RESTRICTED
C/M/154
28 January 1982
Limited Distribution

GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL
7-8 December 1981

MINUTES OF MEETING

Held in the Centre William Rappard on 7-8 December 1981

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

			Page
Subjects discussed:	1.	Preparations for the Ministerial Meeting	2
		- Institutional arrangements	2
	2.	Sub-Committee on Protective Measures	3
		- Report of the Sub-Committee	3
	3.	United States - Imports of certain automotive spring assemblies	3
	4.	Tax legislation	5
		(a) Income tax practices maintained by France	5
		(b) Income tax practices maintained by Belgium	5
		(c) Income tax practices maintained by the Netherlands	5
		(d) United States tax legislation (DISC)	5
	5.	Switzerland - Review under paragraph 4 of the Protocol of Accession	9
	6.	Committee on Balance-of-Payments Restrictions	11
		(a) Consultation with Yugoslavia	11
		(b) Consultation with Tunisia	11
	7.	Committee on Tariff Concessions	12
		- Designation of the Chairman	12
	8.	Documentation on Non-Tariff Measures	12
		- Transmittal of non-tariff measures Inventories to UNCTAD	12
	9.	Liquidation of strategic stocks	13
	10.	Australia - Negotiations under Article XXVIII	13
	11.	France - Quantitative restrictions on imports from Hong Kong	14
	12.	United States - Prohibition of imports of tuna and tuna products from Canada	14

1. Preparations for the Ministerial Meeting (L/5262)
- Institutional arrangements

The Chairman recalled that at their thirty-seventh session the CONTRACTING PARTIES had decided that the next session, to be held in November 1982, should be convened at ministerial level. The CONTRACTING PARTIES had also agreed to entrust to the Council the overall responsibility for the preparation of the ministerial meeting, including the establishment of appropriate institutional arrangements. In this connexion he drew attention to document L/5262. He recalled further that as was noted at the thirty-seventh session, the Council would be assisted in preparing the agenda and the documentation for the ministerial meeting by a Preparatory Committee open to all contracting parties, and that the Council would also make arrangements for other GATT bodies to make appropriate contributions to the preparatory work.

The representative of Argentina expressed the view that in addition to making proposals on the agenda and documentation, the Preparatory Committee's task should encompass all the work necessary for a successful meeting at ministerial level.

The Chairman confirmed that the basic preparations involved the proposals on the agenda and the documentation, but that if in the meantime other pertinent matters arose, the Preparatory Committee would also give thought to these and bring them before the Council. Since the Council had been given the overall responsibility for the preparation of the ministerial meeting, the Preparatory Committee would report to the Council about progress made. He added that it would be for the Council to give guidelines to the Preparatory Committee as and when necessary.

The Council took note of the statements, and agreed to establish a Preparatory Committee to assist the Council in preparing for the thirty-eighth session of the CONTRACTING PARTIES to be held at ministerial level in November 1982. To this end, the Preparatory Committee would make proposals to the Council on the agenda and the documentation for that session. Membership would be open to all contracting parties indicating their wish to serve on the Preparatory Committee. Ambassador McPhail (Canada) would undertake the Chairmanship of the Preparatory Committee.

The Chairman stated that in respect of the date for the thirty-eighth session, the secretariat should use as a working hypothesis the week of 22 November for planning purposes.

The representative of New Zealand enquired whether the Preparatory Committee had the power to set up other bodies which might be required to assist it with its tasks. He felt that there could be gaps in the existing GATT machinery, which would make it necessary for the Preparatory Committee to set up subsidiary machinery to assist with the task of preparation.

The Chairman said that other GATT bodies would consider matters relating to their respective areas of competence and make suggestions. This would not preclude the Preparatory Committee from developing suitable arrangements for the smooth discharge of its work. If in that process the Preparatory Committee decided that it required the help of certain subordinate bodies, it was not precluded from creating some sub-bodies.

The Council took note of the statements.

