

**MULTILATERAL TRADE
NEGOTIATIONS**

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THE URUGUAY ROUND

(UR-94-0108)

Trade Negotiations Committee
at Official Level

COMMUNICATION FROM THE CHAIRMAN

Revision

The following texts:

- Decision on Acceptance of and Accession to the Agreement Establishing the World Trade Organization (MTN.TNC/W/137);
- Decision on Trade and Environment (MTN.TNC/W/141);
- Decision on Organizational and Financial Consequences flowing from Implementation of the Agreement Establishing the World Trade Organization (MTN.TNC/W/145); and
- Decision on the Establishment of the Preparatory Committee for the World Trade Organization (MTN.TNC/W/142/Rev.1),

were approved by the Trade Negotiations Committee at its meetings at official level on 30 March and 7 April as decisions that would be submitted to the Ministers for adoption at Marrakesh. The rectified text of the Final Act was also approved at the meeting on 30 March, and is being submitted separately for signature by Ministers.

**Acceptance of and Accession to the Agreement
Establishing the World Trade Organization**

Decision of 14 April 1994

Ministers,

Noting that Articles XI and XIV of the Agreement Establishing the World Trade Organization (hereinafter referred to as "WTO Agreement") provide that only contracting parties to the GATT 1947 as of the entry into force of the WTO Agreement for which schedules of concessions and commitments are annexed to GATT 1994 and for which schedules of specific commitments are annexed to the General Agreement on Trade in Services (hereinafter referred to as "GATS") may accept the WTO Agreement;

Noting further that paragraph 5 of the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations (hereinafter referred to as "Final Act" and "Uruguay Round" respectively) provides that the schedules of participants which are not contracting parties to GATT 1947 as of the date of the Final Act are not definitive and shall be subsequently completed for the purpose of their accession to GATT 1947 and their acceptance of the WTO Agreement;

Having regard to paragraph 1 of the Decision on Measures in Favour of Least-Developed Countries which provides that the least-developed countries shall be given an additional time of one year from 15 April 1994 to submit their schedules as required in Article XI of the WTO Agreement;

Recognizing that certain participants in the Uruguay Round which had applied GATT 1947 on a *de facto* basis and became contracting parties under Article XXVI:5(c) of the GATT 1947 were not in a position to submit schedules to GATT 1994 and the GATS;

Recognizing further that some States or separate customs territories which were not participants in the Uruguay Round may become contracting parties to GATT 1947 before the entry into force of the WTO Agreement and that States or customs territories should be given the opportunity to negotiate schedules to GATT 1994 and the GATS so as to enable them to accept the WTO Agreement;

Taking into account that some States or separate customs territories which cannot complete the process of accession to GATT 1947 before the entry into force of the WTO Agreement or which do not intend to become contracting parties to GATT 1947 may wish to initiate the process of their accession to the WTO before the entry into force of the WTO Agreement;

Recognizing that the WTO Agreement does not distinguish in any way between WTO Members which accepted that Agreement in accordance with its Articles XI and XIV and WTO Members which acceded to it in accordance with its Article XII and wishing to ensure that the procedures for accession of the States and separate customs territories which have not become contracting parties to the GATT 1947 as of the date of entry into force of the WTO Agreement are such as to avoid any unnecessary disadvantage or delay for these States and separate customs territories;

Decide that:

1. (a) Any Signatory of the Final Act

- to which paragraph 5 of the Final Act applies, or

- to which paragraph 1 of the Decision on Measures in Favour of Least-Developed Countries applies, or
- which became a contracting party under Article XXVI:5(c) of the GATT 1947 before 15 April 1994 and was not in a position to establish a schedule to GATT 1994 and the GATS for inclusion in the Final Act, and

any State or separate customs territory

- which becomes a contracting party to the GATT 1947 between 15 April 1994 and the date of entry into force of the WTO Agreement

may submit to the Preparatory Committee for its examination and approval a schedule of concessions and commitments to GATT 1994 and a schedule of specific commitments to the GATS.

