

**PREPARATORY COMMITTEE  
FOR THE  
WORLD TRADE ORGANIZATION**

RESTRICTED  
PC/W/17  
6SS/W/3  
7 December 1994

(94-2692)

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IMPLEMENTATION CONFERENCE  
8 DECEMBER 1994

TRANSITIONAL CO-EXISTENCE OF THE GATT 1947 AND THE WTO AGREEMENT

Draft Decision

The PREPARATORY COMMITTEE FOR THE WORLD TRADE ORGANIZATION

*invites* the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade 1947 to take the following decision:

The CONTRACTING PARTIES to the General Agreement on Tariffs and Trade (hereinafter referred to as "GATT 1947"),

*Noting* that not all contracting parties to the GATT 1947 meeting the conditions for original membership in the World Trade Organization (hereinafter referred "WTO") will be able to accept the Marrakesh Agreement Establishing the WTO (hereinafter referred to as "WTO Agreement") as of its date of entry into force, and that the stability of multilateral trade relations would therefore be furthered if the GATT 1947 and the WTO Agreement were to co-exist for a limited period of time;

*Considering* that, during that period of co-existence, a contracting party which has become a Member of the WTO should not be under a legal obligation to extend the benefits accruing solely under the WTO Agreement to contracting parties that have not yet become WTO Members and should have the right to act in accordance with the WTO Agreement notwithstanding its obligations under the GATT 1947;

*Desiring* to end the period of co-existence on a date agreed in advance so as to provide predictability for policy makers and facilitate an orderly termination of the institutional framework of the GATT 1947;

*Decide as follows:*

1. The contracting parties that are Members of the WTO may, notwithstanding the provisions of the GATT 1947,
  - (a) accord to products originating in or destined for a Member of the WTO the benefits to be accorded to such products solely as a result of concessions, commitments or other obligations assumed under the WTO Agreement without according such benefits to products originating in or destined for a contracting party that has not yet become a Member of the WTO; and

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- (b) maintain or adopt any measure consistent with the provisions of the WTO Agreement.
- 2. The provisions of Article XXIII of the GATT 1947 shall not apply:
  - (a) to disputes brought against a contracting party which is a Member of the WTO if the dispute concerns a measure that is identified as a specific measure at issue in a request for the establishment of a panel made in accordance with Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes in Annex 2 of the WTO Agreement and the dispute settlement proceedings following that request are being pursued or are completed: and
  - (b) in respect of measures covered by paragraph 1 above.
- 3. The legal instruments through which the contracting parties apply the GATT 1947 are herewith terminated one year after the date of entry into force of the WTO Agreement. In the light of unforeseen circumstances, the CONTRACTING PARTIES may decide to postpone the date of termination by no more than one year.