

# GENERAL AGREEMENT ON

## TARIFFS AND TRADE

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### Committee on Trade and Development

Seventy-Second Session

13 July 1992

### NOTE ON PROCEEDINGS OF THE SEVENTY-SECOND SESSION

Prepared by the Secretariat

Chairman: H.E. Mr. Jesús Seade (Mexico)

1. The Seventy-Second Session of the Committee on Trade and Development was held on 13 July 1992 under the Chairmanship of H.E. Ambassador Jesús Seade (Mexico). The Committee adopted the following agenda: review of the implementation of provisions of Part IV and of the operation of the Enabling Clause

- Southern Common Market (MERCOSUR)
- Extension of GSP treatment to East European countries and former republics of the USSR;

technical assistance to developing countries in the context of the Uruguay Round; work of the Sub-Committee on Trade of Least-Developed Countries; and future work programme of the Committee on Trade and Development.

Item (i): Review of the implementation of provisions of Part IV and of the operation of the Enabling Clause

- Southern Common Market (MERCOSUR)
- Extension of GSP treatment to East European countries and former republics of the USSR

2. The Chairman recalled that for the purpose of the review of the implementation of provisions of Part IV and of the operation of the Enabling Clause at this meeting, the Committee had before it notifications received from Austria, Canada, the European Communities, Finland, Japan, Norway, and the United States concerning their respective GSP schemes, a notification from Thailand on its trade agreement with the Lao People's Democratic Republic, and two notifications from the LAIA secretariat on LAIA's activities in 1989-1990 (L/6946) and on the MERCOSUR Agreement (L/6985 and Add.1). In regard to the latter, further information had recently been provided by the delegations of Argentina, Brazil and Uruguay (L/7044). He also informed the Committee that on 10 July 1992 the delegation of Turkey transmitted a notification concerning the Additional Protocol on Preferential Tariffs concluded among the members of the Organization for Economic Cooperation, namely, Turkey, Iran and Pakistan which would be shortly circulated for consideration by the Committee at its next meeting (subsequently circulated as L/7047). The Committee divided the discussion under the first item of the Agenda into three parts: (1) MERCOSUR Agreement; (2) extension of GSP treatment to East European

countries and republics of the former USSR; and (3) notifications on GSP schemes, Thailand's agreement with the Lao People's Democratic Republic, and LAIA's activities in 1989-1990.

#### MERCOSUR Agreement

3. The Chairman drew delegations' attention to the fact that in addition to the notification on the MERCOSUR Agreement submitted by the LAIA secretariat in L/6985 and Add.1, the delegations of Argentina, Brazil and Uruguay -- signatory countries of the MERCOSUR Agreement which were contracting parties to the GATT -- had submitted further information on the Agreement in L/7044. He also welcomed Ambassadors R. Barbosa and F. Peña, Under-Secretaries in the Foreign Ministries of Brazil and Argentina respectively, who were present at this meeting in order to provide additional information and explanations on the MERCOSUR Agreement.

4. The representative of Brazil said that the signatory countries of the MERCOSUR Agreement which were contracting parties to the GATT, namely Argentina, Brazil and Uruguay, had requested the inscription of this issue on the Agenda in order to provide additional explanations on the Agreement. To this end, two high-level officials from Brazil and Argentina were present at the meeting. The three delegations were ready to respond to any further questions from Committee members either at the present meeting or in any further consultations that might be considered appropriate.

5. The representative further recalled that during the transitional period (1991-1994) for the establishment of the Southern Common Market, the Asunción Treaty set out five basic objectives: a trade liberalization programme, the establishment of a common external tariff, coordination of macro-economic policies, coordination of sectoral policies and institutional arrangements for the last stage of the Treaty's implementation. The trade liberalization programme provided for progressive, linear and automatic tariff reductions and elimination of non-tariff measures to be completed by 31 December 1994. In parallel, a common external tariff would be established. The coordination of macroeconomic policies would cover fiscal, monetary, trade, agricultural and industrial policies. The coordination of sectoral policies was aimed at ensuring industrial, commercial and services complementarity and integration with a view to making the fullest use of available resources, increasing trade within the sub-region and exports to third markets. The Treaty also contained provisions for the establishment of institutions as from 1995 and definition of their competence and of the decision-making system.

6. The representatives of Brazil and Argentina further elaborated on the economic, legal and institutional aspects of the Treaty. Their full presentations have been subsequently circulated in documents COM.TD/W/496 and COM.TD/W/497 respectively.

7. The representative of Uruguay emphasized that the MERCOSUR Agreement was aimed at liberalizing trade and did not have a protectionist character. He reiterated the readiness of the signatories to provide any further information that might be deemed necessary by other GATT members.

