RESTRICTED
C/M/156
7 May 1982
Limited Distribution

GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL
31 March 1982

MINUTES OF MEETING

Held in the Centre William Rappard on 31 March 1982

Chairman: Mr. B.L. DAS (India)

Subjects discussed:

		Page
1.	Customs unions and free-trade areas; Regional agreements	2
	- Biennial reports	2
	(a) Caribbean Common Market	2
	(b) New Zealand/Australia Free-Trade Agreement	2
	(c) Central American Common Market	2
2.	Australia - Article XIX actions on passenger motor vehicles and certain footwear	3
	- Suspension of tariff concessions by the European Economic Community	3
3.	Second ACP/EEC Convention of Lomé	3
	- Report of the Working Party	3
4.	Preparations for the Ministerial meeting	4
	- Progress report of the Preparatory Committee	4
5.	Committee on Balance-of-Payments Restrictions	4
	(a) Consultation with Greece	4
	(b) Consultation with Brazil	5
	(c) Arrangements for consultations in 1982	5
6.	Canada - Foreign Investment Review Act (FIRA)	5
	- Recourse to Article XXIII by the United States	5
7.	India - Auxiliary duty of customs	8
	- Request for extension of waiver	8
8.	Consultation on trade with Hungary	9
	- Report of the Working Party	9
9.	United States - Prohibition of imports of tuna and tuna products from Canada	12

	Page
10. Working Party - Sugar	15
- Report of the Working Party	15
11. European Economic Community - Subsidies on canned peaches, canned pears and raisins	21
- Recourse to Article XXIII by the United States	21
12. Administrative and financial questions	23
(a) General Service category staff salaries	23
(b) Assessment of additional contribution to the 1982 budget and advance to the Working Capital Fund	24
(c) Committee on Budget, Finance and Administration - Membership	25
13. Notification and Surveillance	25
14. United Kingdom - Tax practices on lease transactions	26
15. United States - Caribbean Basin Economic Recovery Act	26

1. Customs unions and free-trade areas; regional agreements - Biennial reports (L/5251, L/5268, L/5270)

The Chairman drew attention to documents L/5251, L/5268 and L/5270 containing information submitted, under the procedure established by the Council for the distribution of biennial reports, by the parties to the following regional agreements:

(a) Caribbean Common Market (L/5251)

The Council took note of the Report.

(b) New Zealand/Australia Free-Trade Agreement (L/5268)

The Council took note of the Report.

(c) Central American Common Market (L/5270)

The Council took note of the Report.

2. Australia - Article XIX actions on passenger motor vehicles and certain footwear
- Suspension of tariff concessions by the European Economic Community (C/M/155)

The Chairman recalled that the Council had considered this matter at its meeting of 22 February 1982 and said that the interested parties had held further discussions on the issue of a proposed suspension by the EEC concessions pursuant to Article XIX:3(a). However, since the parties held different interpretations as to the nature and extent of their respective GATT rights in relation to the above issue, it had not been possible to bring the matter to finality. Both parties agreed, however, that the issue remained quiescent and that there was no reason to press it to resolution at this time, it being recognized that this was without prejudice to either contracting party's interpretation of its GATT rights.

The Council took note of the statement.

3. Second ACP/EEC Convention of Lomé
- Report of the Working Party (L/5292)

The Chairman recalled that in March 1981 the Council had established a Working Party to examine, in the light of the relevant provisions of the General Agreement, the Second ACP/EEC Convention signed at Lomé on 31 October 1979, and to report to the Council. The Working Party had carried out its examination and had submitted its Report in document L/5292.

Ambassador O'Brien (New Zealand), the Chairman of the Working Party, stated that there had been a general discussion of interesting changes, modifications and improvements concerning certain aspects of the First Lomé Convention, for example, in the STABEX system, and the introduction of a mechanism for covering mineral products, as well as certain other new features. There had also been a more detailed discussion on the trade effects of the Second Lomé Convention on third countries, covering such items as safeguard provisions and rules of origin. He summed up the conclusions of the Working Party as follows: First, there had been wide sympathy amongst all participants in the Working Party for the view that the purposes and objectives of the Convention were in line with those embodied in the General Agreement. Second, the parties to the Convention had taken the view that the trade commitments contained therein were compatible with the relevant provisions of the General Agreement. Third, some members of the Working Party had considered it doubtful, however, that the Convention could be fully justified in terms of the legal requirements of the General Agreement. Fourth, it had been understood by all members in the Working Party that the Convention could in no way be considered as affecting the legal rights of contracting parties under the General Agreement.

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

4. Preparations for the Ministerial meeting
- Progress report of the Preparatory Committee

The representative of Canada, speaking on behalf of Ambassador McPhail (Canada), Chairman of the Preparatory Committee, reported on the meeting of the Committee held on 25-26 March 1982.

He said that the record of the meeting was contained in PREP.COM/R/4. The Committee had agreed that the next session of the CONTRACTING PARTIES should be held in the Geneva International Conference Centre. The Committee had also noted several additions to the catalogue of suggested topics, and had before it a number of justifications for items in the catalogue. The Committee had noted statements by a large number of delegations indicating an interest in individual items in the catalogue, justifying their interest and setting out priorities among items, as well as a number of criteria for establishing such priorities. The Committee had also noted delegations' views on the basic problems facing the world trading community, and on the objectives and structure of the Ministerial meeting, as well as the final document to be put before Ministers.

He said that the Committee had invited contributions from other GATT bodies, if possible, by the next meeting of the Committee on 27-28 April 1982. The Committee had also agreed that, on the basis of suggestions made in the Committee and further consultations, a short paper should be prepared for consideration at its next meeting which would enable it to bring its deliberations into better focus.

The Council took note of the statement.

5. Committee on Balance-of-Payments Restrictions

The Chairman said that the Committee on Balance-of-Payments Restrictions had carried out a consultation with Greece at its meeting in November 1981 and a consultation with Brazil at its meeting in December 1981.

Mr. Feij (Netherlands), Chairman of the Committee, introduced the reports.

(a) Consultation with Greece (BOP/R/123)

Mr. Feij said that the Committee had welcomed the abolition by Greece of several measures taken for balance-of-payments purposes since the last consultation, in connection with its accession to the EEC. It had noted that Greece now maintained only one restrictive import measure for balance-of-payments purposes, namely, a system of advance import deposits, and that a fixed time schedule had been established for the progressive removal of this system and for its termination on 1 January 1984.

The Committee had decided to keep the gradual abolition of the import deposit scheme under review, but to hold further meetings on the deposit scheme only if the Chairman, in consultation with interested Committee members, determined that this was desirable.

