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GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL
11 June 1981

MINUTES OF MEETING

Held in the Centre William Rappard on 11 June 1981

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

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1. Membership of the Council

The Chairman said that the Government of Nicaragua had requested Membership in the Council.

On behalf of the Council, the Chairman welcomed the Government of Nicaragua as a new member.

2. Tax legislation (C/M/146)

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

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

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

The Chairman said that he had been informed by the principally interested delegations that discussions were currently in progress. The Council agreed to revert to these matters at its next meeting.

3. Tariff matters - Geneva (1979) Protocol to the GATT and Protocol Supplementary to the Geneva (1979) Protocol to the GATT

- Extension of time-limit for acceptance of the Protocols (C/W/363/Rev.1)

The Chairman recalled that both the Geneva (1979) Protocol to the GATT and the Protocol Supplementary thereto, were open for acceptance by participants until 30 June 1981.

He said that it had now become clear that some contracting parties which had schedules annexed to these Protocols had not yet fully completed their constitutional procedures and would therefore be unable to accept them before the expiry of the time-limit. The question before the Council therefore was whether provision should be made for a further extension of the time-limit. In this connexion, he drew attention to the text of the draft decision contained in document C/W/363/Rev.1.

The Council adopted the decision extending the time-limit for acceptance of the Protocols to 31 December 1981.[1/]

4. Consultation on trade with Hungary

The Chairman said that the Protocol for the Accession of Hungary provided for biennial consultations to be held between Hungary and the CONTRACTING PARTIES in a working party to be established for this purpose, in order to carry out a review of the operation of the Protocol and the evolution of reciprocal trade between Hungary and the contracting parties. He suggested that the Council establish a working party in order to carry out the review in the autumn.

The Council agreed to establish a working party with the following terms of reference and membership:

Terms of Reference:

To conduct, on behalf of the CONTRACTING PARTIES, the fourth consultation with the Government of Hungary provided for in the Protocol of Accession, and to report to the Council.

Membership:

Membership would be open to all contracting parties interested and wishing to serve on the working party.

Chairman: Mr. T.C. O'Brien (New Zealand)

5. Balance-of-payments restrictions

The Chairman said that, at its meeting in May 1981, the Committee on Balance-of-Payments Restrictions had carried out consultations with Portugal and, under the simplified procedures, with Egypt, the Republic of Korea, Sri Lanka and Yugoslavia.

Mr. Martin (Canada), Chairman of the Committee, introduced the reports.

[1/] Subsequently circulated in document L/5159

(a) Consultation with Portugal (BOP/R/118)

Mr. Martin pointed out that the Committee had noted in its conclusion that the Portuguese authorities had not relaxed substantially the restrictive import measures in place nor announced a time-table for such relaxation as had been recommended by the Committee last year. At the same time the Committee had noted the statement of intent made by the Portuguese authorities to phase out these measures as soon as circumstances would permit. The Committee had considered that further efforts towards relaxation of the restrictions should be made with a view to their early removal. It had expressed the hope that no intensification of restrictive import measures would take place and had recommended that a time-table for the removal of such measures be announced by Portugal in the near future.

The Council adopted the report.

(b) Consultations with Egypt, Republic of Korea, Sri Lanka and Yugoslavia (BOP/R/117)

Mr. Martin said that the Committee had held four consultations under the simplified procedures. With respect to Egypt, the Republic of Korea and Sri Lanka the Committee recommended to the Council that these countries be deemed to have fulfilled their obligations under Article XVIII:12(b) for 1981. He said that during the consultation with the Republic of Korea it had been noted in the Committee that there had been progress in liberalization of Korea's import régime. However, members of the Committee had noted certain difficulties which they still had in this regard, e.g. with their exports of agricultural products, restrictions on luxury items and increases in tariffs. In answer to questions, the representative of Korea had stated to the Committee that his Government was obliged to maintain some restrictive measures on imports of non-essential commodities for balance-of-payments reasons. However, his country's basic policy was continuously to pursue trade liberalization in accord with the spirit of GATT to the fullest possible extent.

With regard to Yugoslavia, the Committee had decided that, for various reasons evoked during the consultation and to be found in document BOP/R/117, paragraph 3(b), a full consultation should be held with Yugoslavia in the autumn of 1981.

The Council adopted the report and agreed that Egypt, the Republic of Korea and Sri Lanka be deemed to have consulted with the CONTRACTING PARTIES and to have fulfilled their obligations under Article XVIII:12(b) for 1981.

The Council took note of the decision by the Committee that a full consultation should be held with Yugoslavia in the autumn of 1981, the exact date to be decided in accordance with the usual consultative procedures.