2. Sub-Committee on Protective Measures
- Report of the Sub-Committee (COM.TD/SCPM/4)

The Chairman recalled that in March 1980 the Committee on Trade and Development had established a Sub-Committee on Protective Measures (COM.TD/104) in accordance with the Decision of the CONTRACTING PARTIES of 28 November 1979 on the Examination of Protective Measures Affecting Imports from Developing Countries (BISD 26S/219). That Decision provided that the Sub-Committee would report on its work to the Committee on Trade and Development and through it to the Council.

At its November 1981 meeting the Committee on Trade and Development had adopted the Report of the Sub-Committee on its fourth session (COM.TD/SCPM/4), and had forwarded the Report to the Council.

Mr. Hill (Jamaica), Chairman of the Sub-Committee, introduced the Report. After referring to the summary of the work of the Sub-Committee contained in the Report of the Committee on Trade and Development to the CONTRACTING PARTIES (L/5253), he said that the Sub-Committee had got off to a good start and was making an important contribution to GATT activities. He said that the work of the Sub-Committee had been performed in a constructive, co-operative and pragmatic spirit, and he expressed the hope that this would continue in the future.

The Council adopted the Report.

3. United States - Imports of certain automotive spring assemblies

The Chairman recalled that at its meeting on 3 November 1981 the Council had considered the complaint by Canada concerning United States imports of certain automotive spring assemblies. At that meeting the Council had agreed that if consultations between the two parties did not quickly lead to a mutually satisfactory solution, a panel would be established, with the composition and terms of reference to be determined in consultation with the two parties concerned. He said that the consultations between the parties had not quickly led to a mutually satisfactory solution, and that accordingly the panel had been established. It had not been possible, however, to reach agreement on the terms of reference.

The representative of Canada confirmed that there was still no agreement on terms of reference for the Panel. In the view of his authorities, the use by the United States of Section 337 of the United States Tariff Act of 1930 in cases of alleged patent infringement, and the decision to exclude from entry and sale in the United States certain automotive spring assemblies from Canada constituted a denial of national treatment inconsistent with the General Agreement and impaired GATT benefits accruing to Canada.

He said that time was of the essence in this case, and that Canada sought a standard formulation of terms of reference for the Panel, as proposed by his delegation. In his view, it was for the complainant to define the terms of the complaint, provided they fell within the parameters of the General Agreement, at the risk of getting an unsatisfactory finding if the complaint were ill-defined. He said that there was not simply one case before the Panel, but also the principle of the possible use in future of Section 337, which needed to be examined and determined. The Canadian complaint was addressed at the specific exclusion order of 10 August 1981 against certain automotive spring assemblies, and also at the use of Section 337 in cases of alleged patent infringement by applying it only to foreign producers, which constituted a denial of national treatment inconsistent with the General Agreement.

The representative of the United States said that the two parties were not too far apart as regards the terms of reference. In view of the minor differences between the terms of reference proposed by Canada and those which his delegation considered appropriate, he suggested that the secretariat bring the two parties together without delay to see if the remaining difficulties could be bridged. He said that the United States was not trying to get itself in a position of "approving the complaint" and did not contest the right of Canada to proceed expeditiously in this matter. However, his delegation believed that a defending party in a dispute should not be forced to accept terms of reference which were open-ended or which embraced matters never discussed in consultations.

The representative of Canada stressed that in his view the terms of reference proposed by Canada were neither open-ended nor outside GATT parameters, and that the matter covered by the proposed terms of reference had been fully discussed. He said that the action taken by the United States several months earlier had had the effect of stopping trade and of discriminating in favour of similar domestic producers in the United States.

The representative of the European Communities said that the complaint raised an interesting matter of principle on the relationship between Section 337 of the United States Tariff Act and GATT provisions. In view of the urgency of the matter, he suggested that the Council take a decision of principle concerning the terms of reference, while leaving the final formulation to the Chairman of the Council together with the parties concerned.

The Chairman proposed that the two parties consult further during a recess which he intended to propose later in the meeting in connexion with another item on the agenda.

Following the recess, the representative of Canada said that agreement had been reached on the following terms of reference for the Panel:

> "To examine, in the light of the relevant GATT provisions, the exclusion of imports of certain automotive spring assemblies by the United States under Section 337 of the United States Tariff Act of 1930 and including the issue of the use of Section 337 by the United States in cases of alleged patent infringement, and to make such findings as will assist the CONTRACTING PARTIES in making recommendations or rulings."