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

(b) Consultation with Brazil (BOP/R/124)

Mr. Feij said that while noting that serious difficulties persisted in Brazil's current account, the Committee had regretted that the maintenance of multiple, and in some cases severe, impediments to imports was considered necessary by the Brazilian authorities despite the present relatively favourable overall balance-of-payments situation, including the recent appearance of a surplus on the trade account. The Committee had also noted that Brazil applied simultaneously three restrictive measures for balance-of-payments purposes, and had recalled in this regard paragraph 1(b) of the Declaration on Trade Measures taken for Balance-of-Payments Purposes (BISD 26S/205). Noting that Brazil had not announced a time-table for the phasing-out of the application of the financial transaction tax to imports, the Committee had requested Brazil to do so in the light of paragraph 1(c) of this Declaration. The Committee had further requested Brazil to relax its import licensing suspension scheme, taking into account Article XVIII:10 of the General Agreement and to reduce the surcharges imposed for balance-of-payments purposes. He said that the Committee had asked Brazil to provide, for circulation by the secretariat, certain additional information on its import régime. He emphasized in this regard that it was understood in the Committee that Brazil's 1981 consultation was concluded and that any additional information provided by Brazil could not give rise to a reopening of this consultation.

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

(c) Arrangements for consultations in 1982 (C/W/379)

Mr. Feij pointed out that the secretariat had circulated a list of the consultations to be held in 1982 (C/W/379). He noted that Italy did not figure on this list because its advance deposit scheme had been terminated on 7 February 1982, as notified in document L/5162/Add.3.

The Council took note of document C/W/379 and of the statement.

6. Canada - Foreign Investment Review Act (FIRA)
- Recourse to Article XXIII by the United States (L/5308)

The representative of the United States said that, as noted in document L/5308, his Government was requesting the Council to establish a panel under Article XXIII:2 in order to examine the United States complaint related to certain trade distorting practices in the implementation of Canada's Foreign Investment Review Act (FIRA), or other Canadian Acts,

policies or practices. The practices in question required that commercial enterprises utilize in their production Canadian products or equipment, or required that they export a percentage or quantity of production.

In outlining the practices based on FIRA, he explained that United States companies seeking to invest in Canada were required to submit investment proposals, which entailed lengthy negotiations with the Canadian authorities and often resulted in refusal of permission until legally binding commitments were made that were sufficiently attractive to Canada. He said that under the commitments foreign investors were required to purchase a minimum percentage of Canadian goods or to give preference to so-called "competitively available" Canadian goods. Export performance requirements could entail enforceable commitments to export minimum percentages or amounts of exports. In his view, these practices were trade distorting and were contrary to the aims and provisions of the General Agreement as well as to certain GATT obligations of Canada. He said that since bilateral consultations under the General Agreement had failed to resolve this matter, his delegation requested that the Council establish a panel to examine, in the light of the relevant GATT provisions, (1) FIRA or other local content acts, policies or practices which result in the imposition of requirements to utilize Canadian products or equipment in production, and (2) FIRA or other Canadian acts, policies or practices which result in the imposition of requirements to export a percentage or quantity of production. He suggested that the terms of reference and the composition of the Panel be determined in consultations between the Chairman of the Council and the parties to the dispute.

The representative of Canada said that the United States had expressed serious concerns with FIRA only in the past year or so, although the administration of FIRA had remained basically unchanged since its entry into force in 1974. While there had been a number of earlier bilateral discussions between the parties, the Article XXII consultations on 17 February 1982 were the first detailed presentation of the United States' concerns with respect to Canada's GATT obligations. His Government was of the view that the practices referred to in these consultations were not inconsistent with Canada's GATT obligations and did not constitute a nullification or impairment of benefits accruing to the United States.

He explained that FIRA provided the legal foundation for Canada's approach to foreign investment. It provided a mechanism to screen certain foreign direct investment proposals to determine whether or not they were likely to be of significant benefit to Canada. The Act applied to two forms of foreign investment only: (1) the acquisition of control of a Canadian business enterprise by a non-eligible person (a "takeover"); (2) the establishment of a new business by a non-eligible person who had no existing business in Canada which was related to the new business. It was Canada's policy to welcome foreign direct investment provided it would yield significant benefits to Canada. There was, however, concern about the level of foreign control of the economy, which, in many important sectors was the

highest of any industrialized country. He quoted statistics which showed that, based on assets, 40 per cent of the mining industry, 65 per cent of the oil and gas industry and 48 per cent of manufacturing in Canada was foreign-controlled. Furthermore, nineteen of the fifty largest companies in Canada were foreign-controlled.

He noted that a number of countries with a lower degree of foreign-controlled firms had instituted policies to regulate foreign investment. He said that Canada's policy was a necessary response to a particular problem raised by the uniquely high level of foreign control of its economy and the structural problems associated with it. He gave as examples of such problems the operations of foreign-controlled subsidiaries in Canada had often been characterized by low levels of research and development, by excessive reliance on imported technology and a lack of independent capacity to innovate, by short and inefficient production runs for the Canadian market only, and by limitations, and in some cases outright prohibitions, placed by their parent corporations on their ability to export. Furthermore, foreign-controlled subsidiaries tended to import components and sub-assemblies rather than to utilize competitive Canadian supplier industries.

He said that his delegation was aware that the General Agreement did not pertain to investment per se. However, foreign investment did have an impact on international trade. As questions had been raised whether Canadian efforts to regulate foreign investment were compatible with Canada's GATT obligations, his delegation was prepared to agree to the establishment of a panel to examine this matter, subject to agreement on the terms of reference.

The representative of the European Communities expressed concern about certain Canadian trade practices within the framework of the FIRA which had a distorting effect on trade. He said that if the Council decided to establish a panel to examine this matter, the EEC would reserve the right to make a contribution to the work of the panel.

The representative of Brazil expressed doubts at the representation made by the United States, as this matter dealt with Canadian laws and practices which were related to investments. He enquired as to the relevant GATT provisions affected by the Canadian practices, and expressed the opinion that the Council should be informed as to the trade practices which should be examined by the Panel.

The representative of the United States replied that his Government did not challenge investment review practices as such, but challenged, under the General Agreement, trade practices imposed under the umbrella of investment acts, such as export requirements and import content requirements. He added that during the bilateral consultations the provisions of Articles III, XI, XVII and XXIII had been explored. In his view, these Articles were relevant to the trade distorting practices in this case.

The representative of Brazil noted that in this case only trade practices would be considered. He asked that his delegation be consulted on the terms of reference for the panel, which, in this case, should be more precise than the standard terms of reference used for panels.

The Council took note of the statements.

The Council agreed to establish a panel and authorized the Chairman, in consultation with the two parties concerned and with other interested contracting parties, to decide on appropriate terms of reference and, in consultation with the two parties concerned, to designate the Chairman and the members of the Panel.