8. Before addressing the issue of the MERCOSUR Agreement, the representative of a group of countries recalled that under paragraph 4 of its mandate, the Committee was called upon to consider any questions that might arise as to the eligibility of a contracting party to be considered as a less-developed contracting party in the sense of Part IV and report to the CONTRACTING PARTIES. In this connection, the representative further recalled that his authorities had decided no longer to apply the developing-country status to three contracting parties in respect to the implementation of the Uruguay Round results unless the Committee on Trade and Development would decide otherwise in pursuance of paragraph 4 of its mandate. This paragraph contained a primary task for the Committee since it referred to a matter which became more and more urgent with the passage of time. Although the matter was not inscribed as such on the Agenda of the present meeting, it was nevertheless of relevance to the review of the operation of the Part IV and of the Enabling Clause. In one way or another the Committee would have to discuss this matter in order to draw appropriate conclusions on a consensus basis. He therefore wished to recall the decision taken by his authorities in order to provide food for thought to the Committee. Commenting upon this statement, some representatives remarked that the issue referred to was of an extraneous character to the debate under this item which had to concentrate on the MERCOSUR Agreement. One of these representatives also recalled that his country had been participating in the Uruguay Round and in GATT, including in this Committee as a developing country, a status which was self-determined and evident.

9. Turning to the MERCOSUR Agreement, the representative of a group of countries expressed appreciation for the additional information and explanations provided at the present meeting. The MERCOSUR Agreement opened up considerable development opportunities for its members which were less-developed than certain other contracting parties. The information made available would have to be carefully examined in capitals and a mechanism for an appropriate review of all the elements pertaining to the Agreement would have to be set up in order to enable the CONTRACTING PARTIES to understand its value and pronounce themselves on the Agreement. Although MERCOSUR was a development under the 1980 Montevideo Treaty which had already been reviewed by the CONTRACTING PARTIES, the new Agreement would have to be examined in the light of the signatories' obligations under the GATT, especially those contained in Articles I and XIII.

10. The representative further recalled that the Enabling Clause which was the legal basis invoked by the MERCOSUR countries, provided for notification of the Agreement to the CONTRACTING PARTIES, for provision of all information that they might deem necessary and for prompt consultation with any contracting parties in respect to any difficulty or matter that might arise. Moreover, the signatories of the Agreement would have to demonstrate that MERCOSUR was a regional agreement for the mutual reduction or elimination of tariffs and, in accordance with criteria or conditions which might be prescribed by the CONTRACTING PARTIES, for the mutual reduction or elimination of non-tariff measures as specified in paragraph 2 of the Enabling Clause. Furthermore, in accordance with paragraph 3(a) of the Clause, the Agreement should be designed to facilitate and promote the trade of participating countries and not to raise barriers or create undue

difficulties for the trade of other GATT contracting parties. Paragraph 3(b) of the Clause required that the Agreement should not constitute an impediment to the reduction/elimination of tariffs and other restrictions to trade on an m.f.n. basis. Therefore, only when the MERCOSUR signatories would not be in a position to justify the Agreement under the Enabling Clause, Article XXIV provisions would become relevant. Then it would be necessary to reverse the burden of proof.

11. The representative further observed that an agreement justified under Article XXIV could be immediately implemented, but would have to be modified in accordance with the recommendations that might be agreed upon by the CONTRACTING PARTIES. Past experience showed how difficult, if not impossible, it was to reach such an agreement. On the other hand, it had to be kept in mind that the Enabling Clause did not allow for increases in tariff and non-tariff barriers. This might create a problem when the common external tariff was finalized and its tariff average would have to be assessed. Therefore, in order to avoid any misunderstandings, the best approach was to ensure permanent transparency right from the outset of the process. Even if the Committee on Trade and Development had not had the experience of carrying out very detailed reviews of regional arrangements, its mandate permitted such reviews. These could be as detailed as in a working party established for Article XXIV examinations. He therefore suggested that the Committee establish a working party to review the MERCOSUR Agreement and report to the CONTRACTING PARTIES without excluding the possibility of also informing the GATT Council. During the review, any contracting party could refer to any of the relevant provisions of the General Agreement. The review would be based on a more complete notification from MERCOSUR countries and on the usual procedure of questions and answers. This suggestion took into consideration the concerns expressed by both MERCOSUR signatories and other GATT contracting parties, as well as the logics of economics and politics. It was also based on the traditional pragmatic approach followed in GATT in order to resolve politically difficult matters. (The elements of the possible compromise together with the elements required for a more complete notification circulated to delegations at the meeting are reproduced in paragraph 18 below.)

12. A large number of representatives expressed appreciation for the information and clarification submitted by MERCOSUR countries and welcomed the objectives of the Agreement.

13. Several representatives stated that the MERCOSUR Agreement should be examined under Article XXIV provisions since it was an interim agreement leading to the formation of a customs union. A review under the Enabling Clause was not sufficient since its provisions had not been designed to cover customs unions or comprehensive free-trade areas but only partial preferential arrangements among developing countries that could not otherwise be justified under Article XXIV which contained more precise provisions and criteria. The MERCOSUR Agreement involved a comprehensive and challenging effort calling for the establishment of a full-fledged customs union covering "substantially all the trade" including goods, services, and investments, which would have substantial trade implications for third countries. One of these representatives urged the MERCOSUR

signatories to reconsider their position and undergo an Article XXIV process of examination. This would enhance the credibility of the GATT system, given the current trend of regionalism. The concern for the credibility of the GATT system was also voiced by other representatives which favoured an Article XXIV process. Several other representatives stated that the proposal previously put forward was interesting and deserved further examination. However, some of these representatives still preferred an Article XXIV examination.

