation in paragraph 8, and adopted the report (L/5460).

13. Status of work in Panels
- Statement by the Director-General

The Director-General recalled that it had been decided at the Ministerial meeting in November 1982 (L/5424, page 6) that he should inform the Council of conciliatory processes in which he would

participate, and of cases in which it had not been possible to meet time limits established under the 1979 Understanding on Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/210). Pursuant to these instructions, he made a full report on the state of work of the panels presently in operation, as follows:

He gave the dates of the specific phases of the work of the three panels which had not yet submitted their reports to the Council:

(i) Canada - Foreign Investment Review Act (FIRA)

(ii) European Economic Community - Subsidies on canned peaches, canned pears and raisins.

(iii) European Economic Community - Quantitative restrictions on imports of certain products from Hong Kong.

He then said that there were two panels which had been established but for which the terms of reference and composition were still being discussed:

(i) European Economic Community - Imports of citrus fruit and products.

(ii) Finland - Internal regulations having an effect on certain parts for footwear

He then referred to the Panel on U.S. imports of automotive spring assemblies, which had presented its report in June 1982 (L/5333). The report had subsequently been considered at several Council meetings. The Chairman of the Council was consulting with the two parties to the dispute and with other interested delegations.

The Director-General then turned to panels which had been established by Committees set up under MTN Agreements, although these panels did not come under the direct responsibility of the Council.

Two panels had been appointed by the Committee on Subsidies and Countervailing Measures:

(i) European Economic Community - Subsidies on export of wheat flour. He said that the two parties had received the conclusions of the Panel's report on 24 February 1983, and had been given until 18 March 1983 to find a mutually satisfactory solution to the dispute, as stipulated in paragraph 18 of the 1979 Understanding. The Director-General wished to call attention to a development in this case which he considered very grave. The day after the conclusions had been transmitted to the parties, their contents had been revealed in detail to the press. The conclusions had since been widely commented upon. Of

necessity such comment was misinformed since the supporting analysis and arguments in the Panel's report had not been taken into account. It seemed to him that this was a certain way of destroying any chance of reaching a compromise solution. It was possible that the chances in this case were slim, but he nevertheless wished to express concern over this way of treating panel conclusions, transmitted on the understanding that they would be considered as strictly confidential during the reflection period. He said that it was also highly unsatisfactory that the members of the Committee on Subsidies and Countervailing Measures should learn of the Panel's conclusions through the press. There was another aspect of this case which caused him concern. The members of the Panel had been referred to in the press as representatives of countries. He wanted to stress that panel members acted in a personal capacity, not as national delegates. Unless the independent status of panelists was respected, both by the parties to disputes and by the countries from which panellists came, it was hard to see how the system of dispute settlement by panels drawn from the delegations and capitals of contracting parties could survive.

(ii) European Economic Community - Export subsidies on pasta. The factual and arguments parts of the report had been transmitted to the parties to the dispute, and the draft conclusions were being elaborated by the Panel members. The final meeting of the Panel was scheduled for late March.

Finally, he mentioned that the Committee on Government Procurement had decided at the request of the United States to set up a Panel to examine certain practices of the European Communities concerning value added tax and threshold.

The Director-General concluded that it was his firm intention to pursue some of the problems and deficiencies he had mentioned in the appropriate context.

The representative of the United States said the precise information on dates and times indicated that the dispute settlement process was a lengthy procedure, and in the view of his delegation, too lengthy. The public perception of the GATT in many countries including the United States, was perhaps 90 per cent focussed on the question of dispute settlement; and now the GATT as an institution was under some fire from a number of quarters which thought that it had become increasingly paralyzed by an inability to resolve trade disputes between contracting parties. Therefore, his delegation welcomed the Director-General's initiative in calling attention to a key element of the GATT process which deserved priority attention.

The representative of the European Communities said that the question of public opinion was always a touchy issue. The GATT dispute settlement mechanism did not offer miracle solutions, although perhaps the manner in which it had been used was not the best, and might be

improved. In the past the GATT had not faced such difficult situations, but was now running into a sort of traffic jam. Contracting parties should avoid acting in such a way as to have their different public opinions set too many hopes on a system which had its limits. This was not a court system, but one which dealt with sovereign States; and the important consideration was to use existing GATT machinery to reconcile, conciliate and come up with reasonable solutions between contracting parties.

The representative of Chile was concerned at the precedent of parties to a dispute divulging panel conclusions to the public and adopting positions on conclusions which did not meet commitments entered into under the 1979 Understanding. The aim of the GATT dispute process was to reach solutions satisfactory to both parties wherever possible.

The Chairman expressed confidence that the contracting parties would reflect carefully on the report by the Director-General.

The Council took note of the statements.

14. EEC sugar régime

The representative of Colombia, speaking under "Other Business", recalled that at the Council meeting on 1 October 1982, he had reported on the results of the joint consultation under Article XXIII:1 which ten contracting parties (Argentina, Australia, Brazil, Colombia, Cuba, Dominican Republic, India, Nicaragua, Peru and the Philippines) had held with the European Economic Community regarding the subsidization inherent in the EEC's common sugar régime. He said that no satisfactory action had been taken by the EEC, and that these countries still reserved their right to raise the complaint again in GATT. However, in the hope that a successful solution could be reached, they had taken note that in the near future the EEC would be joining the members of the present International Sugar Agreement in negotiations on a new agreement.

The representative of Pakistan said that although his country had not been involved in the joint consultations with the EEC on sugar, his authorities had certain specific and general concerns on this matter. Pakistan had recently acquired the potential for exporting sugar, but found that it could not export unless it subsidized its sugar to the extent of 75 per cent. He recalled that in the late 1950s and the early 1960s, the developing countries had been encouraged to increase their industrial export capabilities, but very soon had found that their exports were heavily barricaded by protectionist measures. Then, in the late 1960s and 1970s the developing countries had modernized their agricultural sector in the context of the Green Revolution, but found that trade régimes in agriculture were worse than those in manufactures. Pakistan was currently formulating its sixth five-year plan, and found that it was in a dilemma over whether to export agricultural products or manufactures.

The representative of the European Communities said he had taken note of the statements by the representatives of Colombia and Pakistan. The EEC maintained its belief that it had fully respected its obligations under the General Agreement. He added that since this issue had first arisen in the Council, the map of the sugar world had changed, for instance, by the introduction of sugar substitutes, and he wondered what this map might look like in the future.

The Council took note of the statements.