7. India - Auxiliary duty of customs
- Request for extension of waiver (C/W/380, L/5304)

The Chairman recalled that by the Decision of 15 November 1973 (BISD 20S/26) the CONTRACTING PARTIES had waived the application of the provisions of Article II of the General Agreement to the extent necessary to enable the Government of India to apply the 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 by 31 March 1982. The delegation of India had submitted a request for a further extension of the waiver (L/5304).

The representative of India said that the auxiliary duty of customs had been introduced and continued as a temporary measure for the mobilization of resources for compelling development and social welfare needs. As indicated in document L/5304, the special circumstances which had obliged the Government of India to maintain the auxiliary duty of customs continued to exist. Despite various measures that had been proposed to raise additional revenue, the resource situation continued to be increasingly difficult. Even after additional taxation, the overall budgetary deficit was estimated to be approximately Rs 13,650 million. The Indian Government was anxious to keep the deficit as low as possible in order to avoid creating inflationary conditions. This underlined yet again the necessity for mobilizing additional resources to the maximum extent possible for essential developmental activities and to accommodate increasing costs of essential imports, particularly oil and petroleum products.

He said that in applying for another extension of the waiver, his delegation wished to clarify that to the extent possible, India had endeavoured to ensure that the 5 per cent increase in the overall rates of auxiliary duty did not affect GATT-bound items. It had, however, been essential to effect an increase of 5 per cent in respect of the following two items: electrical measuring, checking, analysing or automatically controlling instruments and apparatus; and component parts of machine tools for working metals. He asked that this information be reflected in the text of the draft decision in document C/W/380. In respect of the remaining

items, the extent of the auxiliary duty and the exemptions granted in earlier years remained unchanged. He said that the three new exemptions on GATT-bound items indicated in document L/5304 should also be seen as bearing testimony to the continuing trend of liberalization in India's trade régime and as an effort by India to continue the progressive phasing down of auxiliary duties on GATT-bound items despite severe financial and resource constraints, in the spirit of the original waiver granted by the CONTRACTING PARTIES.

His delegation continued to consider that these duties would not have an adverse effect on imports into India within the framework of India's GATT obligations, and that the auxiliary duty was not intended to be a measure of protection designed to restrict imports. He reiterated that 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 the auxiliary duties.

The representative of the United States, noting that the auxiliary duties had been in existence since 1973 and that they were imposed for budgetary purposes, said that his Government was concerned that the duties might have certain balance-of-payments implications. While supporting the further extension of the waiver, his Government believed that the Balance-of-Payments Committee should examine the relationship of this duty to India's balance of payments during the regularly scheduled consultation with India.

The representative of Hungary said that his delegation understood the motivation and reasons behind India's request, and had taken note that India would promptly enter into consultations with any contracting party which considered that serious damage to its interests had been caused or was imminently threatened by the auxiliary duty. On this basis, his delegation supported the request for a further exension of the waiver.

The Chairman referred to the text of the draft decision and said that in the light of the statement by the representative of India, the words "one bound item" in the last line of the second paragraph on page 2 of document C/W/380, should be replaced by the words "two bound items".

The Council approved the text of the draft decision, as amended, and recommended its adoption by the CONTRACTING PARTIES by postal ballot.

8. Consultation on trade with Hungary
- Report of the Working Party (L/5303)

The Chairman recalled that the Council had established a Working Party in June 1981 to conduct the fourth consultation with the Government of Hungary provided for in the Protocol of Accession (BISD 20S/3) and to report to the Council. The Report had been circulated in document L/5303.

Ambassador O'Brien (New Zealand), Chairman of the Working Party, introduced the Report and said that the Working Party had noted that discriminatory quantitative restrictions not consistent with Article XIII of the General Agreement were still maintained against Hungarian exports by certain contracting parties. There had been a long debate on the extent and effect of the restrictions, and several members had called for their early removal. He said that the Working Party had examined Hungarian imports in general and specific points of its import régime, such as the status of the global quota on consumer goods and the changes being effected in the decision-making process for imports. Matters relating to the exchange rate, bilateral trade agreements, the complete publication of trade regulations, import turnover tax and export prices had also been discussed.

The representative of Hungary referred to the consultations between Hungary and Sweden on the removal of the remaining Swedish restrictions applied under paragraph 4 of Hungary's Protocol of Accession. He said that the consultations had resulted in a long-term agreement between the parties under which Sweden had found it possible to remove those quantitative restrictions while protecting its interests in the case of market disruption. He expressed the hope that other countries still maintaining quantitative restrictions would follow this example.

He then called attention to the Official Journal of the European Communities No. L/35 of 9 February 1982, which published Council Regulation (EEC) No. 288/82 of 5 February 1982 on common rules for imports. He said that while the Regulation contained a number of liberalization measures, these had not been applied in accordance with Article XIII. He then described in detail how Hungary and some other countries had been excluded from some of the liberalizations, and said that the discriminatory quantitative restrictions applied in respect of Hungary affected 25 per cent of its industrial exports. He enquired about the legal basis for these measures, and recalled that Hungary had accepted a specific safeguard clause with the understanding that it would bring about an early elimination of the discriminatory quantitative restrictions. He regretted that this had not occurred and that, to the contrary, new elements had now been introduced which justified Hungary's complaint.

The representative of the European Communities drew attention to the detailed references to the Official Journal of the European Communities made by the representative of Hungary. He said that this Regulation had switched from repeating a very long positive list of liberalizations to reproducing a more concise negative list of exclusions, which was perhaps unfortunate from a presentational standpoint in the present instance.

As to the economic impact, he said that the quantitative restrictions maintained in respect of Hungary represented 4 per cent of Hungarian exports, as mentioned in the Report of the Working Party. Furthermore, he pointed out that the 50 to 60 per cent of Hungarian foreign trade with the other CMEA countries was completely non-transparent. His delegation requested that Hungary publish its agreements with those countries, and

stressed that what was important in this matter was the balance of rights and obligations between contracting parties. While not requesting that it be discussed in the Council, he said that his delegation would welcome an opportunity to examine the text of Hungary's agreement with Sweden. In this context, he reiterated that his delegation was still prepared to enter into negotiations with Hungary with a view to arriving at a bilateral agreement for the progressive and total liberalization of trade in both directions.