6. Japan - Restraints on imports of manufactured tobacco - Report of the Panel (L/5140)

The Chairman recalled that in November 1979 the Council had authorized the establishment of a Panel, in consultation with the delegations of Japan and the United States, if the matter raised by the latter Government had not been settled satisfactorily by 31 December 1979. In March 1980 the Council had been informed of the establishment of a Panel, its terms of reference and composition. The Report of the Panel had been circulated in document L/5140.

Mr. Jara (Chile), speaking on behalf of Mr. Kröyer (Iceland), Chairman of the Panel, introduced the Report and drew attention to its brevity. He said that in keeping with the "Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance" (BISD 26S/210) and in particular paragraph 16 thereof, the Panel had consulted regularly with the parties to the dispute throughout its examination of the case, giving them adequate opportunity to develop a mutually satisfactory solution. He said that fortunately, as reported in document L/5140, a solution had been reached between the parties. Consequently, the Panel had considered the proceedings under Article XXIII:2 to be terminated.

The Council adopted the Report of the Panel.

7. Spain - Tariff treatment of unroasted coffee - Report of the Panel (L/5135)

The Chairman recalled that in June 1980 the Council had agreed to establish a panel to examine the complaint by Brazil, and that in October 1980 the Council had been informed of the composition of the Panel. The Report of the Panel had been circulated in document L/5135.

Mr. Henrikson (Sweden), speaking on behalf of Ambassador H.V. Ewerlöf (Sweden), introduced the Report and recalled briefly the developments that had led to the establishment of the Panel, as well as its terms of reference. He noted that the Report contained an introductory chapter, a chapter illustrating some factual aspects of the case examined by the Panel, notably on changes in the Spanish legislation and the actual developments of Spain's trade régime for coffee, a chapter containing the main arguments presented to the Panel by the parties to the dispute and a chapter presenting the findings and conclusions of the Panel. The Report of the Panel had been at the disposal of contracting parties since the end of April. He said that the task given to the Panel had not been an easy one, as it had to go into some difficult problems of interpretation of the concept of "like products" in the context of Article I:1, for which a definition was found neither in the General Agreement nor in previous GATT cases dealing with the same issue, given the specific nature of each case. He added that the Panel had reached its conclusions unanimously.

The representative of Brazil thanked the Panel for its work and for what he considered to be an excellent report, which was representative of a new generation of panel reports. It was precise and contained well-defined conclusions. Therefore, it was very useful for the Council, which could base its decisions on clear guidelines. He suggested that the Council adopt the Report, including the request that Spain take the necessary measures in order to bring its tariff régime for unroasted coffee into conformity with Article I:1 of the General Agreement.

The representative of Spain thanked the Panel for its good work, and also thanked the representative of Brazil for the friendly atmosphere in which discussions had taken place. He said that his authorities had hoped to have been able to arrive at a bilateral solution as described in paragraph 17 of the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/210). Unfortunately this had not been possible, due in part to the appearance of articles in the Brazilian press on 21 February and again on 23 April 1981. In his view, this was contrary to both the spirit and the letter of the Understanding. Subsequently, the Spanish authorities had made representations to the Brazilian authorities about the matter.

With respect to the Report in document L/5135, the representative of Spain then raised some specific points. Referring to paragraph 4.12, he noted the suggestion that the CONTRACTING PARTIES should request Spain to modify its tariff régime for unroasted coffee. He said that as could be seen in Part II of the Report, in recent years Spain had initiated the process of full liberalization of imports of unroasted coffee as well as of internal marketing. He believed that the contracting parties should show some comprehension of the difficulties encountered in this transitional process. Moreover, as no coffee-exporting country had suffered prejudice, Spain had not felt it necessary to seek a temporary waiver of its GATT obligations.

He also expressed reservations with respect to the Panel's conclusions concerning the notion "like products" (paragraph 4.9), since its interpretation could mean that agricultural products of different taste and different origin might have to be considered in the future as "like products", for example, various cheeses and wines. He said that the Panel's conclusion might constitute a dangerous precedent for the future. Furthermore, he considered Part IV of the Report not to be fully exhaustive, as no quantification had been made of the prejudice caused to Brazilian interests.

His delegation considered that there was a disproportion between the introduction and factual parts of the Report and the conclusions, as only one solution was indicated (paragraph 4.12). In the view of the Spanish delegation, this was not in conformity with paragraph 4 of the Annex to the Understanding, and furthermore closed the door to other possible solutions of the dispute

under the General Agreement. In the light of the foregoing, he said that his delegation would request the Council not to finalize the discussion of the Report at the present meeting.

The representative of India expressed his appreciation for the Report and for the Panel's clear and unambiguous findings and conclusions. He considered it to be a helpful addition to the system of GATT case law, especially in relation to its description of rights and obligations of contracting parties under Article I of the General Agreement, and in particular, the emphasis on the all-embracing and binding nature of the commitment to grant MFN treatment immediately and unconditionally. He supported the adoption of the Report and recommended that necessary follow-up action be taken expeditiously by the parties concerned.

