

GENERAL AGREEMENT ON  
TARIFFS AND TRADE

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AD HOC COMMITTEE ON RESTRUCTURING  
OF THE ECONOMIC AND SOCIAL SECTORS  
OF THE UNITED NATIONS SYSTEM

Under the Resolution A/RES/3362 (S-VII) of the Seventh Special Session of the General Assembly an Ad Hoc Committee on the Restructuring of the Economic and Social Sectors of the United Nations System was established, in which the GATT was invited to participate.

At its first session held from 13 to 19 and on 21 November 1975 the Ad Hoc Committee agreed to invite all United Nations organs, including the regional commissions, programmes and specialized agencies, and the International Atomic Energy Agency and the GATT to participate in the work of the formal meetings of the Committee and, in the first instance, to invite their executive heads to participate personally in the second session of the Committee.

Attached for the information of the contracting parties, is the statement to the Ad Hoc Committee made at its invitation by the Director-General on 12 February 1976.

STATEMENT BY MR. OLIVIER LONG, DIRECTOR-GENERAL OF GATT,  
TO AD HOC COMMITTEE ON RESTRUCTURING OF THE ECONOMIC AND SOCIAL SECTORS  
OF THE UNITED NATIONS SYSTEM

(UNITED NATIONS, NEW YORK, 12 FEBRUARY 1976)

Mr. Chairman,

I am grateful for this opportunity to appear before the Ad Hoc Committee. I take it that the Committee will not wish to hear an account of GATT's past achievements. My intention is instead to concentrate first on identifying the essential characteristics and functions of GATT, and then to describe its present relationship with the United Nations system.

GATT's framework

Let me begin by stressing that GATT is above all a contract. It is a legal instrument; a multilateral agreement into which all its member governments have entered voluntarily.

This contractual character of GATT is central to it. It colours its nature and the way it functions. GATT cannot be properly understood or assessed unless the fact of the contract is kept constantly in mind.

The original General Agreement on Tariffs and Trade was negotiated in 1947, and came into force at the beginning of 1948. Its provisions have been revised from time to time, a matter to which I shall return in a moment. But its basic function has remained the same. It establishes between its member countries a contractual relationship for their mutual trade, by which all of them have undertaken mutual obligations and all of them enjoy mutual rights. In this respect, the General Agreement is, I would stress, unique. There is no other multilateral trade agreement of such a global character.

The provisions of the General Agreement are applicable today to the trade among 105 countries. Since these countries are collectively responsible for about 85 per cent of world trade, it is true to say that the overwhelming share of international trade is now carried on within the framework of agreed rules and obligations provided by the GATT.

There is room for legitimate disagreement about what rules should be established in international trade as in other aspects of human relations. However, I imagine that few people would argue that the world would be better off without any generally-accepted rules for trade. The law of the jungle applied to international trade in the 1930's, and the world paid dearly for the fact. For the past generation the GATT has provided the rule of law that was lacking in world trade during the Great Depression years, and I believe that it is no coincidence this postwar period has also seen trade grow faster than at any previous time.

The General Agreement itself - the set of rules for international trade - thus remains the essential focus of GATT and its activities. The Agreement is based on an acceptance of rights and obligations by all member countries; at the same time it represents certain principles of co-operation in the field of trade as these have continued to develop over the whole postwar period.

The General Agreement is an evolving instrument. Many of its basic principles remain the same as when it was originally negotiated, but there is scarcely one of its operative articles that has not been formally amended, added to, reinterpreted or, in particular circumstances, waived at one time or other in order to meet the changing needs of member governments. In some instances the modifications to the Agreement have been striking: one example is the addition in 1965 of three entirely new articles, designed to make the application of the GATT rules more responsive to the needs of developing countries. Similarly, it was as a result of an initiative in 1967 by the CONTRACTING PARTIES that successful negotiations took place in GATT for an exchange of preferences among developing countries, and it was a GATT waiver agreed upon in November 1971 that opened the way for putting these preferences into effect. But in addition, various rules of GATT have been reinterpreted by the member countries acting together, in many separate instances, to keep them abreast of present-day needs.