14. A number of representatives felt that the appropriate provisions for examining the MERCOSUR Agreement was the Enabling Clause which provided the legal basis for preferential arrangements concluded amongst developing countries. One representative said that paragraph 2(a) of the Clause suggested that its provisions would also cover free-trade agreements. The details of the notification on the Agreement and the explanations provided at the present meeting indicated that, for the time being, MERCOSUR was a free-trade agreement which would develop into a customs union only later on. Therefore, the signatories of the Agreement could rely upon either the Enabling Clause or Article XXIV. He believed that, in terms of obligations and procedures, there was not a fundamental difference between the two provisions. Article XXIV required that "substantially all the trade" be covered and that full-fledged free-trade areas or customs unions would have to be implemented within a reasonable period of time. In the case of a free-trade area, the duties and other regulations applicable to third countries should not be higher or more restrictive than the corresponding duties or other regulations existing in the constituent countries prior to the formation of the free-trade area. While these conditions were very rigorous, in practice they had not been strictly enforced. Moreover, the CONTRACTING PARTIES had seldom come to a clear conclusion under Article XXIV:7(b) on the conformity of individual arrangements with Article XXIV provisions. His country had attempted to rectify this situation in the Uruguay Round negotiations but to no avail so far. Furthermore, third countries enjoyed a more comprehensive right for consultation under paragraph 4 of the Enabling Clause than would seem to be the case under Article XXIV. The establishment of a working party for a more detailed examination of regional agreements was also available under the Enabling Clause. Therefore, he believed that the choice between the Enabling Clause and Article XXIV for considering the MERCOSUR Agreement was indeed a technical one. This view was supported by some other representatives.

15. The representative whose views are reflected in paragraph 9 above said that he had submitted the proposal in a spirit of conciliation. The proposal did not attempt to conduct an examination solely under the Enabling Clause, but left open the possibility for an Article XXIV examination at a later stage, if necessary. It was aimed at avoiding confrontational situations among contracting parties which were all in favour of liberalization, as well as at avoiding useless problems for the MERCOSUR countries given their political realities.

16. Another representative inquired whether the working party envisaged by the Community's proposal would have similar terms of reference as working

parties established under Article XXIV and would seek to produce a consensus report which would be without prejudice to a subsequent Article XXIV examination.

17. The representative of Brazil, also on behalf of Argentina and Uruguay, said that their favourable attitude to the proposal under consideration reflected readiness to ensure full transparency. His support was for the proposal as presented, not as it seemed to be interpreted by some representatives. He hoped that an agreement could be reached on the proposal and that developing countries would not be denied the right to have recourse to the Enabling Clause which was precisely designed to meet their particular interests.

18. In concluding the discussion on the MERCOSUR Agreement, the Chairman noted that there was not yet a consensus in the Committee on how best to proceed with the examination of the Agreement. He also read out the elements of a possible compromise contained in the proposal put forward at the present meeting which was circulated as a non-paper to the members of the Committee:

- (i) "A Working Party would be established by the Committee on Trade and Development.
- (ii) The Working Party would submit its report and recommendations to the Committee for transmission to the CONTRACTING PARTIES. A copy of the report would also be transmitted to the Council.
- (iii) During the discussions in the Working Party any contracting party could refer to any relevant GATT provision.
- (iv) The discussions in the Working Party would be based on a complete notification<sup>1</sup> and on written questions and answers."

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<sup>1</sup>In a separate sheet, it was suggested that the Working Party should base its discussion on the full text of the following legal instruments, some of which had been already notified to GATT by the MERCOSUR countries: Treaty of Asunción signed on 26 march 1991; Economic Complementarity Agreement No.18 of 29 November 1991 (incorporates those provisions of the Treaty of Asunción that "basically concern trade integration" into the legal framework of the Latin American Integration Association); the Partial Scope Agreements, Economic Complementarity Agreements No.1, 2, 13 and 14 and the Trade and Agricultural Agreements referred to in paragraph 12 of Annex 1 of the Treaty of Asunción (these Agreements are not affected by the Trade Liberalization Programme set out in Annex 1 of the Treaty of Asunción); details of the list of exceptions to the Trade Liberalization Programme referred to in paragraph 6 of Annex 1 of the Treaty of Asunción; and any other text implementing the Southern Common Market.

19. In the light of the above, the Chairman suggested that he be authorized to hold informal consultations with interested delegations on the question of the examination of the MERCOSUR Agreement and report to the Committee on how it could best proceed on this matter. These consultations would take into account developments with respect to this matter which might evolve in other GATT fora.

20. The Committee took note of the statements and agreed that the Chairman hold informal consultations as suggested and report to the Committee.

Extension of GSP treatment to East European countries and republics of the former USSR

21. The Chairman noted that the issue of extension of GSP treatment to East European countries and republics of the former USSR was on the Agenda at the request of the delegation of Brazil.