The representative of Argentina stressed three aspects of the Panel's conclusions. He felt that the Panel had presented a well-balanced reasoning on the concept of "like products", that the conclusions strengthened the MFN clause, and that the clarity of the conclusions was a warning to all contracting parties. His delegation supported the adoption of the Report.

The representative of Colombia expressed his appreciation of the Panel's conclusions and stressed that the principle of non-discrimination should be observed, notably upon importation of tropical products such as coffee. He expressed the hope that the parties could reach a mutually acceptable solution.

The representatives of Peru, Jamaica, Egypt, Australia, Uruguay, United Kingdom speaking for Hong Kong, Pakistan, Cuba, Ecuador, Yugoslavia, Hungary, Chile, Philippines, Zaire, Republic of Korea, Czechoslovakia, Malaysia, Nigeria, Nicaragua, Indonesia, Romania and New Zealand also supported the adoption of the Report. In their interventions, some representatives urged Spain to implement the recommendation suggested by the Panel. Some representatives expressed the hope that the parties would resolve any differences along mutually satisfactory lines. Some delegations also suggested that it might be worthwhile to pursue further the discussion on the concept of "like products".

The representative of the European Communities said that the Communities would not be an obstacle to any consensus in favour of the adoption of the Report. However, he thought it might be worthwhile to allow some time for further reflection, in particular, as to the concept of "like products". In the view of the EEC it was impossible to define the concept of "like products" for all situations; that concept had to be appreciated case by case, and the present case could not constitute a precedent. He also believed that a resolution of a dispute should not be imposed, but should be accepted by both parties.

The representative of Brazil expressed his appreciation for the wide support the Panel's Report had received, especially for the support by the representative of Colombia, a country which would be a beneficiary of the discriminatory measure taken by Spain. He added that Brazil had taken the initiative to solve the dispute with Spain in bilateral consultations, but these were not successful. That was the reason why Brazil had no other way than to invoke the procedures of Article XXIII:2.

Referring to the statement by the representative of Spain about articles in the Brazilian press, he said that this had been the result of a misunderstanding, but it had not in any way affected the conclusions or the substance of the Panel's Report. He said that a formal correction had been published in "Jornal do Brasil" on 8 March 1981. At the time, all explanations had been given to the Spanish Ambassador at Brasilia as well as to the Chairman of the Panel. This had never affected the good atmosphere and close co-operation that prevailed in the relations between the two countries.

The question that was dealt with in the Panel's Report, the representative of Brazil added, was a question of principle, which could not be negotiated. For this same reason Brazil had not asked for the evaluation of the prejudice or sought compensation. Nor, he said, could the Panel's conclusions be considered drastic, as had been implied by the representative of Spain. Its Report recommended only that Spain should remove those measures that did not conform with Article I:1.

The representative of Brazil finally said that the Brazilian Government would be willing to talk with the Spanish authorities after the adoption of the Panel's Report by the Council, to consider the ways in which Spain could implement the conclusion of the Report. However, the Council's approval of the Panel's Report was an essential and previous condition for any further conversation on this question.

The representative of Spain said that his delegation would always be in favour of adopting reports of panels unless new evidence was raised, in which case the Council should have an opportunity to take this into account and pursue the matter at a later meeting. His delegation would nevertheless not oppose adoption of the Report at the present meeting, on the understanding that this would in no way preclude further bilateral efforts between the parties to reach a mutually acceptable solution.

The Chairman said that it was clear that there was a consensus in favour of adopting the Report of the Panel. He also noted that a number of delegations had referred to the prospects of certain early discussions between Brazil and Spain, and had expressed their hopes for an amicable resolution of

this problem by means of a mutually satisfactory implementation of the recommendations in the Report of the Panel or along any other lines mutually satisfactory to the two parties. He noted separately the interests expressed by some representatives in exploring further some of the concepts discussed in the Report, e.g., that of "like products".

The Council took note of the statements made by representatives as well as that of the Chairman and adopted the Report.

8. European Communities - Imports of poultry from the United States - Report of the Panel (L/5155)

The Chairman recalled that in October 1980 the Council had agreed to establish a panel to examine the complaint by the United States. At its meeting in December 1980 the Council had been informed of the terms of reference and composition of the Panel. The Report of the Panel had been circulated in document L/5155.

Mr. Trucco (Chile), Chairman of the Panel, introduced the Report and said that the Panel had not gone into the substance of the matter, as the United States, in a communication dated 13 May 1981 (L/5149), had informed the Panel as well as the contracting parties, that it withdrew its complaint. In light of that communication, and complying with the provisions of the "Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance", (BISD 26S/210), the Panel had considered that it could terminate its work and had submitted a short factual report to the Council.

