

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/5395

26 October 1982

Limited Distribution

---

## PREPARATORY COMMITTEE Report to the Council

1. The Committee was set up by the Council at its meeting of 7-8 December 1981 (C/M/154) with the following terms of reference:

"To assist the Council in preparing for the Thirty-Eighth Session of the CONTRACTING PARTIES to be held at Ministerial level in November 1982. To this end, the Preparatory Committee will make proposals to the Council on the agenda and the documentation for the Session."

At the same meeting the Chairman of the Council confirmed that "the basic preparations involved the proposals on the agenda and the documentation, but that if in the meantime other pertinent matters arose, the Preparatory Committee would also give thought to these and bring them before the Council."

### Meetings

2. The Committee met under the Chairmanship of Ambassador McPhail (Canada) on the following dates: 16 December 1981, 20 January 1982, 19 February 1982, 25 and 26 March 1982, 28 April 1982, 10 and 11 June 1982, 22 June 1982, 27 and 28 July 1982, 17 September 1982 and in continuous session from 23 September to 22 October 1982.

### Reports to the Council

3. At its first meeting the Committee agreed that a short record of actions taken be issued after each meeting, and that these records constitute its periodic reports to the Council, supplemented if necessary by an oral introduction by the Chairman of the Committee. Accordingly, work of the Committee has been reflected in such records (PREP.COM/R/1-9) and by comments by the Chairman at each Council meeting since the Committee's establishment. The Council has taken note of these periodic reports. This final report of the Committee covers matters not previously reported to the Council: the agenda for the Ministerial part of the Session; the latest version of the documentation for Ministers; and conclusions on speakers' time limits, invitations to the heads of certain international agencies to address the Session and the proposed allocation of time for the Ministerial session.

Agenda

4. The provisional agenda for the Session (L/5375) provides simply for a Ministerial part of the Thirty-Eighth Session. The Committee recommends that Ministers address themselves to a single agenda item. The purpose of their meeting is "to examine the functioning of the Multilateral trading system, and to reinforce the common efforts of the contracting parties to support and improve the system for the benefit of all nations. To this end, Ministers would address themselves to the implementation of the results of the Multilateral Trade Negotiations, problems affecting the trading system, the position of developing countries in world trade and future prospects for the development of trade. Finally, in the context of their consideration of the work programme of the GATT for the 1980s, Ministers would also determine future priorities for co-operation among contracting parties." (CONTRACTING PARTIES' Decision of 25 November 1981, BISD, 28S, p.15). Therefore, the Committee agreed to forward to the Council the proposal that the agenda item for the Ministerial part of the Session be entitled "The functioning of the multilateral trading system and priorities for co-operation among contracting parties in the 1980's."

Documentation

5. The Committee set as its principal task the preparation of a draft of the text to be submitted to the Ministerial part of the Thirty-Eighth Session. At its final meeting, it agreed to forward to the Council the text attached as Annex A (originally circulated as PREP.COM/W/33/Rev.1) which reflects the present stage of discussions. Points in the text remain open for further discussion. This text is to be read in conjunction with the detailed record of the 20 and 22 October meeting of the Committee (PREP.COM/R/10), which contains the points made by delegations to be taken into account in further consideration of the document.

6. At its final meeting, the Committee also briefly considered on the basis of informal notes by the secretariat: (a) rationalization of work on non-tariff measures, as background to a proposal for a new body on this question; (b) the definition of "derogations" from the General Agreement; and (c) the various reviews and studies proposed in PREP.COM/W/33/Rev.1 and their financial implications. The Committee agreed that these matters need further consideration at later stages of the preparations for the Session (see PREP.COM/R/10).

Other Pertinent Matters

7. The Committee also dealt at its final meeting with a number of matters related to the management and administration of the Ministerial part of the Session, and recommended (see PREP.COM/R/10) that:

- (a) speakers be limited in their interventions to eight minutes, although extended texts of their remarks could, of course, be circulated in writing;

- (b) the heads of the IBRD, IMF, UN and UNCTAD be invited to speak during the Ministerial part of the Session;
- (c) the business of the Ministerial part of the Session be organized as set out in the schedule in Annex B.

As noted above, previous conclusions of the Committee on other management and administrative matters were submitted in previous PREP.COM/R/ documents. Attention is also drawn to the Information Circulars issued by the secretariat which are designed to keep delegations informed as to the progress of administrative preparations for the Session (THIRTY-EIGHT/series). Further circulars will be issued as required.