(b) The WTO Agreement shall be open for acceptance in accordance with Article XIV of that Agreement by contracting parties to GATT 1947 the schedules of which have been so submitted and approved before the entry into force of the WTO Agreement.

(c) The provisions of subparagraphs (a) and (b) of this paragraph shall be without prejudice to the right of the least-developed countries to submit their schedules within one year from 15 April 1994.

2. (a) Any State or separate customs territory may request the Preparatory Committee to propose for approval by the Ministerial Conference of the WTO the terms of its accession to the WTO Agreement in accordance with Article XII of that Agreement. If such a request is made by a State or separate customs territory which is in the process of acceding to GATT 1947, the Preparatory Committee shall, to the extent practicable, examine the request jointly with the Working Party established by the CONTRACTING PARTIES to GATT 1947 to examine the accession of that State or separate customs territory.

(b) The Preparatory Committee shall submit to the Ministerial Conference a report on its examination of the request. The report may include a protocol of accession, including a schedule of concessions and commitments to GATT 1994 and a schedule of specific commitments for the GATS, for approval by the Ministerial Conference. The report of the Preparatory Committee shall be taken into account by the Ministerial Conference in its consideration of any application by the State or separate customs territory concerned to accede to the WTO Agreement.

Trade and Environment

Decision of 14 April 1994

Ministers, meeting on the occasion of signing the Final Act embodying the results of the Uruguay Round of Multilateral Trade Negotiations at Marrakesh on 15 April 1994,

Recalling the preamble of the Agreement establishing the World Trade Organization (WTO), which states that members' "relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development,"

Noting:

- the Rio Declaration on Environment and Development, Agenda 21, and its follow-up in GATT, as reflected in the statement of the Chairman of the Council of Representatives to the CONTRACTING PARTIES at their 48th Session in December 1992, as well as the work of the Group on Environmental Measures and International Trade, the Committee on Trade and Development, and the Council of Representatives;
- the work programme envisaged in the Decision on Trade in Services and the Environment; and
- the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights,

Considering that there should not be, nor need be, any policy contradiction between upholding and safeguarding an open, non-discriminatory and equitable multilateral trading system on the one hand, and acting for the protection of the environment, and the promotion of sustainable development on the other,

Desiring to coordinate the policies in the field of trade and environment, and this without exceeding the competence of the multilateral trading system, which is limited to trade policies and those trade-related aspects of environmental policies which may result in significant trade effects for its members,

Decide:

- to direct the first meeting of the General Council of the WTO to establish a Committee on Trade and Environment open to all members of the WTO to report to the first biennial meeting of the Ministerial Conference after the entry into force of the WTO when the work and terms of reference of the Committee will be reviewed, in the light of recommendations of the Committee,

— that the TNC Decision of 15 December 1993 which reads, in part, as follows:

- "(a) to identify the relationship between trade measures and environmental measures, in order to promote sustainable development;
- (b) to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the open, equitable and non-discriminatory nature of the system, as regards, in particular:
 - the need for rules to enhance positive interaction between trade and environmental measures, for the promotion of sustainable development, with special consideration to the needs of developing countries, in particular those of the least developed among them; and
 - the avoidance of protectionist trade measures, and the adherence to effective multilateral disciplines to ensure responsiveness of the multilateral trading system to environmental objectives set forth in Agenda 21 and the Rio Declaration, in particular Principle 12; and
 - surveillance of trade measures used for environmental purposes, of trade-related aspects of environmental measures which have significant trade effects, and of effective implementation of the multilateral disciplines governing those measures;"

constitutes, along with the preambular language above, the terms of reference of the Committee on Trade and Environment,

— that, within these terms of reference, and with the aim of making international trade and environmental policies mutually supportive, the Committee will initially address the following matters, in relation to which any relevant issue may be raised:

- the relationship between the provisions of the multilateral trading system and trade measures for environmental purposes, including those pursuant to multilateral environmental agreements;
- the relationship between environmental policies relevant to trade and environmental measures with significant trade effects and the provisions of the multilateral trading system;
- the relationship between the provisions of the multilateral trading system and:
 - (a) charges and taxes for environmental purposes
 - (b) requirements for environmental purposes relating to products, including standards and technical regulations, packaging, labelling and recycling;
- the provisions of the multilateral trading system with respect to the transparency of trade measures used for environmental purposes and environmental measures and requirements which have significant trade effects;

- the relationship between the dispute settlement mechanisms in the multilateral trading system and those found in multilateral environmental agreements;
 - the effect of environmental measures on market access, especially in relation to developing countries, in particular to the least developed among them, and environmental benefits of removing trade restrictions and distortions;
 - the issue of exports of domestically prohibited goods,
- that the Committee on Trade and Environment will consider the work programme envisaged in the Decision on Trade in Services and the Environment and the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights as an integral part of its work, within the above terms of reference,
- that, pending the first meeting of the General Council of the WTO, the work of the Committee on Trade and Environment should be carried out by a Sub-Committee of the Preparatory Committee of the World Trade Organization (PCWTO), open to all members of the PCWTO,
- to invite the Sub-Committee of the Preparatory Committee, and the Committee on Trade and Environment when it is established, to provide input to the relevant bodies in respect of appropriate arrangements for relations with inter-governmental and non-governmental organizations referred to in Article V of the WTO.

**Organizational and Financial Consequences flowing from
Implementation of the Agreement Establishing
the World Trade Organization**

Decision of 14 April 1994

Ministers,

Recognizing the importance of the rôle and contribution to international trade of the World Trade Organization (hereinafter referred to as the WTO),

Desiring to ensure the efficient functioning of the WTO Secretariat,

Recognizing that implementation of the results of the Uruguay Round will expand the scope and complexity of the duties of the Secretariat and that the resource implications thereof need to be studied,

Recalling the statements made by previous Chairmen of the GATT CONTRACTING PARTIES and the GATT Council drawing attention to the need to improve the terms and conditions of service, including salaries and pensions, for the professional staff of the Secretariat,

Mindful of the need for the WTO to be competitive in the conditions of service it will offer to its professional staff so as to attract the required expertise,

Noting the proposal of the Director-General that, in setting WTO staff conditions of services, including salaries and pensions, due account be taken of those of the International Monetary Fund and the World Bank,

Noting Article VI of the Agreement establishing the WTO, in particular paragraph 3 thereof empowering the Director-General to appoint the staff of the Secretariat to determine their duties and conditions of service in accordance with regulations adopted by the Ministerial Conference,

Recalling that the mandate of the Preparatory Committee requires it to perform such functions as may be necessary to ensure the efficient operation of the WTO immediately as of the date of its establishment, including the preparation of recommendations for the consideration of the competent body of the WTO, or to the extent necessary, the taking of decisions or, as appropriate, provisional decisions with respect to administrative, budgetary and financial matters assisted by proposals from the Secretariat,

Hereby *agree* that the Preparatory Committee shall consider the organizational changes, resource requirements and staff conditions of service proposed in connection with the establishment of the WTO and the implementation of the Uruguay Round agreements and prepare recommendations and take decisions, to the extent necessary, on the adjustments required.