The Council adopted the Report of the Panel.

9. European Communities - Refunds on exports of sugar

The Chairman recalled that in March 1981 when the Council adopted the Report by the Working Party established to conduct discussions with the European Communities on refunds on exports of sugar, it had noted that the complaints by Australia and Brazil were maintained. The Council had also taken note of the intention of the European Economic Community to notify to GATT as soon as they were adopted the new sugar regulations as well as the 1981/82 sugar intervention price. The Council had further decided that as soon as these notifications were received, it would promptly review the situation, and had decided to maintain this item on its agenda.

The representative of the European Communities confirmed the intention of the EEC to notify to the GATT, as soon as adopted, the new sugar regulations as well as the intervention prices for 1981/82. However, the new regulations had not yet been adopted, and consequently could not yet be notified.

The representative of Australia noted that the EEC had been unable to make the notifications for formal reasons, and suggested that the item be retained on the agenda for the next Council meeting. He then stated that on 11 March 1981 EEC traders had requested the reintroduction of export refunds for sugar, which were in fact reintroduced some days later, though initially at zero levels. Subsequently, on 1 April 1981 the level of restitution had been fixed at 4.461 ECU/100 kg., and thereafter had risen to 195 ECU/metric tonne, corresponding to about 55 per cent of the world sugar price. He said that without wishing to have a substantive debate at the present meeting, it was nevertheless appropriate to recall these recent developments, since EC representatives had consistently maintained that complaints of prejudice and threat of prejudice were no longer valid because export subsidies were no longer being paid - and that in any event the new system would prevent such prejudice. He said that since the Community had reintroduced export subsidies on sugar, the Australian/Brazilian complaints remained valid, and he asked what the EEC intended to do about the matter. In his view, it was essential that the CONTRACTING PARTIES have the opportunity in the immediate future to examine the new EEC sugar régime and to review the situation, as decided by the Council in March 1981.

The representative of Brazil also made reference to recent developments in the world sugar market, and to statements made by EC representatives that the matter would be of practical relevance only in the event of a new world market trend characterized by prices lower than those ruling on the EEC market. He recalled that in previous discussions, EC representatives had indicated that Community sugar policies were under consideration. However, the new EEC sugar régime and intervention prices for 1981/82 had been adopted on 1 April 1981. He said that the recent sharp decline in world market prices, which would seriously affect export earnings of sugar exporters, was related to the Community decisions and sales policy. He furthermore recalled that the price development had resulted in the reintroduction of export quotas and the accumulation of special stocks under the International Sugar Agreement, as of 14 May 1981. He also recalled that the Australian proposal in document C/W/360, and supported by Brazil, had not been withdrawn and remained on the table.

He then gave detailed information relating to changes in the A and B quotas and concerning the EEC co-responsibility system and product levies. He said that it would not be surprising if the EEC consumption continued to fall as a consequence of shifting the burden of financing export subsidies from taxpayers to consumers. The area planted with beets in the EEC was estimated to have increased by over 7 per cent, which might result in a total Community surplus of 4.8 million tons raw value. He recalled that

until 1976 the EEC had been a net importer of sugar and that Brazil, for instance, had exported 2.7 million tons, raw value in 1980. In his view, the inevitable effect of the Community efforts to place well over 4 million tons of heavily subsidized sugar on the world market as from July 1981 should be a matter of concern to the GATT, requiring prompt and effective action. He regretted that no more could be done at the present meeting and supported the request for having the item on the agenda for the next meeting of the Council.

The representatives of Cuba and the Dominican Republic supported the views expressed by the representatives of Australia and Brazil and requested that the item be included in the agenda for the next Council meeting.

The representative of the European Communities said that the EEC was acting in good faith and assured the Council that the EEC intended to keep its commitments and would immediately notify the subject measures as soon as they were formally adopted. With respect to the substance, delegations could refer to the various positions taken as reflected in the records of the Working Party and the Council.

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

10. European Economic Community - Production subsidies on canned fruit

The representative of Australia said that from June 1979 to May 1981 there had been discussions between his Government and the EEC concerning Community subsidies on canned fruit. He said that the lack of results in these discussions had caused his delegation to request that this matter be taken up at the present meeting of the Council under the provisions of Article XXIII.

The representative of the United States noted that no communication had been circulated prior to the meeting concerning this matter, and suggested that the Council revert to the item at its next meeting, on the basis of a document to be submitted by the delegation of Australia.

The representative of Australia, in reply to an enquiry by the Chairman whether Australia had raised the matter under Article XXIII:1, replied in the affirmative, and said that his delegation was prepared to follow the normal procedure in such cases.

The representative of the European Communities said that his delegation was not in a position to shed any light on the matter at the present stage.

The Council agreed to revert to this item at its next meeting.