22. The representative of Brazil underlined that by raising this issue, his country did not aim at preventing the East European countries and republics of the former USSR from having better market access opportunities. On the contrary, at the Washington Conference, Brazil had actively supported the objective of integrating these countries into the multilateral trading system. The purpose of raising this matter was to identify the legal basis under which these preferences could be granted in order to be in conformity with the General Agreement. He recalled that the Generalized System of Preferences which had allowed developing countries to promote their exports of manufactures and had an autonomous character, was a departure from Article I of the General Agreement. The GSP system had been authorized by the CONTRACTING PARTIES under a 1971 waiver and then through the 1979 Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries, known as the Enabling Clause. The extension of the GSP treatment to East European countries and republics of the former USSR was a significant modification of the Enabling Clause. Therefore, the examination of this issue in this Committee was appropriate. Such an examination was without prejudice to a possible examination of the matter that might be undertaken by the Council. In his country's view, it was clear that the preferences authorized by the CONTRACTING PARTIES were granted by developed contracting parties to developing ones and not to any contracting party. Although there was no objective definition of developing countries for GATT purposes and no agreed procedure for countries to declare themselves developing countries, tacit recognition had been successful in maintaining compatibility between "equilibrium of rights and obligations" and "differential and more favourable treatment to developing countries". With the exception of the countries resulting from the desegregation of the Socialist Federative Republic of Yugoslavia which would implicitly have the same status, no other country concerned had claimed so far to be a developing country. Although undergoing difficult socio-economic transformations, some of the East European countries and republics of the former USSR did not have the socio-economic profile of a developing country. Therefore, the contracting parties granting such preferences should seek a waiver from Article I

obligations which would be limited in time and would be examined periodically by the CONTRACTING PARTIES. The measures taken by the developed contracting parties would thus be in conformity with the General Agreement. The representative also suggested that the Secretariat prepare a study on possible effects of the extension of GSP treatment to East European countries and republics of the former USSR on the exports of developing countries, in order to examine this matter at the next meeting of the Committee.

23. Several developing-country representatives said they shared Brazil's views. While they supported the efforts of East European countries and republics of the former USSR towards market economies and acknowledged that some of these economies were facing severe economic difficulties which required assistance of the developed countries and international co-operation, they believed that the extension of GSP treatment to these countries was not in GATT conformity, since the Enabling Clause allowed developed countries to grant preferential treatment to products originating in developing countries. Although there was no agreed definition of 'developing country' in GATT, and this status was being granted on the basis of self-election, most of the countries in Central and East Europe and the republics of the former USSR had not declared themselves as developing countries and were not members of the Group of 77. The extension of the GSP treatment to those countries would therefore significantly modify the Enabling Clause. It was also recalled that a number of these countries had been considering themselves as developed countries since they had introduced their own GSP schemes for the benefit of developing countries. Without denying the right of the countries concerned to benefit from preferences, such a treatment should be granted in conformity with GATT rules. The adequate legal framework for granting tariff preferences to countries which did not fall within the scope of the Enabling Clause would be a waiver from Article I obligations of the preference-giving countries. One of these representatives also urged the Committee to make appropriate recommendations to ensure that the actions taken by developed countries in extending GSP benefits to the economies in transition were brought into GATT conformity.

24. Several representatives of developed countries said that they were reassured that Brazil did not question the extension of GSP treatment to East European countries and the republics of the former USSR. The economic and political situation of these countries was complex and difficult. The countries in transition were seeking rapid integration into the world economy and in the multilateral institutions which supported such an integration. Developed countries were now called upon to help countries in transition in ways similar to the help that had been provided to developing countries for over thirty years. It was of utmost importance, for political, economic, security and humanitarian reasons, that this new political orientation be encouraged as quickly as possible. A variety of assistance measures had been adopted by several developed countries in order to improve access to their markets. A ready-made instrument was available in the form of the GSP which had been designed to overcome competitive disadvantages through improved access, thereby facilitating the integration of the beneficiaries into the world trading system. The countries in transition were facing similar competitive disadvantages to



those of developing countries at the time of the establishment of the Enabling Clause. Thus, measures of assistance to them were necessary, justified and laudable. The Enabling Clause foresaw providing benefits to developing countries only because it reflected the situation at the time the Enabling Clause had been adopted. Moreover, the Enabling Clause did not define the notion of developing country for GATT purposes and there was no formal procedure for a country to designate itself as such. Since there were no internationally-agreed criteria for the purpose of defining developing-country beneficiaries of the GSP, it was for the preference-giving countries to draw their own lists of beneficiaries. It was also underlined that some developing countries had benefited from such a pragmatic approach although they were in fact developed countries. Furthermore before seeking any waiver, the developing-country status would have to be defined. In this connection, an objective criterion could be the GDP per capita. This indicator would incidentally support the extension of the GSP to countries in transition. It was also noted that a number of developing countries had a higher GDP per capita than that of the countries in transition.