ANNEX A

DRAFT MINISTERIAL TEXT

The Committee agreed that consultations should be held with a view to preparing a draft text for submission to Ministers. The attached draft texts reflect the present state of discussions in these consultations and in the meeting of the Preparatory Committee of 20 and 22 October 1982. Additional points made at that meeting are reflected in the detailed minutes (PREP.COM/R/10).

Points in the texts remain open for further discussion. Absence of square brackets indicates that the texts concerned received general support in the course of the discussions.

The French and Spanish texts remain subject to rectifications to bring them into line with the English text.

MINISTERIAL DECLARATION

1. The CONTRACTING PARTIES to the General Agreement on Tariffs and Trade have convened at Ministerial level on 24-27 November 1982. They are meeting because of their common recognition that the multilateral trading system, of which the General Agreement is the legal foundation, is endangered by an increasing trend towards protectionism and disregard of GATT disciplines and by shortcomings in the functioning of the GATT system, all of which have been accentuated by the current crisis in the world economy. Deeply conscious of the role that the GATT system has played in furthering global welfare and an unprecedented expansion of world trade, and convinced of the lasting validity of the basic principles of the General Agreement in a world of increasing economic interdependence, the CONTRACTING PARTIES are resolved to overcome these threats to the system.

\* \* \*

2. The deep and prolonged crisis of the world economy has severely depressed levels of production and trade. In many countries growth rates are low or negative; there is growing unemployment and a climate of uncertainty, exacerbated by persistent inflation, high rates of interest and volatile exchange rates, which seriously inhibit investment and structural adjustment. Many countries, and particularly developing countries, now face critical difficulties created by the combination of uncertain and limited access to export markets, declining external demand, collapsing commodity prices and the high cost of borrowing. The import capacity of developing countries, which is essential to their economic growth, is being impaired and is no longer serving as a dynamic factor sustaining the exports of the developed world. Acute problems of debt servicing threaten the stability of the financial system.

3. Though governments have continued their efforts to abide by the rules of GATT, the responses of the trading nations to the challenges of the crisis have too often been divisive, mutually inconsistent and protectionist. Import restrictions have increased and a growing proportion of them have been applied outside GATT rules. Trade patterns have also been affected by export subsidies and by certain other forms of assistance to domestic producers, [by dual pricing practices] by the use of disguised barriers to imports [and by the application of trade measures for non-economic purposes] [and by the worrisome tendency of certain [industrial] countries to adopt trade restrictions in order to exert coercive or political pressures by taking advantage of their dominant position in the world market, thereby adding an element of injustice and insecurity in international trade relations]. All these measures, plus continuing pressures for further protective action, have contributed to delays in necessary structural adjustment, increased economic uncertainty, and discouraged productive investment.

4. Despite the strength and resilience shown by the system, these stresses, which are reflected in the growing number and intensity of disputes between contracting parties, many of which remain unresolved, have made more pronounced certain shortcomings in the system's functioning. Existing strains have been worsened by differences of perception regarding the balance of rights and obligations under the GATT, [whether the operation of the GATT has taken full account of the interests of all contracting parties and the degree to which benefits under the GATT have been equitably shared]. There are disagreements over the interpretation of some important provisions and over their application. [There has been concern that contracting parties have exercised their legal rights under the GATT system without due consideration for the trade interests of other countries]. Disciplines governing the restriction of trade through safeguard measures are inadequate; there is widespread dissatisfaction with the application of GATT rules and the degree of liberalization in relation to agricultural trade, even though such trade has continued to expand; trade in textiles and clothing continues to be treated under an Arrangement which is a major derogation from the General Agreement - a matter of critical importance to developing countries in particular.

\* \* \*

[5. The CONTRACTING PARTIES recognize the need to restore and reinforce confidence in the capacity of the multilateral trading system to provide a stable and predictable trading environment and respond to new challenges. This calls for determined action on their part to reduce trade frictions, overcome protectionist pressures and encourage the liberalization and expansion of trade. They have accordingly decided:

- to reaffirm their commitment to abide by their GATT obligations and their support for the multilateral trading system, so that it may contribute vigorously to the further liberalization and expansion of trade;
- to ensure that GATT provides a forum for continuing negotiation and consultation, in which an appropriate balance of rights and obligations can be assured for all contracting parties and the rules and procedures of the system are seen to be effectively and fairly applied for the economic development and benefit of all; and
- to update, improve and strengthen the GATT system.]

6. The CONTRACTING PARTIES recognize that the interdependence of national economies means that no country can solve its trade or economic problems in isolation. They therefore commit themselves to create, through co-operative action, a renewed consensus in support of the GATT system, recognising that the decisions which they are now taking will affect the development of world trade over the decade ahead.