11. United States - Import duty on vitamin B12, feed-grade quality - Recourse by the European Economic Community (L/5157)

The Chairman drew attention to document L/5157, which had been circulated at the request of the European Communities.

The representative of the European Communities said that since April 1979 his authorities had on numerous occasions reminded the United States that its continuing practice of charging a higher duty on imports of vitamin B12 feed-grade quality was considered by the Communities to be inconsistent with the United States' obligations under the General Agreement. He said that consultations held in February, March and May 1981 had remained without result. The Communities therefore requested the establishment of a panel under Article XXIII:2, as indicated in document L/5157.

The representative of the United States said that his Government consented to the establishment of a Panel, and pointed out that the United States considered its actions in this matter to be fully consistent with its GATT obligations.

The Council agreed to the establishment of a Panel and authorized the Chairman of the Council, in consultation with the parties concerned, to draw up appropriate terms of reference and to nominate the chairman and members of the Panel.

12. South Pacific Regional Trade and Economic Co-operation Agreement (SPARTECA) (L/5100)

The Chairman recalled that in March 1981 the Council had considered a communication by the delegations of Australia and New Zealand, circulated in document L/5100, and had agreed to revert to this item at its next meeting.

The representative of Canada noted that in their communication, Australia and New Zealand made reference to the Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries ("enabling clause") (BISD 26S/203). He said that his authorities did not, at present, see any need for consultations as provided for in sub-paragraph 4(b) of the Decision, and were prepared to take note of the Agreement in the light of footnote 2 of paragraph 2 of the "enabling clause", subject to the submission of biennial reports by the two contracting parties concerned.

The representative of the United States said that his Government supported the Canadian proposal.

The representatives of Australia and New Zealand said that their respective governments were prepared to submit reports biennially in respect of developments under the Agreement.

The Council took note of the communication in document L/5100 and agreed that the contracting parties concerned should submit a report on developments under the Agreement in accordance with the procedure for the examination of biennial reports on regional agreements.

13. Agreements between the European Communities and Israel (L/5147)

The Chairman drew attention to document L/5147 which contained information furnished by the parties to the Agreements between the European Communities and Israel.

The Council took note of the report.

14. Regional agreements - calendar of biennial reports (C/W/362)

The Chairman recalled that at their twenty-seventh session the CONTRACTING PARTIES had instructed the Council to establish a calendar fixing dates by which contracting parties members of a regional agreement would be invited to submit a biennial report on developments under the agreement concerned. The most recent calendar established by the Council in November 1978 covered the period April 1979 to October 1980 and should, therefore, be renewed. Suggestions for a new time-table were contained in document C/W/362.

In the light of the action already taken on item 12 at the present meeting, the Chairman suggested that the South Pacific Regional Trade and Economic Co-operation Agreement (SPARTECA), be added to the calendar, after consultation with the interested delegations concerning the appropriate date.

The Council approved the time-table as proposed.

15. Committee on Safeguards (L/5151)

The Chairman recalled that the CONTRACTING PARTIES had established the Committee on Safeguards by their Decision of 28 November 1979 (BISD 26S/202), to continue discussions and negotiations, taking into account the work already done, with the aim of elaborating supplementary rules and procedures regarding the application of Article XIX of the General Agreement, in order to provide greater uniformity and certainty in the implementation of its provisions. The Committee had held a third meeting on 15 April 1981, the minutes of which had been circulated in document L/5151.

The Director-General said that it was clear from the minutes of the discussion at the meeting that most delegations continued to regard the safeguard issue as an important one, and wished to arrive at some substantive result in this area. He expressed the hope that the conclusions of the Committee, as set out in paragraph 18 of document L/5151, would receive from all contracting parties the attention they deserved. He drew

attention in particular to paragraph 2 of these conclusions, where it was stated that "CONTRACTING PARTIES will continue to keep the matter under examination and discussion and to this end the Committee on Safeguards will expedite its work".

The Director-General reaffirmed his intention, as Chairman of the Committee, to remain in touch with delegations in order to see how work in this area could be expedited. He said that it was clear, however, that further progress depended largely on the willingness of delegations to submit concrete proposals, and he therefore urged delegations which were in a position to do so to come forward with their ideas as early as possible.

The representative of Chile said that it was difficult to see the conclusions of the Committee as a sign of forward movement towards a definite solution in the field of safeguards. He wished to reassert that the results of the Tokyo Round remained seriously unbalanced because of this gap in the field of safeguards.

The representative of India expressed his delegation's continued disappointment at the lack of any substantive results in this critical area. He recalled that several delegations of developed and developing countries had stressed the need for transparency in the discussions and negotiations on the subject, as well as the need for expeditious conclusions. He endorsed the statement of the Director-General, as Chairman of the Safeguards Committee, that the safeguards issue was one of the problems which, if not solved, could put into question the credibility of GATT. He said that India urged once again that negotiations in this area be viewed with extreme urgency and in the context of the priority that the CONTRACTING PARTIES had given to this task in their Work Programme.