25. One representative also recalled that membership of the Group of 77 had served as a basis for his country's original list of GSP beneficiaries but since then, other countries whose economies had similar features had been added to this list while others had been excluded. Another representative stated that the Group of 77 membership did not constitute a definition of developing-country status. The spokesman of a group of developed countries stated that preference-giving countries should have as much a right to define their list of GSP beneficiaries as these had a right to declare themselves developing countries. He recalled that GSP was temporary in nature and that, due to their development level, some countries might temporarily be excluded from the list of beneficiaries. Such a situation had already occurred and would occur in the future as well.

26. One representative believed that the Asian republics of the former USSR should be eligible for GSP treatment, since they were de-facto developing countries. Given the urgent needs of the countries in transition, the extension of GSP treatment to them should be examined in a pragmatic way.

27. Another representative also noted that the matter at hand raised broader questions about the various developing-country provisions in a future Multilateral Trade Organization (MTO), including the absence of criteria to determine contracting parties' eligibility for such benefits. Her country had already expressed concern about the varying levels of obligations assumed by GATT contracting parties. Nowhere was this problem more evident than in the differences between those countries that had recently acceded to GATT and those that had been GATT members for decades. The issue raised by Brazil also had implications for the GSTP programme.

Since its participation was based on the Group of 77 membership which excluded some countries that had identified themselves as developing countries in GATT, the GSTP signatories would have to seek a similar waiver.

28. Another representative underlined the interesting situation of some East European countries which were both preference-giving and preference-receiving countries. One representative believed that, in the case of countries in transition, the free-trade route would be more appropriate than the extension of GSP treatment and recalled that the GSP system and its principles were presently discussed in other organizations such as ECOSOC and UNCTAD. Another representative stated that his government would review its policy on the matter at a later stage, taking into account possible further conclusions in the GATT and in other international bodies as well as the position of other preference-giving countries. Some other representatives indicated they had not taken a definitive position on GSP treatment to the countries in transition and awaited recommendations made in the GATT.

29. Several representatives of East European countries were reassured that the motivation of Brazil's request to discuss this issue did not aim at denying the right of the countries in transition to become or remain beneficiaries of certain GSP schemes. They recalled that the GSP system was an autonomous, non-reciprocal and non-contractual instrument since the preference-giving countries did not accept legal obligations or to bind themselves with respect to product coverage or list of beneficiaries. One representative noted that Part IV referred to less-developed and not to developing countries. Another representative stated that if the intention was to address some conceptual questions relating to the definition of GSP eligibility, his country would be willing to participate in any discussion on the matter. He also stated that when the Enabling Clause had been adopted, the so-called socialist countries which were also less developed could not declare themselves as developing ones for political reasons. It was for the same reasons that his country had granted preferences at that time, although it had no practical impact on its country's imports. However, at the present time, although facing economic difficulties, his country was maintaining its GSP scheme, even to some developing countries which were more advanced. Another representative stated that if his country's position as a preference-giving country was put into question, his Government would have to reconsider its trade policy vis-à-vis a number of developing countries, including the future of the GSP scheme in terms of beneficiaries. His delegation believed that a first approach to the matter at hand should be a pragmatic one and should consist in recognizing that preference-giving countries had the right under the built-in waiver provided by the Enabling Clause to extend GSP schemes to all beneficiaries, whether or not they had formally declared themselves developing countries or had been recognized as such. A second approach would consist not in seeking a waiver under a separate procedure, but in attempting to agree on a clear-cut definition of criteria such as GDP per capita for determining the developing-country and beneficiary status. Another representative stated that the position of his country as a preference-giving and preference-receiving country was in conformity with Article XXXVII:4 which stated that less-developed countries would also take into consideration the situation of other less-developed countries.

30. The representative of Brazil expressed gratitude to the representatives who had understood the real purpose of his request to put this issue before the Committee. He believed that his country had expressed the preoccupation of many other countries and further reiterated that the purpose was only to seek the legal justification of these measures under the General Agreement since it was clear that the Enabling Clause and the Part IV had been designed to cover developing countries only. In response to a previous statement, the representative said that the present situation of the majority of developing countries did not allow them to consider themselves as developed countries.

31. With respect to the study requested by the representative of Brazil on the possible effects on the exports on the developing countries of the extension of GSP to East European countries and republics of the former USSR, several representatives supported it while some other representatives indicated that they had to refer to their respective capitals. One representative noted that the extension of GSP treatment to those countries was rather recent and therefore data availability cast doubts as to the feasibility of such a study.

32. The Committee took note of the statements and authorized its Chairman to hold consultations for clarifying the objectives of a future debate on this issue.

#### GSP and other notifications

33. The Committee took note of the notifications on GSP schemes submitted by Austria (L/4108/Add.45 and 46), Canada (L/4027/Add.26), EEC (L/5116/Add.10), Finland (L/3694/Add.22), Japan (L/7035), Norway (L/4242/Add.37 and Corr.1, L/4242/Add.38 and 39 and L/7042) and the United States (L/5153/Add.16), the notification by Thailand on its trade agreement with the Lao People's Democratic Republic (L/6947) as well as the notification by the LAIA secretariat on LAIA's activities in 1989/1990 (L/6946).