[7. The CONTRACTING PARTIES undertake, collectively and individually:

- (i) to refrain from taking any new measures that have the effect of protecting domestic markets or that affect international competition which are inconsistent with their obligations in the GATT, [or which fall outside the GATT framework] [or other measures which would nullify or impair rights and obligations under the General Agreement];
- [(ii) to implement immediately a standstill on the introduction of new long-term assistance to industry having a protective effect (industry here includes all sectors); not to increase existing levels of protection applied through measures operating at the border;]
- (iii) to show full consideration, in the application of measures falling within the GATT framework, and in the general exercise of their GATT rights for the trading interests of other contracting parties and the shared objective of trade liberalization and expansion;
- (iv) to seek agreed interpretation of GATT rules and provisions where differences arise, so as to avoid action based on unilateral interpretation of these rules and provisions;
- [(v) to abstain from taking restrictive trade measures for reasons of a political character [except in pursuance of their obligations under the United Nations Charter];]

The CONTRACTING PARTIES further commit themselves to individual and joint action aimed at achieving:

- (vi) the continued liberalization and expansion of international trade;
- (vii) the [immediate termination] of trade measures inconsistent with GATT obligations [or falling outside the GATT framework] [or which nullify or impair the GATT rights of other contracting parties] and [phasing out] of [derogations] from the General Agreement;
- [(viii) to implement immediately a progressive and substantial reduction in the level of export subsidies over a period of five years;]
- [(ix) to undertake not to increase the total of direct budgetary assistance to industry;]

- [(x) to negotiate during the period of the standstill a programme for a progressive and substantial reduction in assistance to industry having a protective effect;]
- [(xi) fuller integration of agricultural trade into the multilateral trading system and its equitable treatment through improved and more effectively applied GATT provisions on both market access and export competition, in order to improve the growth of world trade in all its facets;]
- [(xii) urgent and effective steps by all contracting parties to realise on a priority basis the liberalisation of international trade in textiles and clothing and, in the interim, strict adherence by the parties to the MFA to the rules of the Arrangement;]
- (xiii) increased transparency of trade policies and the effective resolution of disputes through improvement and faithful observance of GATT procedures for surveillance and dispute settlement;
- (xiv) effective implementation of GATT rules and provisions, specifically those [providing for special and differential treatment of] [relating to] developing countries, as a means of increasing the dynamic role of developing countries in international trade;
- (xv) special treatment for the least developed countries, in accordance with paragraph 2(d) of the Enabling Clause, recognising the grave economic situation of these countries; and
- (xvi) improvement of the rules and procedures of the GATT system to facilitate trade based on [genuine] comparative advantage, and to respond to [continuing] changes in the structure of production and trade [and to developments in trade relations in the 1980's].

8. The texts of decisions in specific areas in pursuance of these undertakings and commitments are attached.]

or

[7. Determined to prevent any further unravelling of the multilateral trading system, the CONTRACTING PARTIES, collectively and individually, undertake:

- to reinforce their efforts at both political and operational levels to refrain from actions inconsistent with GATT principles, rules and practices;



- to seek actively ways of reinforcing and improving the operation of the GATT system;
- to resist successfully protectionist pressures in the formulation and implementation of national trade policy and legislation.

To this end, the CONTRACTING PARTIES decide, inter alia, on:

(i) LDCs

- action aimed at a further liberalization of trade in products of interest to LDCs, particularly to the least-developed countries and, in parallel, an examination of modalities for a fuller participation by LDCs in the framework of rights and obligations under the GATT.

(ii) Agriculture

- a major work programme to achieve genuine multilateral international co-operation and to reduce tensions in agricultural trade.

(iii) Safeguards

- negotiations to overcome the remaining difficulties in order to reach a comprehensive understanding on safeguards during the next twelve months.

(iv) Dispute Settlement

- improvement in the operation of the dispute settlement procedures based on more constructive consultation, greater recourse to conciliation and the more effective resolution of disputes at the multilateral level without creating a situation of "impasse".

(v) Textiles

- preparation for the period after the expiry of MFA III.]

SAFEGUARDS<sup>1</sup>

[The CONTRACTING PARTIES

Recognize, having regard to the objectives and disciplines of the General Agreement, the need for an improved and more efficient safeguard system which provides for greater predictability and clarity and also greater security and equity for both importing and exporting countries, so as to preserve the results of trade liberalization and avoid the proliferation of restrictive measures; and

Take a decision covering, inter alia, the following elements:

1. Transparency;
2. Coverage;
3. Objective criteria for action including the concept of serious injury or threat thereof;
4. Temporary nature, degressivity and structural adjustment;
5. Compensation and retaliation; and
6. Notification, consultation, multilateral surveillance and dispute settlement with particular reference to the role and functions of the Safeguards Committee.]