The representative of Yugoslavia said that document L/5151 reflected the disappointment of most members of the Committee at its having failed thus far to carry out its task. He suggested that as a practical means of getting out of the present standstill, it might be useful for the secretariat, after consultations with all parties interested, to prepare a document as a basis for concrete debate on outstanding issues and possible solutions.

The representative of Argentina referred to the statement by his delegation at the meeting of the Committee (document L/5151, paragraph 6) and stressed that the present status of the safeguards issue raised widespread doubts concerning the international trading system generally. He added that in his view, there should be utmost transparency through the discussions.

The representative of Colombia said that the lack of agreement on safeguards had a major impact on developing countries like Colombia, and was a principal default of the MTN. He had taken note of the intention of the Director-General to carry on consultations, and expressed the hope that these consultations would produce a solution as soon as possible.

The representative of Finland, speaking on behalf of the Nordic countries, expressed their disappointment at the lack of progress in the safeguards negotiations. Although the conclusions of the Committee (document L/5151, paragraph 18) gave a fair summary of what had been possible to agree upon at the meeting in April, the Nordic countries saw a certain risk of hiding behind these conclusions and of not continuing the negotiating process. He joined those delegations which urged that serious efforts be continued, so as to arrive at a substantive and speedy solution.

The representative of Zaire associated himself with an earlier statement by the Director-General that the lack of results in the Committee cast a shadow on other areas for which solutions had been found in the course of the MTN. He supported the proposal by the Director-General to initiate in-depth consultations, and agreed that this should make it possible to draw up a basic document for future work.

The representative of Romania said that he wished to highlight again the need for a generally acceptable solution in this area of utmost interest to the activities of GATT, and supported the proposal for in-depth discussions of this problem.

The Council took note of the minutes of the Committee on Safeguards and of the statements.

16. Structural Adjustment and Trade Policy
- Report of the Working Party (L/5120)

The Chairman recalled that in November 1980 the Council had established the Working Party on Structural Adjustment and Trade Policy with the mandate "to elaborate specific proposals for the future work of GATT relating to structural adjustment and trade policy, including the nature and objectives of such work, in the light of the report of the Consultative Group of Eighteen and of the views expressed in the Council, as well as discussions in the Committee on Trade and Development". The Working Party had been invited to report to the Council by March 1981.

The Working Party had met in January, February and March 1981. Its report, dated 16 March 1981, had been circulated in document L/5120.

In introducing the report, Mr. Blankart (Switzerland), Chairman of the Working Party, said that the report noted that GATT work in this field must remain related to GATT objectives and, in particular, to those of trade expansion and trade liberalization. It had been generally recognized that the GATT should be particularly concerned with the contribution that trade policy might make to structural adjustment and with the relationship between structural adjustment and the fulfilment of the objectives of the General Agreement. The Working Party had focused its attention on the broad objectives to which work on structural adjustment might be directed, as well as on the modalities and institutional arrangements which might be appropriate in this connexion. The conclusions of the Working Party were annexed to the report.

He added that the report had been discussed by the Committee on Trade and Development and by the Consultative Group of Eighteen at the last meeting of each.

The Council adopted the report and requested the Working Party to undertake the work as set out in the conclusions of the Working Party contained in the Annex to the report, it being understood that reports by the Working Party should be transmitted to the Committee on Trade and Development and the Consultative Group of Eighteen before being submitted to the Council.

17. Committee on Budget, Finance and Administration - Report of the Committee (L/5150)

Mr. Harding (United Kingdom), speaking for Mr. Williams (United Kingdom), Chairman of the Committee on Budget, Finance and Administration, introduced the report of the Committee (L/5150).

He drew attention to the Final Position of the 1980 Budget of the GATT (L/5115) and said that the Committee recommended that the Council approve the document and authorize the transfers between sections of the 1980 budget, set out in paragraph 8, which were necessary in order to cover excess expenditure on some sections of the budget from savings on other sections.

Regarding the 1980 surplus of Sw F 597,625, he said that the Committee recommended that the Council approve the transfer of Sw F 501,887 to the Working Capital Fund. The decision with regard to the disposal of the remainder of the unencumbered balance of the surplus account, amounting to Sw F 95,736 would be made by the Committee at its meeting in October.