The representative of the United States confirmed that his delegation was in agreement with these terms of reference.

The Council took note of the terms of reference and of the statements.

4. Tax legislation

(a) Income tax practices maintained by France (C/114, L/4423)
(b) Income tax practices maintained by Belgium (C/115 and Corr.1, L/4424)
(c) Income tax practices maintained by the Netherlands (C/116, L/4425)
(d) United States tax legislation (DISC) (L/4422)

The Chairman recalled that in July 1973 the Council had established four Panels to examine the income tax practices maintained by France, Belgium and the Netherlands, respectively, as well as United States tax legislation (DISC). In November 1976 the four Panel Reports had been presented to the Council, which took note of them. These matters had subsequently been considered at Council meetings in 1977 and 1978, again in December 1980, and at meetings in 1981. They had most recently been considered at the Council meetings of 3 and 6 November 1981, at which time there had been discussion on the text of a proposed understanding submitted by the principally concerned delegations. At its meeting of 6 November the Council had agreed that the principally concerned delegations should meet informally with those other delegations which still sought additional information or clarification. He said that the informal meetings had resulted in a revised text of the proposed understanding which was before the Council in document C/W/376/Rev.1.

The representative of Canada noted that the Council was adopting these four Panel Reports more than five years after they had originally been submitted to the Council, which reflected the difficulties which they had involved. He recalled that Canada was an associated party to the complaint brought by the European Communities against United States tax legislation (DISC) and that as the contracting party which continued to be the most affected by DISC, Canada was pleased that the Council was finally adopting the Panel Report. He said that beyond this specific interest, Canada also had a more

general concern, namely, that delays such as those which occurred in handling these four Reports did not serve well either the GATT or contracting parties in the resolution of trade disputes. His delegation was sympathetic to the reluctance of some to see the Council adopt Panel Reports in this fashion, with a text of a proposed understanding which was not immediately apparent as to its intention and meaning. He noted, however, that the proposed understanding stated that the adoption of the Reports, including the DISC Panel Report, would not diminish rights and obligations under Article XVI:4. In his view, the Panel's conclusions enhanced and strengthened those rights and obligations, as part of the development of GATT law, and in the clarification it provided as regards certain tax practices. He asked that note be taken of Canada's expectation that with the adoption of the Reports together with the proposed understanding, the United States would take the necessary action, in the light of the conclusions in the Panel Report, to meet its obligations under the General Agreement. Finally, he recalled, for those parties who had worked with the United States delegation during the Multilateral Trade Negotiations on an agreement elaborating further on Article XVI, that elements of the DISC Panel's conclusions were particularly interesting. He said that, for example, in those negotiations, which had identified tax deferral as a prohibited export subsidy under Item (e) of the Illustrative List, the United States had acknowledged that DISC fell within this category.

The representative of the United States agreed with Canada that the adoption of these Reports did not diminish rights and obligations under Article XVI:4. Furthermore, the United States recognized that nothing in the Panel Reports, as proposed for adoption by the Council, barred Canada from challenging or contesting any of the tax practices at issue in these cases if Canada believed that any of these practices were not in compliance with the Panel Reports as adopted by the Council with this understanding. With regard to the Canadian reference to the Subsidies/Countervailing Measures Code and its Illustrative List of export subsidies, he expressed the view that it was for the GATT Council to deal with the Panel Reports in terms of the General Agreement, while Code issues were matters of relevance to the Committee on Subsidies and Countervailing Measures.

The representative of the European Communities pointed out that in document C/W/376/Rev.1 it was explicitly mentioned that the adoption of these Reports, together with the proposed understanding, did not affect the rights and obligations of contracting parties under the General Agreement.

The Council took note of the statements.