GATT RULES AND ACTIVITIES RELATING TO DEVELOPING COUNTRIES

The CONTRACTING PARTIES:

1. Instruct the Committee on Trade and Development to carry out a detailed review of the extent of application and implementation by governments of Part IV, and to recommend ways, including improved surveillance procedures, to ensure its effective application;

---

<sup>1</sup>This text has been included in the paper on the understanding that it represents the present state of discussion in the relevant group. The text remains subject to discussion.

2. Instruct the Committee on Trade and Development to review the operation of the Enabling Clause as provided for in its paragraph 9, with a view to its more effective implementation, inter alia, with respect to objectivity and transparency of modifications to GSP schemes and the operation of consultative provisions relating to differential and more favourable treatment for developing countries;

3. Decide to strengthen the Technical Co-operation programme of the GATT with a view to facilitating the more effective participation of developing countries in the GATT trading system:

- (a) by responding to increasing demands for seminars and other technical assistance activities;
- (b) by permitting increased participation in the GATT Commercial Policy Courses, and the inclusion in the training programme of a regular course in the Spanish language;
- (c) by encouraging, in the context of this programme, appropriate contributions from individual contracting parties.

4. Invite contracting parties individually to grant new voluntary contributions or provide other forms of assistance to the ITC;

5. Invite contracting parties to pursue action as follows towards facilitating trade of least-developed countries and reducing tariff and non-tariff obstacles to their exports:

- (a) further improve m.f.n or GSP treatment for exports from least-developed countries, with the objective of providing fullest possible duty-free access to products of particular export interest to least-developed countries;
- (b) use, upon request and where feasible, of more flexible requirements for rules of origin for products of particular export interest to least-developed countries;
- (c) eliminate or reduce non-tariff measures affecting products of particular export interest to least-developed countries and provide greater flexibility for the participation of least-developed countries in MTN Agreements and Arrangements;
- (d) strengthen the technical assistance facilities of the GATT secretariat targeted to the special requirements of least-developed countries;

- (e) strengthen trade promotion activities, through the ITC and other initiatives, such as by encouraging the establishment of import promotion offices in importing countries;
- (f) give more emphasis to the discussion and examination of policy issues of interest to least-developed countries in the context of further efforts to liberalize trade.

6. Invite contracting parties to support regional or global arrangements entered into amongst less-developed contracting parties, falling under paragraph 2(c) of their Decision of 28 November 1979 on the Enabling Clause, and invite parties to such arrangements to grant preferences to the least-developed countries;

7. Decide to review the above matters at their [ ] Session.

8. [[The CONTRACTING PARTIES decide to instruct the [Council] [Committee on Trade and Development] to prepare the means to give a more stable and differentiated basis to the trade relations between developing and developed countries within the contractual framework of the General Agreement. This activity could include, inter alia, the definition of relevant and more adequate rules for effective future negotiations between developing and developed countries with a view to meeting the justified aspirations of all contracting parties.]]<sup>[1]</sup>

or

[Ministers decide that the contracting parties will undertake negotiations between interested developing and developed countries in order to improve conditions of market access.]]<sup>[1]</sup>

or

[The CONTRACTING PARTIES decide to instruct the Committee on Trade and Development to prepare the effective means to give security to the trade relations between developing and developed countries within the contractual framework of the General Agreement with a view to facilitating market access for the developing countries to the markets of the developed countries.]<sup>[1]</sup>

---

<sup>[1]</sup> A very large number of delegations are opposed to any reference in the Ministerial text to the proposal regarding a round of trade negotiations between developed and developing countries as proposed by two delegations.]

DISPUTE SETTLEMENT PROCEDURES<sup>1</sup>

[The CONTRACTING PARTIES

Recognize the vital importance of effective dispute settlement procedures for the maintenance of a proper balance between the rights and obligations of all contracting parties and thus for confidence in the GATT trading system;

Recognize in this context, the importance also of a readiness by contracting parties to seek solutions for their trade disputes in accordance with GATT provisions and procedures;

Recognize that a mutually satisfactory solution for differences among contracting parties, in accordance with GATT provisions, depends primarily on the commitment and willingness of the contracting parties concerned and on their readiness to adjust practices and policies, including their national legislation, in the light of findings and recommendations of the CONTRACTING PARTIES relating to their obligations under the General Agreement;