The representative of Hungary said that the respective EEC member States had autonomously and independently imposed the various national quantitative restrictions to which he had referred earlier, and he enquired as to the legal basis for these measures under the General Agreement. As for the transparency of Hungary's foreign trade, he considered that the debate on this matter had been closed. He was pleased to hear that the EEC was prepared to follow the example of Sweden, recalling that he had unsuccessfully made the same proposal in the Working Party. Hungary was prepared to examine all quantitative restrictions which were not in conformity with Article XIII on a case-by-case basis, and was also prepared to accept voluntary restrictions in conformity with speciic safeguards if exports of goods subject to discriminatory quantitative restrictions caused market disruption or a threat thereof. He said that he had asked the EEC member States to give their reasons for their quantitative restrictions in order to determine whether there was a danger of market disruption, but that no reply had so far been received. He said that his delegation was also prepared to follow in the field of textiles the same procedures as agreed with Sweden. In conclusion, he proposed that the Council consider the legal basis for the quantitative restrictions not in conformity with Article XIII, to which he had referred earlier.

The representative of the European Communities repeated that his delegation was ready to open negotiations on a bilateral basis with Hungary for an agreement in order to liberalize trade progressively in both directions.

The representative of Hungary said that his country already had an agreement with the EEC for the liberalization of trade in the form of the Protocol of Accession of Hungary, and was ready to discuss with the EEC the methods through which the latter would fulfil its obligations thereunder. He took note that the EEC was envisaging a method such as that used by Sweden.

The Chairman suggested that the information given by the representative of Hungary about the EEC import régime be noted for further reflection, and that if, in future, any contracting party brought this matter before the Council, it could be taken up appropriately.

The Council took note of the statements and adopted the Report of the Working Party.

9. United States - Prohibition of imports of tuna and tuna products from Canada
- Draft decision proposed by Canada (C/W/378)

The Chairman recalled that in February 1982 the Council had adopted the Report of the Panel which had examined the complaint by Canada, and had taken note of the statements made thereafter by representatives. Subsequently, the delegation of Canada had submitted for the Council's consideration the text of a draft decision in document C/W/378.

The representative of Canada recalled that the Report of the Panel (L/5198) had concluded that the United States embargo on tuna and tuna products as applied from 31 August 1979 to 4 September 1980 did not comply with the requirements of Article XX(g) of the General Agreement and was not consistent with the provisions of Article XI. He said that against this background, Canada was requesting the Council to recommend that the United States take whatever action might be necessary to ensure that Section 205 of the Fishery Conservation and Management Act (FCMA) of 1976 would be implemented in a manner consistent with the United States' GATT obligations. It was Canada's view, as stated in the Panel proceedings, that this dispute involved the important principle of whether or not a contracting party should have the right to disregard obligations under the General Agreement in order to use trade measures to bring bilateral pressure to bear on non-trade issues.

He then reviewed certain facts of the case and stressed that the possibility of further embargoes being placed on Canadian fisheries products continued to exist as long as Section 205(A)(4)(c) of the FCMA required automatic imposition of import prohibitions on fish and fish products in response to actions by Canada to implement its laws in areas of Canadian jurisdiction not recognized by the United States. He said that a statement to this effect had been made before the Panel, bearing in mind that in 1980 the United States had threatened to implement a prohibition under Section 205 on imports of salmon from Canada following the arrest by the Canadian authorities of a United States salmon fishery boat. In the following Panel proceedings, the Canadian representative had therefore requested that the Panel recommend to the United States that it take the necessary action to ensure that the FCMA would be implemented in a manner consistent with the General Agreement (paragraph 3.23 of the Panel Report).

He said that while Canada was hoping that the circumstances which had led to the imposition of the tuna embargo under Section 205 would not recur, his Government believed that there still existed the potential for this to happen with respect to other fisheries. Accordingly, against this background and in view of the decision by the Panel to make a substantive finding in this case, Canada considered that it would be appropriate for the Council to take the moderate decision on the recommendation before it.

The representative of Ecuador, speaking as an observer, expressed the view that the Panel had made a detailed analysis of the situation and that its conclusions were balanced. She said that the conclusions showed clearly that the prohibition adopted by the United States was not compatible with the provisions of Article XI of the General Agreement and that, for lack of sufficient evidence, the Panel had been unable to determine whether, in terms of Article XX(g), the measures had been applied in conjunction with restrictions on domestic production or of consumption of these products in the United States.

Her delegation also considered it important that the Panel had taken note that the prohibition had been applied by the United States in reaction to the capture of its fishing vessels within 200 miles of the Canadian coast, a zone subject to the Canadian fisheries jurisdiction, a problem which had also confronted other countries. Her delegation supported the proposed decision, which was justified in the light of the Panel Report, and appeared to be the logical continuation in the search for a solution to the controversy. Moreover, adoption of the draft decision would reduce tensions not only between the United States and Canada but also between the United States and other countries of the American continent, including Ecuador, which had suffered severe prejudice from similar measures adopted by the United States.

The representative of the United States expressed regret that Canada was asking the Council to take a decision that was both inconsistent with GATT tradition and unwarranted in the circumstances of this case. He recalled that the Council had adopted the Panel Report, which had embodied a ruling that the United States tuna embargo was contrary to certain Articles of the General Agreement, a ruling that would apply to a repetition of the tuna embargo in the same circumstances. He also recalled that the Panel had continued to examine this case at Canadian insistence, even after the United States had completely eliminated the challenged embargo and had entered into a formal treaty with Canada that prevented a recurrence of the embargo. While in such circumstances a panel would usually terminate its work, since one of the basic aims of the dispute settlement process was conciliation rather than rendering judgments on hypothetical cases, the United States had co-operated with the Panel when Canada had nevertheless insisted on substantive conclusions. Moreover, the United States had not objected to the adoption of the Report. He noted that Article XXIII:2 and the terms of reference called for the CONTRACTING PARTIES to make a recommendation or give a ruling on the matter, as appropriate. He said that in adopting the Panel Report, the Council had made a ruling that the tuna embargo in question was contrary to the United States' GATT obligations. Accordingly, the terms of Article XXIII had been met.

Now, however, Canada asked the Council to make a recommendation that went beyond the scope of the dispute and the findings of the Panel, and which the Panel itself had evidently decided not to make. He said that the recommendation would create the impression, which had been carefully avoided

by the Panel, that Section 205 broadly had been assessed by the Panel. He underlined that the Report had been carefully limited to a particular use of Section 205 and that the Panel had explicitly refrained from opining on other possible uses of that provision, including the salmon situation, which had not resulted in an embargo but had involved a threatened forcible seizure by Canada of United States vessels fishing in waters over which the United States believed itself to have valid jurisdiction. The Panel had specifically not addressed this salmon question, which had not been within its terms of reference and which would have involved other GATT questions.

He said that the only justifiable decision, if Canada insisted on a recommendation, would have been one requesting the United States to implement the embargo on tuna from Canada in accordance with the Panel's findings as adopted. Since the embargo in fact had been long since eliminated, that recommendation would be pointless. He, therefore, urged that the Council conclude its consideration of this matter by noting Canada's assumption that the United States would administer the FCMA in the light of the Council's decision adopting the Panel's report.