The Chairman proposed that the Council adopt the four Panel Reports in documents L/4422, L/4423, L/4424 and L/4425, on the following understanding:

> "The Council adopts these Reports on the understanding that with respect to these cases, and in general, economic processes (including transactions involving exported goods) located outside the territorial limits of the exporting country need not be subject to taxation by the

exporting country and should not be regarded as export activities in terms of Article XVI:4 of the General Agreement. It is further understood that Article XVI:4 requires that arm's-length pricing be observed, i.e., prices for goods in transactions between exporting enterprises and foreign buyers under their or the same control should for tax purposes be the prices which would be charged between independent enterprises acting at arm's-length. Furthermore, Article XVI:4 does not prohibit the adoption of measures to avoid double taxation of foreign source income."

The Council so agreed.

Following the adoption of these Reports the Chairman noted that the Council's decision and understanding does not mean that the parties adhering to Article XVI:4 are forbidden from taxing the profits on transactions beyond their borders, it only means that they are not required to do so. He noted further that the decision does not modify the existing GATT rules in Article XVI:4 as they relate to the taxation of exported goods. He noted also that this decision does not affect and is not affected by the Agreement on the Interpretation and Application of Articles VI, XVI and XXIII. Finally, he noted that the adoption of these Reports together with the understanding does not affect the rights and obligations of contracting parties under the General Agreement.

The Council took note of the Chairman's statement.

The representative of Belgium, speaking for France, the Netherlands and Belgium, stated that irrespective of the understanding, tax practices which did not observe arm's-length pricing and which result in bilevel pricing continue to be contrary to Article XVI:4. Furthermore, it is confirmed that the understanding does not have any bearing on the position under Article XVI of tax incentives relating to the establishment and maintenance of foreign branches for export sales (e.g. deduction of costs of marketing studies, travel and salary charges, etc. associated with these branches) as discussed by the Panel. Similarly, the understanding does not exclude from the provisions of Article XVI the operation of differential tax practices based on the establishment of fictitious companies located abroad but where all their activities are directed from within the borders of the country of the parent company and where the tax legislation of the country of the parent company does not provide for full taxation of these activities.

The representative of Brazil said that his delegation had not opposed the consensus to take the decision because it did not want to be an obstacle to solving an old and serious problem in the GATT, but could not support it because it was objectionable on at least two counts. He said that in respect of substance, the understanding was too cryptic. Moreover, the decision purported to give an interpretation that - although applicable to parties adhering to Article XVI:4 only - was of a general character. It was the understanding of his Government that, under the rules in force, decisions on cases submitted to the process of dispute settlement in the GATT should be

circumscribed to these individual cases only. General interpretations, in GATT practice, were formulated through different mechanisms. He reserved all his country's rights under the General Agreement and the MTN agreements to which Brazil was a signatory.

The representative of Australia thanked the representatives of Belgium, France and the Netherlands for the answers to the questions on which his authorities had sought clarification, for the record, in relation to a number of points concerning the decision the Council had taken on the United States, French, Belgian and Netherlands tax practices. His delegation had taken note of the Chairman's statement that the decision was not affected by the Agreement on Interpretation and Application of Articles VI, XVI and XXIII. His authorities understood that, accordingly, the adoption of the Panel Reports was not modified by the special accommodation reached in respect of certain tax practices in that Agreement.

The representative of Argentina stated that in the view of his delegation the conclusions reached by the Council were not sufficiently clear as to their effects, in spite of the clarifications given by the Chairman. The treatment of this matter, which was a dispute among several parties, had a general impact on other parties which had not been in a position to take part in this dispute. His delegation reserved all its rights under the General Agreement and under the MTN Codes applicable to this question.

The representative of Chile said that his delegation had taken note that rights and obligations under the General Agreement had in no way been affected or reduced by the understanding and by the Panel Reports which had been adopted. He shared the concern expressed by the Brazilian delegation, and considered that it would have been more appropriate to adopt an understanding with a judicial approach rather than a legislative one, as the present case seemed to be.

The representative of the United States said that it was the view of his Government that the rules applicable to cases involving Article XVI:4 required that the level of taxation to be assessed upon exported products be at least equal to that level which would apply in the event that a territorial system of taxation were adopted by the country in question.

The representative of Trinidad and Tobago said that his delegation had taken note of the arguments in favour and the reservations expressed in respect of this matter, but was not in a position to join the consensus in the absence of a specific mandate from his authorities.