34. The representative of Nicaragua, speaking under the third sub-item of the Agenda, recalled that at the GATT Council meeting on 19 June 1992, Colombia, Costa Rica, Guatemala, Venezuela and Nicaragua had announced that they had requested Article XXII:1 consultations with the EEC on the trade policy of the EEC with respect to imports of bananas from Latin American countries. The existing restrictions applied in the Community to imports of bananas originating from Latin American countries were not in conformity with the provisions of Part IV (Articles XXXVI:6 and XXXVII paragraphs 1, 3 and 4). These measures slowed down the increase of the export income of Latin American countries and neutralized the impact of the EEC economic co-operation programme with these countries. It was of vital importance that the Community's import régime on bananas be suppressed. The economic situation of the banana producers had been aggravated by the prolonged world economic crisis, and these countries could not accept that their present or potential production and capacity be adversely affected by trade restrictions. The banana sector was a leading activity in a number of countries and such restrictions increased the unemployment level which in some cases already affected half of the active population and induced

further impoverishment of populations. Since the restrictions imposed for years by the EEC had adversely affected the economies of several Latin American countries, a number of them had required consultations with the EEC on this matter within and outside the GATT. The proposed future régime of the Community, which was even more restrictive, forced these Latin American countries to use every possibility to put an end to this situation. The action taken by the EEC was contrary to the spirit of the Uruguay Round and in contrast with trade liberalization measures undertaken by his country. After years of negotiations for achieving a more equitable trading system, a group of developing countries was now facing serious economic problems. The future of banana production and trade depended on the Community's policy, which could change according to the evolution of the market, production and economic situation. The purpose of raising this issue before the Committee was not to open a review on this matter but to inform the Committee members of the situation. His delegation reserved the right to revert to this matter at the Committee's next meeting if the consultations were not successful.

35. One representative, speaking also under the third sub-item, raised the issue of the erosion of preferential margins under the Generalized System of Preferences which might result from the Uruguay Round. He requested the developed countries to take the necessary actions and steps in order to ensure that the objectives of the GSP were maintained and strengthened after the Uruguay Round.

36. Another representative said that the objective of her country's GSP programme would remain the same for all recipients i.e., to provide preferential market access, on a temporary basis, in order to integrate better these countries in the world trading system. This objective was achieved in her country's GSP scheme on a product by product basis taking into account the situation of individual beneficiaries. She hoped that the GSP schemes would be renewed by donor countries to the benefit of all designated beneficiaries.

37. The Committee took note of the statements. The Chairman stated that a special meeting of the Committee might be convened at a later stage in order to deal with the issues raised under the first item of the Agenda.

Item (ii): Technical assistance to developing countries in the context of the Uruguay Round

38. The Chairman recalled that the Committee had periodically reviewed the technical assistance provided by GATT to developing countries in the context of the Uruguay Round. The last review of technical cooperation activities had been undertaken by the Committee at its Seventy-First Session in October 1991. For the purpose of that review, the Secretariat circulated a note outlining the GATT technical assistance activities as well as training activities since the beginning of 1991 (COM.TD/W/490). For the present Session the Secretariat had prepared an oral report on technical cooperation activities undertaken since the last meeting of the Committee. It was also recalled that, as agreed by the Committee at its Sixty-Third Session in April 1988, governments and international

organizations which provide technical assistance to developing countries in relation to work in the Uruguay Round were invited to keep the Committee periodically informed on activities which they had carried out as well as on facilities which were available under their programmes.

39. In regard to the GATT technical cooperation programme, the Chairman recalled that at its 1991 Sessions, the Committee had had an initial exchange of views on the future technical cooperation programme of the GATT. Many delegations emphasized the need for strengthening and increasing the effectiveness of this programme. The Chairman further noted that the increasing participation of developing countries in the GATT system and the complexity of issues in the Uruguay Round were two of the most obvious factors which would increase the importance of technical assistance as a policy instrument of the CONTRACTING PARTIES. Financing these needs with appropriate budgetary support would be a challenge that Committee members would have to meet together. He also observed that this subject was closely linked to one of the Committee's tasks proposed in the Draft Future Work Programme: "GATT and the Uruguay Round: ensuring global participation". Some discussion on this subject had been held and it was felt that the Secretariat might, at an appropriate time, prepare the basis for a more structured discussion on this issue at a future meeting of the Committee. To this effect work was underway in the Secretariat.

40. A representative of the Secretariat presented an oral report on technical cooperation activities. Since the last Session of the Committee, the GATT Secretariat had continued with its programme of technical cooperation along the lines described in previous reports submitted to the Committee (COM.TD/W/483, 488 and 490). After the tabling of the Draft Final Act embodying the results of the Uruguay Round negotiations by the Chairman of the Trade Negotiations Committee at official level, the principal focus of technical assistance activities had been on providing explanations and information on the Draft Final Act to delegations and capital-based officials of developing countries. The Secretariat also continued to provide data on trade flows, tariffs and non-tariff measures to developing countries in the context of consultations and negotiations. Background information and factual notes on specific issues in the negotiations were also made available upon the request of delegations. In this process, special attention was given to the technical assistance requirements of least-developed countries. Since the beginning of this year, the Technical Cooperation Division had organized eight seminars and country missions in different countries in Africa, Asia and Latin America, and more missions would be sent in the remaining months of the year. Between 29 June and 3 July 1992, a tariff negotiations workshop was organized for seven member countries of the Economic Community of West Africa in Ouagadougou, Burkina Faso, with the financial support of the Government of Finland. Subjects included GATT rules on binding and renegotiation of tariffs, techniques and modalities of negotiations, and a simulation exercise on tariff and non-tariff negotiations. In January 1992, the Technical Cooperation Division organized a briefing session in Geneva to explain to delegates of sixteen African countries the texts attached to the Draft Final Act. In February, a regional seminar was organized in Geneva on the Uruguay Round for eight least-developed countries. One capital-based official from each of the eight countries participated in the seminar which