Agree that the Understanding on Notification, Consultation, Surveillance and Dispute Settlement negotiated during the Tokyo Round (hereinafter referred to as the "Understanding") provides the essential framework of procedures for the settlement of disputes among contracting parties and that no major change is required in this framework, but that there is scope for more effective use of the existing mechanism and for specific improvements in procedures to this end;

And agree further that:

- (i) Effective use should be made of the opportunities provided in paragraph 8 of the Understanding of reaching a mutually satisfactory solution through conciliation under the good offices of an appropriate body or individual. To this end, if a dispute is not resolved through consultations, any party to a dispute may, with the agreement of the other party, seek the good offices of the Director-General or of an individual or group of persons

---

<sup>1</sup>This text has been included in the paper on the understanding that it represents the present state of discussion in the relevant group. Points in it remain subject to discussion.

nominated by the Director-General. This conciliatory process would be carried out expeditiously, and the Director-General would inform the Council of the outcome of the conciliatory process. Conciliation proceedings, and in particular positions taken by the parties to the dispute during conciliation, shall be confidential, and without prejudice to the rights of either party in any further proceedings under Article XXIII:2. It would remain open at any time during any conciliatory process for either party to the dispute to refer the matter to the CONTRACTING PARTIES.

- (ii) In order to ensure more effective compliance with the provisions of paragraphs 11 and 12 of the Understanding, the Director-General shall inform the Council of any case in which it has not been found possible to meet the time limits for the establishment of a panel.
- (iii) With reference to paragraph 13 of the Understanding, contracting parties will co-operate effectively with the Director-General in making suitably qualified experts available to serve on panels. Where experts are not drawn from Geneva, any expenses, including travel and subsistence allowance, shall be met from the GATT budget.
- (iv) The secretariat of GATT has the responsibility of assisting the panel, especially on the legal, historical and procedural aspects of the matters dealt with.
- (v) The terms of reference of a panel should permit a clear finding with respect to any contravention of GATT provisions and/or on the question of nullification and impairment of benefits. In terms of paragraph 16 of the Understanding and after reviewing the facts of the case, the applicability of GATT provisions and the arguments advanced by both parties, the panel should come to such a finding. Where a finding establishing a contravention of GATT provisions or nullification and impairment is made, the panel may make such suggestions for dealing with the matter as would assist the CONTRACTING PARTIES in making recommendations to the contracting parties which they consider to be concerned, or give a ruling on the matter, as appropriate.
- (vi) Panels would aim to deliver their findings without undue delay, as provided in paragraph 20 of the Understanding. If a complete report cannot be made within the period foreseen in that paragraph, panels would be expected to so advise the Council and the report should be submitted as soon as possible thereafter.

- (vii) Reports of panels should be given prompt consideration by the CONTRACTING PARTIES. Upon adoption of the findings contained in a report, the Council may allow the contracting party concerned a reasonable time to indicate what action it proposes to take with a view to a satisfactory settlement of the matter, before making any recommendation on the basis of the report.
- (viii) The recommendation or ruling made by the CONTRACTING PARTIES shall be aimed at achieving a satisfactory settlement of the matter in accordance with GATT obligations. In pursuance of the provisions of paragraph 22 of the Understanding the Council shall periodically keep under review the action taken pursuant to such recommendations. The contracting party to which such a recommendation has been addressed, shall report within a reasonable period on action taken or on its inability to implement the recommendation or ruling by the CONTRACTING PARTIES. The contracting party bringing the case may also ask the CONTRACTING PARTIES to make suitable efforts with a view to finding an appropriate solution as provided in paragraph 22 of the Understanding.
- (ix) The further action taken by the CONTRACTING PARTIES in the above circumstances might include provision for compensatory adjustment with respect to other products or authorization for the suspension of such concessions or other obligations as foreseen in Article XXIII:2, as the CONTRACTING PARTIES may determine to be appropriate in the circumstances.
- (x) The Parties to a dispute would fully participate in the consideration of the matter by the CONTRACTING PARTIES under paragraph (vii) above, including the consideration of any rulings or recommendations the CONTRACTING PARTIES might make pursuant to Article XXIII:2 of the General Agreement, and their views would be fully recorded. They would likewise participate and have their views recorded in the considerations of the further actions provided for under paragraphs (viii) and (ix) above. The views of [the parties to the dispute] shall not, however, stand in the way of the CONTRACTING PARTIES reaching a consensus on these matters.]