The representative of the European Communities noted that the statement made by the United States representative expressed only the United States views on this issue. He said that the Community considered that the question raised by the United States representative was not relevant to problems arising from the DISC system, since the latter had been clearly recognized as being prohibited subsidization of exports.

The representative of Canada said that he was inclined to agree with the representative of the European Communities, in that he did not see the immediate relevance of the United States remarks to the adoption of the four Panel Reports. In the view of his delegation, the understanding rested on its own and did not necessarily modify the contents of the Reports in any particular way. He stated that this was a matter to which his delegation would presumably wish to return at some future date in pursuit of Canada's rights in connexion with the Report of the DISC Panel.

The representative of the Netherlands recalled that four Panel Reports had been derestricted five years earlier and published in the twenty-third Supplement to the BISD. He requested the Council to derestrict at least the fact that it had now adopted those Reports and the understanding, with a view to the publication of the text in the next Supplement.

The Council took note of the statements.

5. Switzerland - Review under paragraph 4 of the Protocol of Accession (L/4881, L/5073, L/5208)

The Chairman recalled that, under paragraph 4 of its Protocol of Accession, Switzerland had reserved its position with regard to the application of the provisions of Article XI of the General Agreement to permit the application of certain import restrictions pursuant to existing national legislation. The Protocol called for an annual report by Switzerland on the measures maintained consistently with this reservation, and it required the CONTRACTING PARTIES to conduct a thorough review of the application of the provisions of paragraph 4 every three years. The most recent review had been conducted by the Council in November 1978. The Council had considered this item on 3 November 1981, at which time it had been suggested that a working party be established to conduct the review. After discussion, the Council had agreed to revert to this item at the present meeting.

The representative of Switzerland recalled that Switzerland had regularly complied with its obligation under paragraph 4 of its Protocol of Accession to report annually on the quantitative restrictions which it applied in conformity with its agricultural legislation. For the first review, in 1969, a working party had been set up; since then, that had not been the case, the reason being that in the various phases of the Tokyo Round negotiations all agricultural problems - including those concerning Switzerland - had been examined in considerable detail in various contexts. Accordingly, on each occasion when the question of Switzerland's Protocol of accession had been included in the Council's agenda, the contracting parties concerned had merely asked a few questions which had been answered forthwith in that body, or within a very short time at bilateral level. For that reason, and in view of the fact that there had been no change of direction in Switzerland's agricultural policy, it had seemed unnecessary to establish a new working party. At the current juncture too, there were no changes to report regarding either the systems of restriction or the products covered. If deemed necessary, Switzerland was nevertheless disposed to participate in a

further thorough review of application of the provisions of paragraph 4 of its Protocol of Accession in a working party. The Swiss delegation was likewise fully disposed to reply at bilateral level to any specific and concrete questions that delegations might wish to ask.

The representative of Chile, having recalled his statement at the meeting of the Council on 3 November 1981, reiterated his request for the establishment of a working party and proposed that the same terms of reference be given to the working party as those used in 1969. He also suggested that the information which Switzerland had supplied in document L/4881 be further complemented, especially with regard to Annex II, where statistics were given concerning origin of imports subject to quota restrictions.

The representative of Argentina welcomed the willingness of the Swiss authorities to submit themselves to a thorough review, which was important for various reasons. He recalled that during the first review in 1969 Switzerland had announced it was not its intention to expand agricultural production or to reduce agricultural imports. Furthermore, the Swiss authorities had referred to the possibility that in the future trade negotiations they would revise their agricultural import policy so as to bring it into conformity with the GATT rules. In his view, a new review in depth would be an occasion to find out if Switzerland had complied with that declaration of intent, as well as to examine the three last annual reports for the period 1978-1980. He said that his delegation would be particularly interested to receive more detailed figures from the Swiss authorities than those that appeared in the annual reports.

The representative of New Zealand said that the issue of application of GATT rules in the sector of agriculture was a fundamental one. His delegation therefore supported the Chilean request for the establishment of a working party for the reasons cited by the representative of Argentina and Chile.

