

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Limited Distribution

ACCEPTANCE OF GATT LEGAL INSTRUMENTS

Powers of Plenipotentiaries

Note by the Director-General

Since 1955 all protocols and other instruments drawn up by the CONTRACTING PARTIES and opened for acceptance have been deposited with the Director-General. By virtue of the depositary functions entrusted to him, the Director-General receives the signatures affixed to such instruments by the plenipotentiaries after examination of their full powers which are subsequently filed in the archives of the secretariat. In view of some difficulties that have arisen in the past and in order to ensure the smooth performance of the depositary's functions, it is suggested that the procedure set forth below, based upon the prevailing international practice and in particular the practice of the Secretary-General of the United Nations¹, be followed in cases where instruments are accepted by signature.

I. Full powers for a particular instrument

- (a) Full powers should be issued, in accordance with the constitutional procedures of each State, by the Head of State, the Head of Government or the Minister for Foreign Affairs to the plenipotentiary designated to sign the instrument. The title and date of the instrument, as well as the name of the plenipotentiary, should be stated in the full powers.
- (b) Provisional powers - to avoid administrative delays, or for reasons of urgency, a letter or telegram evidencing the grant of full powers, sent by the competent authority of the State concerned, by the Head of its Permanent Mission in Geneva or by the GATT liaison officer, is accepted provisionally, subject to the production in due course of full powers executed in proper form.
- (c) Telegraphic powers - a government wishing to use the procedure of telegraphic powers on a regular basis, thus dispensing with formal full powers, should provide the depositary with a statement, issued by the competent authority, to the effect that this procedure is in conformity with its constitutional requirements. The statement should designate the plenipotentiary empowered to sign and should specify that production of telegraphic instructions constitutes sufficient authority to bind the government by signature.

¹See "Summary of the Practice of the Secretary-General as Depositary of Multilateral Agreements", ST/LEG/7, 1959.

II. General full powers

A government wishing to dispense with full powers for each instrument may provide its representative with general full powers to sign all GATT instruments. General full powers should be either included in the plenipotentiary's credentials or in a separate instrument, executed in proper form, specifying the scope and duration of the powers issued and defining precisely the extent to which the signature will be binding on the government.

It is in the interest of all contracting parties that these procedures be observed so that no delay is incurred before the depositary can accept signatures as fully binding and proceed with notification to other States and with registration in accordance with the provisions of Article 102 of the Charter of the United Nations. This is particularly important for GATT instruments which provide that States can be definitively bound by signature alone.

Most GATT instruments are open to acceptance "by signature or otherwise". Thus an instrument may be accepted by letter addressed to the Director-General by the Head of State, the Head of Government or the Minister for Foreign Affairs provided the letter refers to the instrument by its full title and date and states clearly whether the acceptance is fully binding or subject to ratification. This manner of accepting instruments may be convenient for governments which do not have permanent representatives in Geneva.