As a set of rules, therefore, the General Agreement is sui generis: unlike any other. It is an essentially practical instrument, concerned to evolve new formulae which will meet changing circumstances while at the same time preserving a framework of law for international trade. It is a living and constructive instrument for expanding trade among its members as a whole, and for holding in check, in the interest of all, the pressures to restrict trade to which particular members are from time to time subjected.

The world is changing swiftly, and it seems certain that the General Agreement, too, will continue to evolve in the course of the next few years. As delegates will be aware, the most ambitious multilateral trade negotiations ever attempted are now in progress in the framework of GATT. They are guided by the Tokyo Declaration, unanimously adopted by Ministers of over 100 countries in September 1973, which states explicitly that "consideration shall be given to improvements in the international framework for the conduct of world trade that might be desirable in the light of progress in the negotiations." It is clear, therefore, that the negotiations provide an opportunity for a general review of the present GATT rules.

#### GATT as a trade forum

Based directly on GATT's primary rôle as a code for international trade is its second rôle as a forum for continuous consultations and negotiations on trade policy questions. Governments can of course discuss trade policy questions together wherever they choose. What distinguishes GATT as a forum, however, is that governments using it are endowed, because of the General Agreement, with specific rights and duties.

This is important both in the settlement of particular trade problems and in more general efforts to evolve trade policies appropriate to changing circumstances. It affects both the bilateral and multilateral trade relations among GATT member countries.

Relying on their rights and duties under GATT, and enlisting the support and mediation of other member countries which share the common interest in preserving the rule of law in trade relations, it is possible for a government that is aggrieved by the trade policy action of another to have the problem aired and investigated in GATT in order to seek a mutually satisfactory adjustment.

At any time, GATT is thus seized of literally dozens of specific trade policy problems that have arisen between particular member countries. In many cases, solutions to them are sought in especially-established panels of conciliation or working groups. And on hundreds of occasions since the General Agreement came into force, such problems have been satisfactorily settled within GATT. Still larger numbers of bilateral trade questions are settled without reference to other GATT members, but within the framework of the mechanisms and mutual obligations of consultation and negotiation established under various rules of the General Agreement. In its own particular area of international relations, that of trade policy, GATT has in fact proved itself again and again an effective instrument for the settlement of conflicts between nations.

Going beyond purely bilateral relations, GATT has also provided an instrument for encouraging governments to negotiate and adhere to multilateral codes of conduct to regulate particular aspects of their trade. A recent example is the agreement on the application of anti-dumping duties. In the current negotiations, work is progressing on a number of such codes, some of them of major potential interest to developing countries.

The habits and techniques of negotiation and conciliation developed in GATT find their most striking expression, of course, in the major multilateral rounds of negotiations to liberalize trade that have been undertaken from time to time within the GATT framework. The issues in the present multilateral trade negotiations, which embrace all aspects of trade and involve some ninety participating governments, are on a quite different scale from most of the specific bilateral or other trade problems that arise in GATT from day to day. But they are being approached in much the same spirit: as a common search for practical solutions, within an evolving framework of rights and obligations. It is, I believe, an approach which holds out the best hope that the negotiations, which are grappling with issues of the widest importance, particularly for the developing countries, will be brought to a successful conclusion.

It is the hallmark of GATT as a forum that all negotiations there, whether concerned with specific problems concerning only a few countries or with the widest issues of trade policy, are essentially practical and down-to-earth, directed to achieving concrete results. In part this is certainly because of the highly technical nature of many of the questions that arise. But I believe that it owes most to the fact that participants in any GATT negotiation know that they can call for support on their rights as signatories to a binding agreement. It is the existence of the General Agreement itself that underpins the effectiveness of GATT as a forum for conciliation and negotiation.