The representative of Peru said that the Panel's Report was clear and precise in finding that the United States' embargo had been incompatible with Article XI and that there was no evidence that the measure could be justified under Article XX(g). She said the Canada-United States treaty had not settled the question for other countries like Peru which continued to be hurt by this protectionist measure taken against its exports, in violation of international law. Her delegation supported the draft decision in document C/W/378. The Panel having fulfilled its terms of reference, it was now up to the CONTRACTING PARTIES to make the necessary recommendations, as appropriate, in order to resolve the question and to avoid the continuation of such measures in the future.

The representative of Brazil said that, in his opinion, the problems between the United States and Canada concerning the FCMA were mostly a question of general international law and especially of the law of the sea, and that it was not the rôle of the GATT to pass judgment either on the FCMA itself or on its implementation. In this context, he noted that the proposed decision in document C/W/378 might need to be redrafted so as to mention the trade aspects involved. He suggested, accordingly, that the Council defer action on the draft decision to a future meeting.

The representative of Australia said that in addition to the important international law question of domestic jurisdiction over international waters, which he did not propose to discuss, the present matter was of considerable importance for the GATT itself in two respects. First, it raised the question of what should happen when a bilateral agreement is reached on the very specific point at issue. As the Panel had pointed out, the prevailing GATT practice was that when a bilateral settlement to a dispute had been found, panels had usually confined their reports to a brief description of the case in indicating the solution that had been reached.

In the present case, however, the Panel, after examining the precedents and considering an argument advanced by Canada, had decided to proceed with its work and to establish a complete report, setting an important precedent in relation to dispute settlement. He said that on this aspect the attitude of the United States was commendable, since it might well have continued arguing against this procedure.

Second, the present case was of importance to the GATT because there were two different "pressures of work", so to speak. One of these was the idea that a panel had to decide on a particular specific issue and that the Council had to confine itself to that issue when considering the Report. Another view of the best possible dispute settlement procedure, which had been consistently taken by his delegation, acknowledged that panels and the Council, in adopting panel reports, could, and in many cases should, proceed to make recommendations going beyond the specific issue in dispute. In this sense, his delegation had sympathy with Canada's concern about possible future United States actions under Section 205 of the FCMA, which, if used in relation to some other product, could again contravene the GATT.

His delegation would, therefore, see a recommendation along the lines of the Canadian suggestion as strengthening the GATT dispute settlement procedure. In this context, he saw great merit in the proposal made by the representative of Brazil, and was of the opinion that the concern of Canada should be underlined by the Council in some way or other.

The representative of New Zealand pointed out that his country had the world's fourth largest fishing zone and that the tuna fleets within that zone included those from the United States. New Zealand had, therefore, followed the Panel's deliberations and Report with very close interest from both a trade policy and from a fisheries policy point of view. He said that New Zealand endorsed the findings of the Panel but had some misgivings about the proposed decision in document C/W/378 for the reasons mentioned by some earlier speakers. If a decision was considered necessary, his authorities thought that it should be cast in somewhat more general terms and that it might emphasize that care should be taken by the United States, as well as by other contracting parties, to ensure that implementation of national fisheries legislation was always in accordance with GATT obligations.

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

10. Working Party - Sugar
- Report of the Working Party (L/5294)

The Chairman recalled that in September 1981 the Council had established a Working Party to conduct a review of the situation and to report to the Council. The Working Party had now concluded its work and had submitted its Report in document L/5294.

Mr. Henrikson (Sweden), speaking on behalf of Ambassador Ewerlöf (Sweden), Chairman of the Working Party, introduced the Report. He said that the Report recorded the statements made, questions raised and information provided by members of the Working Party. He pointed out that the Working Party had been faced with significant differences among its members as to the interpretation of the Council Decision of 25 September 1981. In spite of an appeal made by the Chairman to members to abstain from a discussion on procedure and also in spite of various compromise suggestions on how to pursue the review of the situation, the Working Party was unable to take the review as far as was desirable. It, therefore, agreed to end the proceedings and to submit a report of the discussion which had taken place.

The representative of Australia expressed disappointment at the outcome of the work of the Working Party. He said that a procedural device had been used whereby one party was able unilaterally to block progress in the working out of the dispute. This resulted in a situation where policies pursued by a group of contracting parties which had been found to be causing prejudice or threat of prejudice to other contracting parties, still remained in force more than two years after the findings of two panels. In the view of his delegation, nothing had been done in that period which would eliminate or reduce the damaging effects of those policies. He believed that such a course of action could only weaken the dispute settlement procedure of the GATT and damage the credibility of the organization as a whole. He recalled statements by his delegation at earlier meetings of the Council about the effect this would have on other contracting parties who might be left with a diminished sense of obligation and commitment within the GATT framework of rules.

In respect of the substantive issues in the dispute, he made the following points: (1) the EEC had not introduced effective limits into its production or export system for sugar so as to remove the serious prejudice and threat of prejudice found by the Panels to exist; (2) the Community system was again causing serious prejudice to Australia's trade; (3) Australia was deeply concerned that the Community had blocked progress on the settlement of this dispute by its contention that it was no longer subsidizing its exports of sugar. Australia rejected that claim and was concerned at the precedent which it would set, because if a contracting party were to claim that irrelevant changes to its trade practices, which had been found to cause prejudice, had negated the basis of the CONTRACTING PARTIES' earlier findings, then this would tend to render the GATT dispute settlement procedure ineffective; (4) Australia's complaint had not been resolved under these circumstances and, indeed, was maintained. In the absence of any satisfactory resolution, his delegation noted that Community subsidies were continuing to damage Australia's trade by significantly depressing world sugar prices, while at the same time further increasing the EEC's share of world trade at the expense of unsubsidized exports from efficient producers; and (5) Australia fully reserved its rights under the General Agreement.

The representative of Brazil also expressed regret that the Working Party had not produced any positive results. In the view of his delegation, this was the consequence of the EEC's having blocked the proceedings by adopting a wrong interpretation of the Working Party's terms of reference. His delegation noted that (1) prejudice and threat of prejudice had been found to exist by a Panel and by the Council, which had adopted the Panel's Report; (2) that despite this and the fact that prejudice and threat of prejudice still existed, the EEC had taken no measure to correct the sugar policy which had caused this situation; and (3) that notwithstanding these facts, the Council had failed to make recommendations or give a ruling on the matter.

In conclusion, he considered that not only the findings of the Panel that were adopted by the Council were still valid, but also that the EEC had acquired an inequitable share of the world sugar market through policies unacceptable to Brazil. His delegation therefore, reserved all of Brazil's rights under the General Agreement and under pertinent Decisions of the CONTRACTING PARTIES.