He said that during its meeting the Committee also considered the report of the Informal Contact Group, which had met in March and May 1981, at the request of the GATT Staff Association, to consider the remedial effect that the measures adopted by the thirty-fifth session of the United Nations General Assembly, known as the "Washington Proposal", had on the United Nations pension scheme. The staff representatives' principal proposal had concerned the establishment of a complementary pension scheme for GATT staff, which the Group had not been able to accept. He said that the Chairman of the Staff Council, having been invited to address the Committee, had expressed deep regret that the Informal Contact Group had not been able to approve the establishment of the scheme, and had referred to the pension situation as inequitable, fortuitous and discriminatory. Mr. Harding said that the Committee had taken note of the Group's report and of the remarks made by the staff representative and had agreed to keep open the possibility of a further meeting of the Group, which could be called to discuss the situation in the light of developments in other international organizations, or of changes in the pension system, or a deterioration in the perceived benefits to staff.

He said that following a proposal by the Staff Council, the Committee recommended to the Council, subject to the reservations of two members, that an amount of Sw F 20,000 be transferred from the Special Temporary Account, established by the Council in 1978, to the GATT Staff Assistance Fund, to be used in accordance with the modalities already established for the Fund.

With regard to the remaining balance of Sw F 559,834 on the Special Temporary Account, he said that the Committee recommended that this amount be transferred through the Surplus Account to the Working Capital Fund.

In respect of the level of the Working Capital Fund, he said that the Committee had come to the conclusion that the Fund should be increased now to a level of Sw F 2,500,000, rather than the Sw F 4 million proposed by the Director-General, as the lower figure was considered to be more appropriate at this time and more in line with the level of 5 to 7 per cent of the overall budget applied to similar Funds in other organizations.

He said that the Committee had examined a proposal from the Government of Nicaragua which was a direct result of the numerous recommendations made by the Committee, and the secretariat's representations, with regard to the encouragement of governments in arrears of contributions to make instalment payments with a view to the total settlement of their financial obligations. He drew attention to paragraph 30 of the Report in which the Committee recommended the Council's acceptance of the proposal of the Government of Nicaragua to settle its arrears of contibutions at 31 December 1981, by the payment of ten equal instalments commencing in 1982. He said that Nicaragua also intended to pay its current contributions in full in the year for which they are due.

In this context, he stressed the Committee's recommendation, in paragraph 31 of the Report, and appealed once again to governments to pay pending contributions immediately and to pay each year's contribution as early as possible in the year in which it falls due.

He confirmed that in paragraph 18 of the Report, the square brackets were to be deleted so as to retain the text included therein.

The representative of Zaire, referring to paragraph 34 of the Report in which it was stated that the Committee had decided to revert to the matter of the Zimbabwe contribution at a meeting specially convened for that purpose, asked whether such a meeting had taken place. He said that his delegation favoured the adoption of the Director-General's proposal referred to in that paragraph. In reply, Mr. Harding said that the decision was yet to be taken. The representative of Zaire suggested, in that case, that the Council decide the issue at the present meeting. The Director-General, in response, stated that the Budget Committee expected to meet again shortly in order to take the decision as early as possible prior to the summer recess. The representative of Zaire said that his delegation would take part in that meeting, to which it looked forward eagerly.

The representative of the Netherlands said that his delegation warmly supported the recommendations in paragraph 18 of the Report that Sw F 20,000 be transferred from the Special Temporary Account to the GATT Staff Assistance Fund. He also supported the recommendation in respect of the Nicaragua contribution and suggested that a similar procedure be applied in the case of other contracting parties whose contributions were in arrears.

The Council approved the recommendations of the Committee contained in paragraphs 6, 7, 10, 18 (including the text within the square brackets), 19, 23, 30 and 31.

The representative of Canada said that his delegation wished to reaffirm the position of his Government concerning the disposition of surplus funds, namely that all such funds should be reallocated to contracting parties on a pro rata basis and be credited against their respective assessments for the following year. His authorities continued to hold that view, but did not wish to block a consensus on the issue.

The Council adopted the Report.

18. Committee on Tariff Concessions
- Designation of Chairman and Vice-Chairman (C/117)

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 nominate the chairman and vice-chairman of the Committee in consultation with interested delegations.

He informed the Council that, following such consultations, Mr. Kawamura (Japan) had been nominated as Chairman and Mrs. M'Bahia Kouadio (Ivory Coast) as Vice-Chairman of the Committee.

Contracting parties had been advised of these nominations by the letter circulated in document C/117 dated 7 May 1981.

The Council took note of the two nominations.