Mr. Chairman, it is my intention in this statement to confine my remarks to the rôle of GATT and to its relationship with the United Nations. But I hope I may be permitted to make one comment of more general application on the matters before you, drawing on GATT's own experience. It concerns the principle of decisions by consensus.

Virtually all questions of importance in GATT are settled by consensus. Formal votes are taken only when legally required by the relevant provisions of the General Agreement, and then only after discussions have continued to the point where it is clear that a consensus exists. Whether or not a vote will

finally be required, it is the practice in GATT to provide for prior consultations among interested countries on all contentious issues. Much patient consultation and negotiation may be needed before a consensus can be reached, but it is our experience, based on twenty-eight years of GATT's operation, that decisions taken by consensus are decisions that have been properly considered and that, being generally supported, have the best chance of being effectively applied.

#### The organs of GATT

I should say a few words about the functional machinery of GATT.

Once again, the cornerstone remains the General Agreement. The various organs that have been established by the CONTRACTING PARTIES exist solely to serve the purposes of the Agreement. In other words, they are tailored to the task of applying the trade rules; of interpreting and modifying them as may be desirable; and of making GATT an effective forum for consultation, conciliation and negotiation on trade policy questions.

Their functions have been steadily adapted over the years. The GATT Council of Representatives, for instance, was originally established by the CONTRACTING PARTIES in 1960, to act on both routine and urgent matters. In 1968, the CONTRACTING PARTIES delegated significant powers to the Council, enlarging its rôle and competence so that it now provides GATT with an effective body that can investigate and reach prompt conclusions on trade problems as they arise between member countries. Similarly the Committee on Trade and Development has the specific task of overseeing the application of the three Articles on economic development added to the General Agreement in 1965. Most recently, in 1975, the Council has established the Consultative Group of 18, which brings together a balanced and representative group of GATT member governments for high level informal discussions on major current issues of trade policy.

The CONTRACTING PARTIES have in their relations within GATT always kept their attention directed firmly and exclusively on the limited but important area of trade policy. They have been content to leave other areas of international policy to other organizations, and I believe that this concentration of effort in GATT - this practical and exclusive concern with a clearly defined sector of international co-operation - has done much to help its effectiveness.

Because the member governments of GATT have focused their efforts in this way, it has been possible to maintain a correspondingly compact and operational secretariat. It is a matter of some satisfaction not only to me, but also no doubt to governments, that there has been no increase since 1968 in the permanent staff of the GATT secretariat.

### Membership of GATT

A final point about GATT itself concerns its membership.

GATT is open to any country. The number of Contracting Parties has in fact grown steadily, and every year there are new accessions, or new approaches by governments interested in acceding to the General Agreement. The present membership is representative of all parts of the world and of all types of economy - developing, developed market and socialist. Well over two-thirds of GATT's membership consists of developing countries. Altogether, 105 countries are now within the GATT framework, of which eighty-three have acceded to the General Agreement, three have acceded provisionally, and another nineteen apply the Agreement on a de facto basis and in return receive GATT treatment from the member countries.

Nor is this all. In the present multilateral trade negotiations, which are of course the most important current enterprise being carried on by GATT, the ninety participating countries include over twenty developing countries which are not GATT members.

### GATT relations with the United Nations

I come now to GATT's relationship to the United Nations system.

In this respect, as in the actual operations of GATT, I believe that the determining factor has been, and will continue to be, the contractual nature of the General Agreement. The existence of the GATT contract - the network of specific legal rights and mutual obligations - remains the characteristic that most distinguishes membership in GATT.

GATT has a de facto relationship of long standing with the United Nations system, arising from the decision of the United Nations Conference on Trade and Employment, in Havana in March 1948, to establish the Interim Commission for the International Trade Organization, from which the institutional structure of GATT evolved. Later, in August 1952, the relationship was confirmed by an exchange of letters between the Secretary-General of the United Nations and the Executive Secretary, as he then was, of the GATT.

From the GATT side, I can say that we value our relationship with the United Nations highly, and that we find the present de facto arrangement a sensible and practical solution to the particular circumstances of the case.