The representative of the United States also expressed regret at the procedural discussions in the Working Party which had prevented adequate substantive discussion of the matter at issue and had made it impossible for his Government's views to be recorded. He noted that the Working Party had been the latest of a series of meetings held in an effort to find a solution to the serious prejudice and threat of serious prejudice found by the Council to be caused by the EEC system of sugar export refunds. Regrettably, no practical solution has been achieved, despite some two years of discussions. There had been modifications in the Community sugar régime since the adoption of the Panel Reports on the Brazilian and Australian complaints. However, regardless of what the EEC may have sought to achieve, in practical terms the effect of its sugar exports on the interests of other contracting parties had worsened. While this might not have been the intention of the EEC in introducing the co-responsibility principle, with the new régime in place the EEC's exportable surplus had climbed to record highs and its sugar exports in 1981 had been far above the levels of 1978 and 1979. Indications were that 1982 exports would be at about the same level, despite the EEC's decision to stock an additional amount of up to 2 million tons in 1982. He said that the proposed further increase in the already high Community support price heightened the United States' concern that the escalation of the EEC's exportable surpluses would continue.

He said that the nature of the EEC's defence of its programme in the GATT also added to the United States' concern. He recalled the EEC's earlier emphasis on the practical benefits foreseen by the introduction of the co-responsibility scheme and its having mentioned hesitantly that perhaps the modified régime would no longer constitute an export subsidy. At the September 1981 Council meeting and at the Working Party, however, the EEC had directly claimed that the refunds were not export subsidies subject to GATT discipline. He stressed that the United States had to reject this contention, which was apparently based on the notion that amounts dispensed

as refunds would be eventually recovered by the co-responsibility levies. In his view, the system would guarantee a minimum return to Community producers, and tax an amount of the government guaranteed support price theoretically sufficient to cover government payments of export refunds. The only change in the previous system appeared to be that accounting was theoretically segregated by the EEC and that the permissible level of previously existing levies had been increased. He said that it remained to be seen whether tax revenues would, in fact, match Community outlays for refunds; but even if taxes and outlays were to match, the United States did not think that by virtue of this accounting device the refunds would no longer constitute a subsidy.

He said that under the EEC's theory, any export subsidy programme could be removed from Article XVI:3 without loss to producers merely by increasing the price guarantee, levying a tax that reduced the guarantee, then using the funds for export payments. He stressed that the General Agreement did not give such unfettered rights. Ad Article XVI:3 did provide that in defined circumstances payments funded by producer levies would not be subject to Article XVI:3; but the Community scheme for sugar did not, in his view, meet those terms, because (1) government funds were involved, and no interest was collected from producers on any money dispensed by the EEC, nor did the production tax cover subsidy amounts dispensed on some 1.2 million tons of exports - the equivalent of Lomé Convention imports; and (2) even if no government money were involved, it was apparent that the system stimulated exports and caused serious prejudice to the interests of other contracting parties.

He expressed the hope that the EEC could see that its sugar policy, however motivated, continued to be a source of deep practical concern and that responsible changes were in the EEC's own interest as a sugar exporter and as a GATT member.

The representative of New Zealand referred to the statement made by the representative of the European Communities in the Working Party that the EEC was no longer subsidizing exports of sugar produced within the Community, as the entire losses on the exports of such sugar were covered by the co-responsibility levy on production. He said that New Zealand reserved its position on the issue of whether the system was equivalent to an export subsidy and whether it was compatible with the General Agreement.

The representative of Colombia said that as a sugar-exporting country Colombia found itself prejudiced by the Community policies to the extent that sugar prices fell. He expressed regret that the Working Party, in which his delegation had participated, had been unable to fulfil its terms of reference as a result of discussions focusing essentially on procedural matters raised by the EEC. He felt that this had set a grave and negative precedent in respect of the dispute settlement procedures.

The representative of Peru also expressed disappointment at the frustration of the work of the Working Party as a result of the unilateral interpretation given to the terms of reference by the EEC. She said that her Government's earlier doubts concerning the co-responsibility system had been confirmed. As this régime caused serious prejudice, Peru reserved its rights in respect of this matter under the General Agreement.

The representative of Cuba said that as a sugar-producing country Cuba had followed with great interest the work of the Working Party. He expressed profound regret that the Working Party had been unable to arrive at positive results owing to discussions on procedural matters. The EEC's sugar policy continued to prejudice producers and exporters, thus generating a fall in prices and instability on the sugar market. This had set a negative precedent; and his Government reserved its rights under the General Agreement to revert to this matter at any time.

The representative of Uruguay said that while his country was not directly affected by the EEC's sugar policy, Uruguay was nevertheless concerned also about the results of the Working Party, which appeared to place that policy beyond the purview of the GATT. As he understood the Community co-responsibility system, the EEC claimed no longer to subsidize sugar exports. There existed, instead, an internal co-responsibility system of the sugar exporters themselves, based on the setting of internal prices. The higher the internal price was set, the more the producer could produce; the higher his yield would be; and the greater would be his possibility to export surpluses, at the most advantageous price to him; the more he would receive in the domestic market, the lower he could charge on the international market. This would, however, be equivalent to a subsidy. He said that Uruguay was concerned about the consequences such a system would have if applied to any other agricultural product.

The representative of the Philippines agreed with the statements made by previous speakers. He noted with regret that in spite of the Working Party Chairman's appeals to its members not to be distracted by a discussion on procedure, it had proved impossible to focus clearly on the review of the situation that had arisen concerning sugar as a consequence of the practices forming the basis of the complaints by Australia and Brazil. He expressed concern that the source of uncertainty in world sugar markets and the threat of prejudice to other producers and exporters of sugar, as shown by the clear conclusions of two Panels, continued to exist and could worsen. He said that although many years had been devoted to the complaints by Australia and Brazil, the Council had yet to give a ruling or recommendation in order to thwart the existing prejudice and threat of prejudice to the interests of other countries like the Philippines, whose sugar export earnings had been negatively affected. Moreover, the results of the Panels' and Working Party's proceedings could only cast further doubts on the efficacy of the dispute settlement mechanism. He said that his Government, therefore, reserved its rights under the General Agreement to take any course of action deemed necessary in the future.

The representative of Argentina associated himself with the statements made by previous speakers. He expressed concern that the procedural issue raised during the meeting of the Working Party had made it difficult to arrive at a solution of the substantive matter. He also expressed concern about the results of the measures adopted by the EEC in respect of sugar. Finally, his delegation was concerned about the credibility of GATT as the proper forum in which to solve problems involving prejudices to a contracting party.

The representative of Canada said that his delegation had participated in the work of the Working Party due to continued interest in the efficient functioning of the GATT dispute settlement procedures. He expressed disappointment that the Working Party had been unable to deal with the substance of the issue put before it.