AGRICULTURE<sup>1</sup>

[The CONTRACTING PARTIES, [recognizing that there is an urgent need to make further progress with respect to finding lasting solutions to the problems of trade in agriculture] [taking due account of the special characteristics of agricultural production and trade in various climatic and geographical conditions] [and at the same time reaffirming the principle of comparative advantage in agricultural trade] decide:

- I. That the following matters should be examined with the purpose of making appropriate recommendations thereon as a basis for decisions to be taken:
1. National policy measures affecting market access, competition and [security of] supplies, in the light of rights and obligations under the General Agreement;
  2. The operation of the relevant provisions of the General Agreement [in conformity with Article XVI:5] [and of the Subsidies Code] as regards agricultural trade with a view to examining its effectiveness, in the light of actual experience, in promoting the objectives of the General Agreement and avoiding subsidization seriously prejudicial to the trade or interests of contracting parties. Any form of export assistance shall be included in this review;
  3. Measures affecting market access and [security of] supplies with a view to promoting greater liberalization in the trade of agricultural products as regards tariffs and non-tariff measures, on the basis of [unconditional m.f.n. non-discrimination,] reciprocity and mutual advantage [and the development of negotiating possibilities for promoting greater liberalization in the trade of agricultural products as regards tariffs and non-tariff measures];
  4. Derogations, [other agricultural exceptions], and [other] measures affecting agricultural trade [which are either not expressly provided for or are not adequately covered in the General Agreement] [and, in this connection, an assessment of [the balance] of rights and obligations under the GATT];

---

<sup>1</sup>This text has been included in the paper on the understanding that it represents the present state of discussion in the relevant group. Points in it remain subject to discussion.



5. Development, wherever necessary [and feasible], of a common interpretation of the provisions of the General Agreement [with a view toward greater trade liberalization].
- II. That for the purposes of carrying out the tasks enumerated above, an improved system of notifications, specifically with respect to measures taken in the agricultural sector, be introduced so as to ensure full transparency;
- III. [Export subsidies constitute an immediate and critical problem and the CONTRACTING PARTIES agree that there should be progressive and substantial reduction in the level of existing subsidies [seriously prejudicial to the trade or interests of contracting parties] within a definite time period not to exceed five years];
- IV. That there be established a Committee on Agriculture, open to membership to all contracting parties for the purpose of carrying out the tasks enumerated above [and in making recommendations have regard to:
- i. the scope for developing improved rules and disciplines of general application to all aspects of national policies and measures having a significant effect on trade in agriculture;
  - ii. the possibilities for developing a mutually acceptable basis for the negotiation of a balanced reduction in protectionism and a liberalization of trade in agriculture]
- V. That in carrying out the tasks enumerated above, and in making recommendations the Committee shall take due account of the special needs of developing countries in the light of, in particular, Article XVIII and Part IV of the General Agreement;
- VI. That the Committee will report periodically on the results achieved and make appropriate recommendations to the CONTRACTING PARTIES that could serve as a basis for decisions to be taken by the Council or by them at their [ ] Session, or before, and in no case later than 31 December 1984.]

#### TROPICAL PRODUCTS

The CONTRACTING PARTIES decide to carry forward the programme pursued by the Committee on Trade and Development for further liberalization of trade in tropical products, including in their processed and semi-processed forms, covering consultations and, as appropriate, negotiations and to review progress achieved in relation to trade measures affecting tropical products at their regular session [at the end of 1984].

[SUBSIDIES<sup>[1]</sup>

The CONTRACTING PARTIES

Decide that the CONTRACTING PARTIES shall review the operation of Article XVI with a view to examining its effectiveness in promoting the objectives of the General Agreement and avoiding subsidization seriously prejudicial to the trade or interests of contracting parties, as provided for in paragraph 5 of that Article. This review should be completed in [ ]. [Pending the outcome of this review, a more effective limitation on the use of export subsidies should be implemented.]

NON-TARIFF MEASURES

1. The CONTRACTING PARTIES decide to review in a group created for the purpose<sup>2</sup> the status of existing quantitative restrictions and other non-tariff measures, the grounds on which these are maintained, and their conformity with the provisions of the General Agreement with a view to action towards:

- [(a) the [immediate] elimination of illegal quantitative restrictions;]
- (b) the elimination or reduction of [other] quantitative restrictions; and
- (c) the elimination or reduction of non-tariff measures other than quantitative restrictions or, where this is not appropriate, the elimination or reduction of their trade-distorting effects;

---

<sup>[1]</sup> A certain number of delegations consider that there is no reason for this subject to appear in the text since an Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement has been in force since 1 January 1980.]

<sup>2</sup> On the understanding that unnecessary duplication with other groups would be avoided.