I do not suppose, Mr. Chairman, that the Committee will wish to hear a detailed account of existing relations between GATT and the United Nations. I shall therefore mention just some of their aspects, and those only briefly. On the administrative side, the de facto arrangement has permitted GATT to participate in the work of the Administrative Committee on Coordination and in other inter-secretariat machinery. GATT secretariat members participate in the United Nations

Joint Staff Pension Fund, and in the common system of salaries and allowances. There is close co-operation and exchange of information between the statistical services of GATT and the United Nations. GATT is represented at the meetings of many agencies in the United Nations family, when matters of common concern are under discussion, and they in turn attend GATT meetings of interest to them. For the regular training courses in commercial policy provided by GATT for officials from developing countries, GATT is indebted to UNDP for practical liaison in the trainees' home countries and for fellowships granted to the trainees. Finally, of course, I would mention the International Trade Centre, focal point for United Nations efforts in the field of trade promotion for developing countries. The Centre was founded by GATT in 1964. By decision, in late 1967, of the General Assembly and of the CONTRACTING PARTIES to GATT, the International Trade Centre has since the beginning of 1968 been jointly operated by GATT and UNCTAD, which contribute equally to its budget.

As these examples show, this de facto arrangement has allowed a healthy development of relations between GATT and the United Nations. From the GATT side, I can only repeat that we find our present links with the United Nations practical and useful, that we greatly appreciate the friendly co-operation that exists between ourselves and the whole United Nations family, and that we see no reason to disturb the existing arrangements, which appear to us well suited to the somewhat exceptional and contractual nature of the General Agreement.

Before leaving this subject, Mr. Chairman, I should for the sake of completeness note that in one respect a clear, legally binding, and operational relationship exists between GATT and one member of the United Nations family. The General Agreement, in its Article XV, lays down precise provisions for co-ordination with the International Monetary Fund in the examination of trade measures introduced by member countries for balance-of-payments purposes.

#### The multilateral trade negotiations

Mr. Chairman, I should like to refer to one specific point in the report of the Group of Experts on A new United Nations structure for global economic co-operation. It concerns the present multilateral trade negotiations.

I have already stressed the great importance of these Tokyo Round negotiations, which are of wider scope, and greater complexity, and include a far larger number of participating governments, than any previous trade negotiations. In the coming months, activity in the Tokyo Round will be intense. Crucial decisions will be required; to give only one example, it is at the end of this month that importing countries are to make specific offers of concessions on

imports of tropical products. It will require unrelenting work and determination if the negotiations are to be concluded, as has recently been decided should be the aim, in 1977. I welcome and strongly support, therefore, the recognition by the Group of Experts, in paragraph 180 of their report, that "any structural changes in the field of trade should not be allowed to interfere with the multilateral trade negotiations."

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Mr. Chairman, there is no doubt plenty of scope for improving the world's arrangements for defining international and national trade policies and for applying them and reconciling them with one another. As you yourself have commented in launching the work of the Ad Hoc Committee, institutions are not ends in themselves. If they do not serve desired ends, they should be changed. GATT cannot be, and would not expect to be, an exception to this rule. But on the other hand, it is equally true that the member governments of GATT, having upheld and developed their mutual contract over many years, are unlikely to be prepared to give up the advantages they see in the contractual relationship inherent in the GATT in favour of alternative arrangements, whatever these might be, unless they can be persuaded that these will in fact serve their fundamental purposes more effectively.

I have tried to make clear what those fundamental purposes are. The unique contribution of GATT to international economic relations is, in my view, to provide world trade with an established framework of agreed rules and obligations, and to be an effective, practical and continuously-evolving forum in which governments can regulate their trade differences and ensure that the implementation of their trade policies is kept in line with the current needs of all its members. I hope, Mr. Chairman, that in its deliberations the Ad Hoc Committee will bear in mind that these functions are essential to a satisfactory system of world economic relations, and that they must, therefore, in one way or other continue to be served.