The representative of Australia recalled his delegation's long-standing concern with waivers and reservations in the field of agricultural trade. The proposal for a working party to carry out a review in depth of Switzerland's reservation on Article XI was even more timely at this stage because of the ongoing work on agricultural trade and safeguards in GATT. He therefore supported the Chilean proposal.

The representatives of Canada, the United States and Uruguay, also supported the establishment of a working party.

The Council agreed to establish the Working Party with the following terms of reference and composition:

Terms of reference

"To conduct the fifth triennial review of the application of the provisions of paragraph 4 of the Protocol for the Accession of Switzerland, and to report to the Council."

Membership

Membership would be open to all contracting parties indicating their wish to serve on the Working Party.

The Chairman of the Council was authorized to designate the Chairman of the Working Party in consultation with delegations.

The Council took note of the statements as well as the need for further documentation to help the Working Party in performing its task.

6. Committee on Balance-of-Payments Restrictions

The Chairman said that, at its meeting in November 1981, the Committee on Balance-of-Payments Restrictions had carried out consultations with Yugoslavia and, under the simplified procedures, with Tunisia.

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

(a) Consultation with Yugoslavia (BOP/R/122)

Mr. Feij said that the Committee had welcomed the abolition of a temporary surcharge in June 1980, and had also recommended a rationalization of the Yugoslav exchange allocation system, which was now Yugoslavia's only regulatory instrument for achieving balance-of-payments equilibrium. Wishing to obtain a clearer picture of the unique exchange allocation system used in Yugoslavia, the Committee had asked the secretariat to complete its background paper (BOP/W/57) by preparing a factual description of the trade aspects of this system.

The Council adopted the report.

(b) Consultation with Tunisia (BOP/R/121)

Mr. Feij pointed out that the Committee had concluded that a full consultation with Tunisia was not desirable and recommended to the Council that Tunisia be deemed to have fulfilled its obligations under Article XVIII:12(b) for 1981. He added that the Committee had welcomed the recent decision of Tunisia to apply for accession to the General Agreement.

The Council adopted the report and agreed that Tunisia be deemed to have consulted with the CONTRACTING PARTIES and to have fulfilled its obligations under Article XVIII:12(b) for 1981.

7. Committee on Tariff Concessions
- Designation of the Chairman

The Chairman recalled that in January 1980 the Council had agreed to establish the Committee on Tariff Concessions, and had authorized the Chairman of the Council to designate the Chairman and Vice-Chairman of the Committee in consultation with interested delegations.

He informed the Council that, following such consultation, there had been a consensus in favour of designating Mr. Lavorel (United States) as Chairman of the Committee. He also stated that Mrs. M'Bahia Kouadio (Ivory Coast) would continue to serve as Vice-Chairman.

The Council took note of this information.

8. Documentation on Non-Tariff Measures
- Transmittal of non-tariff measures inventories to the UNCTAD

The Chairman, speaking under "Other Business", recalled that the Council in 1980 had adopted procedures for the updating of the Inventories of Non-Tariff Measures (BISD, 27S/18). He stated that the revised Inventory containing notifications relating to industrial products had been circulated a few weeks prior to the present meeting (documents NTM/INV/I-V) and that work on the Inventory relating to agricultural products was expected to be completed sometime early in 1982.

He said that in the context of implementing UNCTAD Resolution 131(v), the UNCTAD secretariat had approached the GATT with the request that the revised Inventories be made available to that organization which, as he understood, was presently in the process of compiling and updating its data based on non-tariff measures. In order to avoid duplication of work and in the interest of good relations between the two organizations, he proposed that this request be granted, subject to the following points:

(a) it is understood that under the relevant procedures the GATT Inventories are open-ended, i.e. that contracting parties are free at any stage to request the inclusion of new notifications or the amendment or deletion of existing ones, as well as to submit additional comments in relation to notifications addressed to them;

(b) the inclusion of measures in the Inventory is without prejudice to the question whether they are in conformity with the provisions of the General Agreement;

(c) the Inventory is being transmitted on the understanding that, should the UNCTAD secretariat decide to use the information contained in the Inventory for its own documentation, the information

relating to specific non-tariff measures as appearing in the GATT Inventory should be presented in its entirety, with the comments submitted by countries against which a particular notification has been made also included so as to avoid giving a partial or incomplete picture.