[priority being given to quantitative restrictions and other measures affecting products of particular export interest to developing countries];

2. That the findings and conclusions from such a review should be considered by the CONTRACTING PARTIES at their [ ] Session with a view to taking appropriate decisions;

3. [No new measures not justified under the GATT should be introduced.]

4. [Measures in the field of agriculture should be reviewed in their appropriate context.]

#### TARIFFS

The CONTRACTING PARTIES agree:

1. To an examination of the possibilities of reducing significantly the escalation of tariffs on products with increased processing, where such an escalation is an important factor inhibiting international trade, particularly exports of developing countries; and

2. That a wide acceptance of the Harmonized Commodity Description and Coding System, being drawn up by the Customs Co-operation Council, would greatly facilitate world trade. They also agree that, with the introduction of the Harmonized System, the general level of benefits provided by GATT concessions should be maintained, that existing concessions should remain unchanged as far as possible and that any necessary negotiations should be initiated promptly so as to avoid any undue delay in the implementation of the Harmonized System. They also agree that technical support shall be provided by the GATT secretariat to developing contracting parties in order to fully assist their participation in such process.

#### MTN AGREEMENTS AND ARRANGEMENTS

The CONTRACTING PARTIES decide, pursuant to their decision of 28 November 1979, to review developments relating to the operation of the MTN Agreements and Arrangements, taking into account reports from the Committees or Councils concerned, with a view to determining what action if any is called for, [from the point of view of the coherence and consistency of the GATT system and in relation to the rights and obligations of non-signatory contracting parties], in particular to eliminate any obstacles to, and otherwise facilitate, the acceptance as soon as possible of these Agreements and Arrangements by interested [contracting parties] [governments] [consistent with the provisions of the Agreements and Arrangements].

STRUCTURAL ADJUSTMENT AND TRADE POLICY

The CONTRACTING PARTIES decide to continue the work on structural adjustment and trade policy in order to focus on the interaction between structural adjustment and the fulfillment of the objectives of the General Agreement, particularly with regard to trade liberalization [and comparative advantage] and to review the results of this work [at their 1983 Session].

TRADE IN COUNTERFEIT GOODS

[The CONTRACTING PARTIES decide that discussions should take place in a working group established for this purpose regarding the appropriateness of joint action in the GATT framework on the trade aspects of commercial counterfeiting and, if such joint action is found to be appropriate, regarding the modalities for such action, having regard to the competence of other international organizations in this matter and the on-going work in these organizations.]

or

[(outside the context of the Ministerial)

The Council decides to examine the question of counterfeit goods with a view to determining whether any action could be taken thereon. To that effect, it requests the Director-General to hold consultations with the Director-General of WIPO in order to clarify the legal and institutional aspects involved.]

EXPORT OF DOMESTICALLY PROHIBITED PRODUCTS

The CONTRACTING PARTIES decide that GATT shall be notified [to the extent feasible] by contracting parties of any products [produced and exported by them but] banned for sale on their domestic market in conformity with Article XX:(b) of the General Agreement.

At their [ ] Session, the CONTRACTING PARTIES will consider in the light of experience gained with this notification procedure, the need for study of problems relevant to the GATT in relation to exports of domestically prohibited products and of any action that may be appropriate to deal with such problems.

[EXPORT CREDITS TO DEVELOPING COUNTRIES]

The CONTRACTING PARTIES decide that the provisions relating to minimum interest rates in any international undertaking on official export credits to which their government is a party, shall not apply to export credits extended to developing countries on their imports of capital goods, so as to facilitate the expansion of these imports consistent with the trade and development needs of these countries.]

TEXTILES AND CLOTHING

The CONTRACTING PARTIES agree:

1. To carry out a study of:
  - (i) the importance of textiles and clothing in world trade and particularly for the trade prospects of developing countries;
  - (ii) the impact of [the existing system of] restraints and restrictions [under the MFA] on textiles and clothing on economic activity and prospects in both importing and exporting countries;
  - [(iii) consequences for economic and trade prospects in these countries of [either a maintenance or] a phasing out on the basis of the provisions of the General Agreement, of the restraints and restrictions applied under [the existing textile and clothing regime] [the MFA];] and
2. To examine expeditiously, taking into account the results of such a study, [possibilities and] modalities for bringing about the full application of GATT provisions to this sector of trade.

MINERALS, METALS AND FORESTRY PRODUCTS

The CONTRACTING PARTIES agree:

1. That the secretariat should undertake studies of tariffs, non-tariff measures and other relevant trade policy factors affecting trade flows in semi-processed and processed minerals, metals and forestry products, priority being given to those which account for a major share of world trade;
- [2. On the basis of these studies, to examine possible solutions to trade problems which will have been identified as arising from such measures and policies;] and
3. That these studies be considered at the [39th] Session of the CONTRACTING PARTIES.