was financed by the Government of Norway. The briefing session and the seminar were circumscribed to explanations of elements in the Draft Final Act. Main subjects included market access, agriculture, textiles and clothing, subsidies and countervailing measures, anti-dumping, safeguards, dispute settlement, trade-related aspects of investment measures, trade-related aspects of intellectual property rights, and services. The Secretariat had also started providing assistance to developing countries in the submission of their offers and schedules of concessions and commitments in market access, agriculture and services in the final phase of the negotiations, and would welcome suggestions on the direction and scope of its technical cooperation activities in the final stage of the negotiations.

41. Many developing-country delegations praised the technical cooperation activities undertaken by the GATT Secretariat and expressed appreciation for the contributions made by individual governments. Several representatives emphasized the valuable contributions made by the Technical Cooperation Division in helping developing countries, including least-developed countries, to improve their participation in the Uruguay Round. Appreciation was also expressed for the technical assistance provided by UNCTAD.

42. Some representatives hoped that technical assistance activities would be strengthened in the final stage of the Uruguay Round negotiations. In this connection, it was suggested that the Secretariat prepare an assessment of the Draft Final Act highlighting the benefits and obligations that would result for developing countries from the Uruguay Round. It was also hoped that voluntary financial contributions by individual governments would continue to support the GATT technical cooperation programme.

43. Several delegations emphasized the importance of strengthening the Technical Cooperation Division within an expanded and strengthened GATT technical cooperation programme after the end of the Uruguay Round.

44. The representative of UNCTAD recalled that his organization's technical assistance programme comprising three regional projects, and an inter-regional project should have been concluded at the end of 1991 together with the Uruguay Round negotiations. At its October 1991 Session, the Committee was informed on the new initiatives by UNCTAD with regard to post-Uruguay Round activities to be undertaken in cooperation with the UNDP, UN Regional Economic Commissions and regional development banks. As regards the programme related to the Uruguay Round, the representative informed the Committee that UNCTAD, with the full support of the UNDP, would be able to continue to make available for developing countries its technical assistance services in the course of the present year, in particular in Geneva. Interested delegations were invited to contact UNCTAD for further information pertaining to the modalities of regional projects. The UNCTAD VIII meeting recently held in Cartagena offered the international community a valuable opportunity to carry out a detailed review of UNCTAD and its work, including technical cooperation activities. As a result, UNCTAD's mandate regarding technical cooperation in the trade field had been extended and strengthened, including in areas such as trade negotiations, assistance to developing countries in preparing their

participation in GATT reviews of their trade policies, assessment and implementation of the results of the Uruguay Round, trade and sustainable development, and assistance to developing countries for the development of their national service sectors. UNCTAD was also ready to help developing countries to participate in GATT and in particular in the Uruguay Round. UNCTAD remained committed to its technical assistance cooperation for developing countries.

45. The Committee took note of the statements.

Item (iii): Work of the Sub-Committee on Trade of Least-Developed Countries

46. The Chairman informed the Committee that the next meeting of the Sub-Committee was tentatively scheduled for 6 October 1992. However, if they so wished, delegations might raise under this item of the Agenda any matters of relevance to the work of the Sub-Committee. He also recalled that the Committee should appoint the Chairman of the Sub-Committee on Trade of Least-Development Countries for 1993. It was his understanding that there was a consensus to reappoint Ambassador E. Selmer (Norway) for a new term of office. He suggested that a decision on this matter be deferred to the end-of-year meeting of the Committee.

47. The Committee took note of the information provided by the Chairman and agreed with his suggestion to defer to the next meeting of the Committee the decision concerning the Chairmanship of the Sub-Committee for 1993.