The Council agreed to the transmittal of the GATT Inventories to the UNCTAD, subject to the foregoing points.

9. Liquidation of strategic stocks

The representative of Peru, speaking under "Other Business", drew attention to a communication from his Government (L/5264) to the effect that Peru had requested consultations with the United States under the Resolution of 4 March 1955 (BISD 3S/51) on the liquidation of strategic stocks. He said that exports of silver made an important contribution to Peru's balance of payments, and that the decision of the United States to liquidate some basic stocks, including the strategic stocks of silver, would imply for Peru a loss of $400 million and cause serious prejudice to Peru's economy and a crisis in the mining industry. He said that world prices for silver had fallen substantially, which would lead to an even greater imbalance as regards supply and demand for this metal. He added that his delegation had sent a note to the United States delegation on 23 November 1981 asking for urgent consultations on this matter under the relevant provisions of the General Agreement with a view to avoiding market disruption, but that no reply had yet been received. He stressed that his delegation reserved all its rights under the General Agreement in respect of this question.

The representative of the United States said that he had taken note of this request and that his delegation would reply to the delegation of Peru in a few days' time.

The Council took note of the statements.

10. Australia - negotiations under Article XXVIII

The representative of Australia, speaking under "Other Business", said that Australia was currently conducting a series of negotiations with a number of its trading partners under the provisions of Article XXVIII:1, and expressed the hope that these negotiations would be concluded prior to 1 January 1982. He said that in the event that these negotiations had not been finalized by that date, Australia would continue any ongoing discussions after 1 January 1982 under the provisions of Article XXVIII:5. In this connexion, he drew attention to the notification by Australia contained in document TAR/41.

In reply to the question raised by the representative of the European Communities, if Australia intended to apply the notified withdrawals as of 1 January 1982, the representative of Australia said that his statement was

only meant to suggest that the ongoing negotiations under Article XXVIII:1 with Australia's trading partners should continue under Article XXVIII:5 in case that they were not concluded by 1 January 1982 as required by Article XXVIII:1 GATT.

The representative of the European Communities said that the late notification of products by Australia and the incomplete communication of statistical figures had seriously diminished the time available for negotiation. In his view, the entry into force of the increased rates on 1 January 1982, in the event that the negotiations could not be completed within the very short deadline, would not be in conformity with normal GATT procedures in this respect, nor was the Australian intention to transform concessions that had been granted prior to 1965 without providing up-to-date statistics. He stated that the European Economic Community expressly reserved all its GATT rights on both these points and hoped that Australia would abide by GATT procedures before proceeding to any withdrawals or transformations of concessions.

11. France - quantitative restrictions on imports from Hong Kong

The representative of the United Kingdom, speaking under "Other Business" on behalf of Hong Kong, said that his authorities considered that benefits accruing to Hong Kong under Articles I, XI and XIII were being impaired by quantitative restrictions maintained by France in respect of a number of products. His delegation had made proposals to France and to the European Communities for urgent consultations under Article XXIII:1. He said that his delegation would revert to this matter at a future meeting of the Council, if necessary.

The representative of the European Communities expressed surprise at the urgent nature of this matter, considering that the measures were old and subject to discussions between Hong Kong, France and the EEC. He said that his delegation was prepared to consult with Hong Kong.

The representative of the United Kingdom, speaking for Hong Kong, said that the urgency of the matter had been caused by an intensification of certain restrictions during the preceding two months.

The Council took note of the statements.

12. United States - prohibition of imports of tuna and tuna products from Canada

The representative of Canada, speaking under "Other Business", referred to the Panel established by the Council in March 1980 to examine the complaint by Canada relating to the United States prohibition of imports of tuna and tuna products from Canada, and said that it was his understanding that the Panel would issue its report in the near future. He expressed the wish of his delegation that the Report be considered at the next meeting of the Council with a view to its adoption.

The Council took note of the statement.