The representative of the European Communities, after expressing understanding for the difficult task which the Working Party had been asked to perform, said that his analysis of the situation would not bear out the allegations made by previous speakers. He shared the regret which had been expressed as to the inability of the Working Party to proceed further with its review of the situation because, in his view, this would have demonstrated that the EEC could not be held solely responsible for the conditions existing in the world sugar market.

Turning to the question of the terms of reference of the Working Party, he recalled having participated in their formulation in the Council and in informal discussions, and recalled further that the EEC had reserved the possibility of bringing into the discussion the totality of the policies of countries participating in the world sugar economy. Accordingly, it could not be said that the EEC had used certain procedures to block the progress of the Working Party. The terms of reference having been carefully negotiated, it then became a question of their interpretation. He stressed that if the interpretation of negotiated terms of reference could not be agreed upon, it would be impossible to work together; divergencies would only be intensified and the results would neither be positive nor effective. He expressed regret that the discussions in the Working Party had centred on questions of procedure.

As to the Community sugar policy, it could not be said that nothing had been done since the two Panels and the Working Party had presented their respective Reports. He pointed out that from the point of view of Community sugar producers, it would not be possible to have prices reduced by 40 per cent from one year to the next, and that the guaranteed price had not even caught up with inflation rates and rising production costs. Moreover, the Community producers were not the only ones to have increased production. He believed, furthermore, that in the following years the crops would reflect the results of the measures taken. He reiterated that the new Community sugar policy no longer included export subsidies for sugar originating in the EEC and that the burden was now borne by the producers. The EEC

considered, therefore, that it had fully complied with its obligations under Article XVI:1 of the General Agreement. He added that the producers' decision to stockpile sugar was a burden on their income, and that this constituted another element to be taken into consideration.

He shared the regret expressed by previous speakers that in this case the dispute settlement system had gotten fundamentally blocked. He said that this dispute could not be solved by the repetition of the same arguments without bearing in mind the real evolution that had taken place. The EEC was not alone responsible for the situation in the world sugar market; and he stressed that, as long as this was not taken into account, it would be difficult to resolve this matter appropriately. In conclusion, he reserved both the rights and the obligations of the EEC in this matter.

The representative of Brazil referred to the statement by the representative of Uruguay to the effect that if the Community position in respect of sugar was found to be acceptable, this would have consequences for many other products, including industrial products. He considered that if the co-responsibility levy was not a subsidy it might be considered as dumping, because, according to the EEC, the cost was covered by the producers. He added that the question had also arisen in the Working Party whether interest-free credits constituted subsidies and whether the internal and export prices included an element of dumping. In his view, these new elements were of considerable interest; and the case warranted further examination from new angles.

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

The Chairman expressed regret that no satisfactory solution had been reached in this matter. The Council had adopted two Panel Reports; and a series of formal and informal meetings had been devoted to this subject. However, the Council had not been able to arrive at a solution satisfactory to all. He suggested that these two cases be closed and not placed on the agenda of the next meeting. It was so decided.

11. European Economic Community
- Subsidies on canned peaches, canned pears and raisins
- Recourse to Article XXIII by the United States (L/5306)

The representative of the United States said that, as noted in document L/5306, his Government was requesting the Council to establish a panel under Article XXIII:2 in order to examine the matter of subsidies granted by the European Economic Community on the production of canned peaches, canned pears and raisins. The United States believed that these subsidies acted in such a manner as to nullify and impair the benefits accruing to the United States, as the result of Community tariff concessions on these items. He said that consultations held with the EEC under Article XXIII:1 in February 1982 had failed to resolve this matter.

The representative of the European Communities said that the procedure in this case had been quite hasty, since the United States had first asked the EEC for consultations and had shortly thereafter announced that it wanted the matter entrusted to a panel. He expressed regret that such brief consultations were increasingly becoming general practice as a reflection of the new legislation of the United States in this regard. The EEC did not, however, refuse the request for the establishment of a panel.

He then called attention to the fact that the situation for raisins was very different from that for canned peaches and canned pears, and that raisins had been discussed neither in the consultations with the United States nor in the Working Party on the Accession of Greece to the European Communities. As the Working Party had not yet concluded its discussions under Article XXIV, he asked that raisins be excluded from the panel's terms of reference and that the consultations on raisins be continued with the United States.

The representative of Australia said that Australia had a certain interest in some of these products, including raisins. He asked that any further consultations on raisins take into consideration the interest of some other contracting parties.

The representative of the United States registered surprise at the statement by the representative of the European Communities, since thus far there had been no objection by the EEC to the products listed in document L/5306, which included raisins. In respect of the manner in which the consultations had been conducted, he stated that the United States was simply pursuing its rights under the General Agreement in a non-confrontational manner, as spelled out in the Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/210). He said also that during the consultations the EEC had not suggested a link to Article XXIV. While the United States was ready to continue consultations on raisins, he urged the Council to agree to the establishment of a panel, as requested. If during the consultations, which should be held at the earliest possible time, it appeared that the question of raisins should not be covered by the panel, that item could be taken off the terms of reference.

The Council took note of the statements, and agreed to establish a panel as requested and authorized the Chairman, in consultation with the parties concerned, to decide on appropriate terms of reference and to designate the Chairman and members of the Panel.

The Chairman noted that the point raised by the representative of the European Communities and the responses to it should be considered when drawing up the terms of reference.

12. Administration and financial questions
(a) General Service category staff salaries (C/W/382)

The Chairman asked Mr. Lafrance, Chairman of the GATT Staff Council, to address the Council on this matter.

After referring to document C/W/382, which contained the essential elements of this item, Mr. Lafrance said that while this matter might be a minor affair on a financial level, it was of the highest importance as a matter of principle to international civil servants in Geneva. He recalled that in respect of salary scales applicable to staff in the General Services, the International Civil Service Commission could only make recommendations to the executive heads of the secretariats, who themselves had the power and responsibility to determine salary scales, taking into account the recommendations made by the Commission. Thus, the first decision taken by the Director-General of the International Labour Organisation to apply two different salary scales had been entirely legal. As this decision had unfortunately, not been followed by the heads of the other international organizations in Geneva, the principle of unity of remuneration of the General Service staff had been breached for the first time in history. In a second decision the Director-General of the ILO had increased the salaries of some General Service staff members by 3 per cent, widening the gap even further.

He noted that these two decisions had been taken by the ILO, which, within the family of United Nations organizations, was entrusted, par excellence, with problems of industrial relations, and in which the governments of GATT member countries were also represented. Those same governments had thus voted favourably in the case of the ILO decisions.