Item (iv): Future work programme of the Committee on Trade and Development

48. The Chairman recalled that the question of the rôle of the Committee after the Uruguay Round had been taken up in discussions at the Committee's 1991 sessions. While it was generally felt that the discussion on this matter could best be pursued at a later date when the results of the Uruguay Round were known, the Chairperson invited the members of the Committee to start a process of reflection on the Committee's possible future rôle. This matter had been the subject of informal talks that the Chairman had had with a number of delegations in recent weeks. In the light of these talks, he had prepared for circulation to delegations a preliminary draft paper which contained points related to the regular activities of the Committee and additional elements for consideration in relation to its future work (Annex I). The purpose of this informal paper was to facilitate an exchange of views on the Future Work Programme of the Committee at this meeting which would subsequently be pursued at its forthcoming meetings with a view to taking a final decision on this matter at a suitable subsequent meeting. The elements contained in the paper were tentatively drafted and could be subject to modifications and/or additions. While it was not intended to have the Committee take a decision on the Future Work Programme at the present meeting, he hoped that the Committee might agree in principle on the first element of the Draft Programme, i.e., "Monitoring Activities", and request the Secretariat to prepare for the

end-of-year meeting of the Committee a background note which would facilitate its review of the implementation of Part IV, the operation of the Enabling Clause and of participation of developing countries including the least-developed countries in the multilateral trading system. In accordance with traditional practice, this background document would be prepared under the Secretariat's responsibility. It was not intended that the document be submitted for adoption by the Committee. Its purpose was only to facilitate, direct and focus a meaningful exchange of views among members in the Committee's debate on this agenda item. The note would contain information available to the Secretariat on the current situation in international trade and the GATT which would facilitate an exchange of views on these issues. Its structure would necessarily have to be adapted for future reviews in accordance with the work programme which might be agreed for the Committee at a later date.

49. One representative said his delegation had no difficulty with the Draft Future Work Programme submitted by the Chairman. However, he noted that the Committee had agreed, at the end of the discussion under item (i) of the Agenda, to hold further consultations on the question of the appropriateness of justifying under the Enabling Clause extensions of GSP treatment to East European countries and republics of the former USSR. Therefore, the indent (a) "Current issues under the Enabling Clause", under the heading "Consultations on specific issues", should be without prejudice to the above-mentioned consultations. He further believed that the study previously requested by his delegation on the effects of extension of GSP treatment to East European countries and republics of the former USSR on trade of developing countries, should somehow be kept in mind in any further consideration of the Draft Future Work Programme of the Committee. He hoped that before the next meeting of the Committee, those delegations which still had to seek instructions from capitals on the study requested would be in a position to approve that request. Another representative sought clarification on the headings 1(a) and 2(a) which seemed to refer to the same issue.

50. Responding to the comments made by the previous speaker, the Chairman pointed out that the heading "Current issues under the Enabling Clause" was designed to indicate that the Committee would discuss specific issues such as, for example, the MERCOSUR Agreement, when they would be raised in the Committee. This was without prejudice to delegations' positions as to the justification of specific measures under the Enabling Clause. The language could be modified in order to avoid any misunderstanding. As to the headings 1(a) and 2(a), he pointed out that the first was intended to cover the general review undertaken regularly by the Committee on the basis of notifications by governments, while the second would cover more specific issues pertaining to the Enabling Clause.

51. One representative expressed support for the efforts being undertaken by the Chairman in order to define the future rôle of the Committee. He agreed to the "Monitoring function" proposed to be carried out on the basis of a document prepared by the Secretariat. This should not duplicate the analysis carried out in other GATT bodies. Among others, the document should address issues such as the impact of trade on the growth of developing countries.



52. Another representative proposed that under the second heading, "Consultations on specific issues", should be added the issue of the GATT's rôle in supporting autonomous trade liberalization efforts of developing countries and in assisting them in the implementation of structural adjustment programmes. One delegation emphasized the importance of defining the future rôle of the Committee in order to improve its effectiveness, and suggested that it be a priority matter for discussion at the next meeting of the Committee.

53. The Committee took note of the statements and agreed to revert to the question of the Draft Future Work Programme at its next meeting. The Committee also agreed to request the Secretariat to prepare for the next meeting a document which would facilitate its review of the implementation of Part IV, the operation of the Enabling Clause and of participation of developing countries, including the least-developed countries, in the multilateral trading system.

#### Next meeting of the Committee

54. The end-of-year meeting was tentatively scheduled for 22, and if necessary, 23 October. The Committee would reconvene its meeting in the morning of 30 October in order to adopt its report to the CONTRACTING PARTIES. The final date of the meeting would be determined by the Chairman in consultation with delegations and the Secretariat.

ANNEX I

COMMITTEE ON TRADE AND DEVELOPMENT

DRAFT FUTURE WORK PROGRAMME

This preliminary draft contains points related to regular activities of the Committee and additional elements for consideration for its future work programme. The elements contained herein are tentatively drafted and could be subject to modifications and/or additions. The draft is intended to facilitate discussion in the Committee on its future work programme with a view to taking a final decision on this matter at a suitable subsequent meeting.

1. Monitoring Activities

- (a) Part IV and Enabling Clause.
- (b) Participation of developing countries including the least-developed countries in the multilateral trading system.
- (c) Work of subsidiary bodies: Sub-Committee on Trade of Least-Developed Countries; Sub-Committee on Protective Measures; Committee of Participating Countries to the Protocol Relating to Trade Negotiations Among Developing Countries.

2. Consultations on Specific Issues

- (a) Current issues under the Enabling Clause.
- (b) Trade policy and trade-related aspects of finance: "coherence" and multilateral cooperation.
- (c) GATT and Uruguay Round: ensuring global participation.
- (d) Other issues to be identified.

3. Overview of the GATT Technical Cooperation Activities and Programmes