**Decision on the Establishment of the Preparatory Committee
for the World Trade Organization**

Decision of 14 April 1994

Ministers,

Having regard to the Agreement Establishing the World Trade Organization (hereinafter referred to as "WTO Agreement" and "WTO"), and

Mindful of the desirability of ensuring an orderly transition to the WTO and the efficient operation of the WTO as of the date of entry into force,

hereby *agree* as follows:

1. A Preparatory Committee for the WTO (hereinafter referred to as "Committee") is hereby established. Mr. P.D. Sutherland in his personal capacity is appointed Chairman of the Committee.
2. The Committee shall be open for membership to all Signatories of the Final Act of the Uruguay Round of Multilateral Trade Negotiations and to any contracting party eligible to become an original member of the WTO in accordance with Article XI of the WTO Agreement.
3. A Sub-Committee on Budget, Finance and Administration, to be chaired by the Chairman of the GATT CONTRACTING PARTIES, and a Sub-Committee on Services responsible for preparatory work on GATS matters are also established. The Committee may establish additional sub-committees as appropriate. Membership of the Sub-Committees shall be open to all members of the Committee. The Committee shall establish its own procedures and those of its sub-committees.
4. The Committee will make all its decisions by consensus.
5. Only those members of the Committee that are GATT contracting parties eligible to become original Members of the WTO in accordance with Articles XI and XIV of the WTO Agreement may participate in the decision-making of the Committee.
6. The Committee and its sub-committees shall be serviced by the GATT Secretariat.
7. The Committee shall cease to exist upon the entry into force of the WTO Agreement, at which time it will forward its records and recommendations to the WTO.
8. The Committee shall perform such functions as may be necessary to ensure the efficient operation of the WTO immediately as of the date of its establishment, including the functions set out below:

(a) Administrative, budgetary and financial matters:

To prepare recommendations for the consideration of the competent body of the WTO, or, to the extent necessary, take decisions or, as appropriate, provisional decisions in advance of the establishment of the WTO, with respect to the recommendations submitted to it by the Chairman of the Sub-Committee on Budget, Finance and Administration referred to in paragraph 3 above, in cooperation with the Chairman of the GATT Committee on Budget, Finance and Administration, assisted by proposals from the Secretariat on:

- (i) the headquarters agreement provided for in Article VIII:5 of the WTO Agreement;
 - (ii) financial regulations, including guidelines for the assessment of WTO members' budget contributions, in accordance with the criteria set out in Article VII of the WTO Agreement;
 - (iii) the budget estimates for the first year of operation of the WTO;
 - (iv) the transfer of the property, including financial assets, of the ICITO/GATT to the WTO;
 - (v) the transfer and the terms and conditions of the transfer of the GATT staff to the WTO Secretariat; and
 - (vi) the relationship between the International Trade Centre and the WTO.
- (b) Institutional, procedural and legal matters:
- (i) To carry out the examination of and approve the schedules submitted to it in accordance with the "Decision on Acceptance of and Accession to the Agreement Establishing the World Trade Organization" and to propose terms of accession in accordance with paragraph 2 of that Decision;
 - (ii) To make proposals concerning terms of reference for the bodies of the WTO, in particular those established in Article IV of the WTO Agreement, and the rules of procedure which they are called upon to establish for themselves, bearing in mind paragraph 1 of Article XVI;
 - (iii) To make recommendations to the General Council of the WTO concerning the appropriate arrangements with respect to relations with other organizations referred to in Article V of the WTO Agreement; and
 - (iv) To prepare and submit a report on its activities to the WTO.
- (c) Matters related to the entry into force of the WTO Agreement and to the activities of the WTO within its scope and functions:
- (i) To convene and prepare the Implementation Conference;
 - (ii) To initiate the work programme arising from the Uruguay Round results as set out in the Final Act, such as overseeing, in the Sub-Committee on Services referred to in paragraph 3 above, negotiations in specific services sectors, and also to undertake work resulting from Decisions of the Marrakesh meeting;
 - (iii) To discuss suggestions for the inclusion of additional items on the agenda of the WTO's work programme;

- (iv) To make proposals concerning the composition of the Textiles Monitoring Body in accordance with the criteria set out in Article 8 of the Agreement on Textiles and Clothing; and
- (v) To convene the first meeting of the Ministerial Conference or the General Council of the WTO, whichever meets first, and to prepare the provisional agenda thereof.