He recalled that in July 1981 the heads of the secretariats of the organizations in Geneva, under the chairmanship of Mr. Waldheim, then Secretary-General of the United Nations, had clearly stated their intention to grant a comparable increase to their own staffs. There was thus a formal commitment by the executive heads collectively and individually to follow the example set by the ILO. He said that, unfortunately, the Chairman of the International Civil Service Commission had been able to convince the Fifth Committee of the United Nations General Assembly to request the United Nations Secretary-General to reconsider his decision, and at the same time to refuse to make available to him the funds necessary for the increase.

He stressed that this was unacceptable to the GATT staff, because it called into question the competence, prerogatives and power of the executive heads in Geneva, and in particular, those of the Director-General to the CONTRACTING PARTIES to GATT. He asked the Council to provide the Director-General with the financial means in order to apply the decision taken by the ILO, in the interest of social justice.

The Director-General recalled that the Council was the competent GATT body for taking a decision in respect of the matter referred to in document C/W/382. He said that the decision taken by the Governing Body of the ILO in June 1981 called in question the uniformity of General Service salaries at Geneva and attacked the principle of equal pay for equal work. He stressed that that decision had been taken by the representatives of the same governments in a sister organization.

Together with his colleagues, the chief executives of the other organizations at Geneva, he was entitled to expect that what had been agreed by the governing body of one organization which was a member of the common system would also be agreed by the governing bodies of the other organizations in the system based at Geneva, including the Council of GATT. He therefore considered himself justified in putting before the Council the anomaly represented by the present inequality of remuneration of General Service staff depending on the organization by which they were employed. He therefore requested the Council to enable him to rectify that anomaly by granting to the staff of GATT, with retroactive effect to 1 March 1981, an increase comparable to that decided on by the Governing Body of the ILO.

As was already known, the General Assembly of the United Nations had just asked the Secretary-General to reconsider his declared intention to make such an adjustment generally, and it was also known that the General Assembly had refused him the financial means to do so. In other words, the Council of GATT was faced with two contrary decisions taken by the same principals, one at Geneva in June 1981 and the other in New York at the end of December 1981.

The Council therefore had to choose with respect to GATT. He asked representatives to take into account in their decisions not only the principle of uniformity of remuneration to which he had referred, but also the undertaking he had himself given to the staff of GATT, which he had already reported to the Budget Committee, to bring the conditions applicable to the General Services of GATT into line with those at the ILO.

The Council took note of the statements and agreed that this and other related matters should be considered by the Committee on Budget, Finance and Administration at its next meeting.

(b) Assessment of additional contribution to the 1982 Budget and advance to the Working Capital Fund (L/5296)

The Chairman drew attention to document L/5296 containing a proposal that since Zambia had become a contracting party in accordance with the provisions of Article XXVI:5(c), an additional contribution to the 1982 Budget, as well as an advance to the Working Capital Fund, should be assessed on Zambia.

The Council adopted the assessment.

(c) Committee on Budget, Finance and Administration - Membership

The Chairman informed the Council that the secretariat had received requests from Italy and Chile to become members of the Committee on Budget, Finance and Administration.

The Council agreed that the membership of the Committee should be enlarged to include Chile and Italy.

13. Notification and Surveillance

The Chairman, speaking under "Other Business", recalled that on 6 November 1981, the Council had held a special meeting on the subject of Notification and Surveillance. It had been agreed at that meeting, inter alia, that another special meeting would take place late in the spring of 1982. He said that informal consultations with delegations indicated that this meeting could be held in May or June, the precise date to be announced by airgram. He added that the relevant documentation for that meeting would be up-dated by the secretariat.

He also recalled that in November 1981 it had been agreed that it would be helpful if delegations were to reflect on the comments made by the Director-General at that meeting and on the questions raised in the discussion, so that they could comment on the issues related to this subject.

He considered that it was important to review recent GATT experience with the functioning of the dispute settlement mechanism, particularly since a number of disputes had come before the Council over the past year. He said that the problems which had arisen should be seen clearly, and that it should be decided how to deal with those problems in order to maintain confidence in the mechanism and to improve its efficiency.

In this connection, he raised questions such as: Were the procedures for setting up panels working satisfactorily? Were these panels in a position to benefit from the expert advice needed by them on points of law and interpretation? Were the panel reports being submitted without undue delay? Were they being adopted and acted upon without avoidable difficulties? He believed that the answers to some of these questions would be important in the context of adding further strength to GATT's legal and institutional framework and procedures.

The Council took note of the statement.

14. United Kingdom - Tax practices on lease transactions

The representative of the United States, speaking under "Other Business", expressed concern that certain practices in the United Kingdom related to tax allowances and credits associated with lease transactions to non-United Kingdom entities might be discriminatory and contrary both to the objectives and to specific provisions of the General Agreement. He understood that the United Kingdom Finance Act of 1982 had altered these provisions somewhat. He said that after a thorough review of that Act and responses by the United Kingdom to bilateral communications from the United States, his delegation might wish to discuss the matter in detail at a later meeting of the Council.

The representative of the European Communities said that his delegation had taken note of the statement by the representative of the United States, and enquired under what GATT provision the matter was being raised.

The representative of the United Kingdom said that the United Kingdom's tax laws on cross-border leasing were entirely neutral in their treatment of United Kingdom and foreign manufactures. Tax depreciation allowances were available to the purchases of capital assets without regard to the country in which the assets were manufactured.

The representative of the United States said that his delegation was not putting this matter before the Council for consideration, but might wish to do so in more detail at a subsequent meeting.

The Council took note of the statements.

15. United States - Caribbean Basin Economic Recovery Act

The representative of the United States, speaking under "Other Business", informed the Council that on 17 March 1982 the President of the United States had submitted to the Congress the Caribbean Basin Economic Recovery Act. This proposed legislation was part of a new programme for economic co-operation with the countries in the Caribbean Basin Region, containing a series of measures in the fields of trade, financial assistance, and investment to promote economic recovery. The programme had been developed in close consultation with the two dozen countries which were its potential beneficiaries.

He pointed out that the principal feature of the trade portion of the proposed programme would be authority during twelve years for the President to grant duty-free entry for all products from designated beneficiary countries, except textile and apparel items subject to textile agreements. As long as a domestic agricultural sugar price support programme was in effect, sugar imports would be eligible for duty-free treatment up to certain limits. The origin requirements would be similar to those in the United States GSP scheme. He said that the bill also contained tax measures

to encourage investment by United States persons in qualifying beneficiary countries, and provided authority to extend emergency economic assistance to countries in the region.

He stated that his authorities believed that the proposed programme responded to the urgent economic needs of the States in the region, while recognizing that other contracting parties would be concerned about its impact. Since the definitive version of the proposed legislation was still to be enacted, his delegation would wish to discuss the programme further in the GATT at a later date.

The Council took note of the statement.