19. Italy - Deposit requirement for purchases of foreign currency

The representative of Italy, speaking under "Other Business", informed the Council of the decision by the Italian authorities that purchases of foreign currency against Italian lire, whether cash or forward, the use of foreign exchange accounts of residents, and credits to Italian lire accounts of non-residents, effected for foreign payments by residents, were to be subject to the lodging with approved banks of a non-interest-bearing prior deposit in Italian lire, to be frozen for ninety days and equivalent to 30 per cent of the amount of the transaction in Italian lire. The amounts of

the deposits were to be transferred daily by approved banks to the local office of the Bank of Italy. Certain transactions were to be exempt from the deposit requirement and the relevant list was being drawn up in agreement with the authorities of the European Economic Community. The measure would remain in effect until 1 October 1981. The decision adopted by the Italian authorities was designed to offset an exceptional aggravation of Italy's balance-of-payments deficit. In the four first months of the current year, Italy's overall balance of payments had shown a deficit of Lit 6,000 billion with the result that official reserves had been considerably depleted by the end of May in relation to the level recorded at the same period of the preceding year. Signs of recovery had begun to emerge as soon as the measures under reference had been adopted. In any case, taking into account the negative trend in the trade balance and the fact that, in general, imports were paid for in United States dollars while export earnings consisted of other currencies that were less strong, prospects had been such that clearly the only way for the Bank of Italy to control the situation had been to adopt measures of that kind. An additional substantive element was the fact that the Italian Government had had to resign because of domestic problems so that for the time being there had been no possibility of taking legislative measures of a more comprehensive character to control inflation, although such measures had already been outlined. He hoped that contracting parties would agree that those temporary measures were consistent with Italy's international commitments, non-discriminatory and the least harmful to Italy's trade partners. His delegation would forward the relevant texts to the Director-General as soon as possible, for circulation to contracting parties. Meanwhile, the Italian delegation was at the disposal of any delegation wishing to obtain further details.

The representative of the European Communities said that the EC Commision had been informed by the Italian Government of the measures in question, which were under examination in the appropriate Community bodies. He said that the Community intended to convey to the contracting parties all appropriate comments as soon as its examination of the Italian measures had been achieved.

The representative of Canada stated that his authorities were looking forward to a written notification by Italy of its monetary restrictions and presumed that the notification would indicate the GATT articles under which the measures were being applied and notified. He suggested that the CONTRACTING PARTIES enter into consultations with Italy regarding this development in the near term.

The Council took note of the statements.

20. Spain - Measures concerning domestic sale of soyabean oil

The representative of Spain, speaking under "Other Business", recalled that in January 1980 the Council had established a Panel to examine the complaint by the United States. He said that after having followed the procedures set out in the Understanding Regarding Notification, Consultation,

Dispute Settlement and Surveillance (BISD 26S/210) the parties had been unable to arrive at a mutually satisfactory bilateral solution to the dispute. In order for delegations to have full knowledge of the matter sufficiently in advance of the next Council meeting, he requested that the Report of the Panel be circulated to contracting parties as soon as possible.

The Chairman said that he had been informed that the Report was to be circulated in a few days time.

21. Spain - Denial of import licences for fish and fish products from Canada

The representative of Canada, speaking under "Other Business", recalled that, at the meeting of the Council in March 1981, his delegation had expressed concern over reports that the Spanish authorities had decided to prohibit imports of Canadian fish and that Canada was seeking clarification from the Spanish Government. He said that Canada had thereafter made formal requests to Spain for early consultations under Article XXII:1, but that to date the Spanish authorities had not agreed to hold such consultations. He expressed the hope of his Government that Spain would agree to the consultations without further delay, in accordance with its GATT obligations and in the interest of effective operation of GATT consultative procedures.

The representative of Spain said that his Government had delivered a verbal note to the Canadian Government in which it was indicated that Spain was prepared to carry out bilateral consultations on matters pending in the fish sector and trade in fish products.

The representative of Canada stated that the offer of bilateral consultations, contained in that verbal note, had been without regard to the Articles of the General Agreement and to Spain's obligations thereunder.

The Council took note of the statements.

22. United States - Imposition of countervailing duty without injury criterion/Industrial fasteners imported from India
- Terms of reference and composition of the Panel

The Chairman, speaking under "Other Business", recalled that in November 1980 the Council had agreed to establish a panel to examine the complaint by India, and had authorized the Chairman of the Council to decide on its composition and on appropriate terms of reference in consultation with the Parties concerned.

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

Composition:

Chairman: Ambassador H. Ewerlöf (Sweden)

Members: G. Curzon (Professor at the Graduate Institute of International Studies)

T. Flory (Professor at the Universities of Paris and of Dijon)

A. Jara (First Secretary, Permanent Mission of Chile)

G. Maggio (Retired Senior Counsellor, GATT secretariat)

Terms of Reference:

"To examine, in light of the relevant GATT provisions, the complaint by India that the United States action to levy countervailing duties on imports of dutiable products from India without applying injury criteria referred to in paragraph 6 of Article VI, while extending the benefit of such criteria to imports from some other contracting parties, is not consistent with the obligations of the United States under GATT, including the provisions of Article I thereof, and that the benefits accruing to India under the General Agreement are being nullified or impaired thereby; and to make such findings as will assist the CONTRACTING PARTIES in making recommendations or rulings provided for in paragraph 2 of Article XXIII."

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