FISHERIES

[The CONTRACTING PARTIES agree:

1. That the secretariat would undertake a study of international trade in fisheries products [in the last decade] including tariff and non-tariff measures affecting such trade [taking into account the structural effects on production and trade of the adoption of the two hundred-mile zone];
2. On the basis of the result of this study, to examine possible solutions to any trade problems which will have been identified as arising from such measures; and
3. That this study be considered at the [ ] Session of the CONTRACTING PARTIES.]

[SERVICES]<sup>[1]</sup> <sup>[2]</sup>

The CONTRACTING PARTIES agree:

1. To invite contracting parties to provide information on specific problems they encounter in other contracting parties' markets in the field of services that will enable the GATT to compile a list of such problems in accordance with agreed procedures;
2. To study, concurrently with the compilation of the list, the applicability of GATT principles, rules and procedures to services;
3. To complete this work by 31 December 1984; and
4. To consider at their 41st Session, in light of the results of the work outlined above, whether further steps should be taken within the GATT framework to deal with the problems that have been identified.]

---

[1] A very large number of delegations maintain that no text should be included in relation to "services", on the ground that the GATT is not presently competent in the matter and its principles and objectives are not, in their view, appropriate to deal with "services" in the future.]

[2] A number of delegations whose countries account for the great part of world trade maintain that the GATT is competent to undertake this study and that it should be included in the Ministerial text.]

[TRADE-RELATED PERFORMANCE REQUIREMENTS]<sup>[1]</sup> [2]

The CONTRACTING PARTIES agree:

1. To invite contracting parties to provide and review information on trade-related performance requirements such as local content or export requirements;
2. To undertake a study of the reasons for such practices, including requirements of related companies and home governments, and the impact on international trade on such practices;
3. To examine GATT rules which may be applicable to such practices and, if necessary, of possible ways in which those rules might be improved;
4. To complete this study by [31 December 1984;] and
5. To consider no later than their [41st] Session, in light of the results of the work outlined above, whether it is necessary to improve the GATT framework in this area.]

[TRADE IN HIGH TECHNOLOGY]

The CONTRACTING PARTIES agree to undertake a study of the manner in which trade in high-technology goods [and associated services] is dealt with under the General Agreement and the MTN Agreements and what specific steps, if any, are needed to deal with any problems identified in this study. They will consider the results of this study at their [ ] Session.]

---

[<sup>1</sup>A very large number of delegations maintain the position that GATT has no competence, and should not become involved in matters covering the area of investments. They therefore oppose the inclusion of the present text, since "performance requirements" are an essential element in the investment policies of many governments.]

[<sup>2</sup>A number of delegations whose countries account for the great part of world trade maintain that the GATT is competent to undertake this study and that it should be included in the Ministerial text.]

EXCHANGE RATE FLUCTUATIONS AND THEIR EFFECT ON TRADE

The CONTRACTING PARTIES agree:

1. To request the GATT secretariat to seek the co-operation of the IMF for the purpose of an examination of the effects of erratic fluctuations in exchange rates on international trade and any implications for the GATT; and
2. To consider this matter at their [     ] Session.

[DUAL PRICING

The CONTRACTING PARTIES agree that the secretariat should prepare a study identifying whether trade distortions result from dual-pricing practices and whether existing GATT provisions, in particular Article III:1 and Article XVI, might be applied to deal with any problem identified.]

[RULES OF ORIGIN

The CONTRACTING PARTIES agree to arrange for a study identifying and comparing existing rules of origin used by contracting parties, analyzing their trade impact [including trade creation resulting from the operation of rules of origin consistent with the trade, financial and development needs of developing countries] and identifying possibilities for reducing or removing any trade distorting effects of rules of origin.]



ANNEX B

ORGANIZATION OF THE MINISTERIAL MEETING

The Committee recommended that the business of the Ministerial part of the Session be organized in the following way.

|                       |                            |   |
|-----------------------|----------------------------|---|
| Wednesday 24 November | 9 a.m.<br>to 9.30 a.m.     | Opening of Ministerial Portion of<br>Session<br>- Statements by:<br>Chairman<br>Host Government<br>Director-General |
|                       | 9.30 a.m.<br>to 12.30 p.m. | Plenary Session<br>- Ministerial Statements   |
|                       | 12.30 p.m.<br>to 1 p.m.    | - Statements by Observer<br>Governments and Invited<br>Organizations  |
|                       | 3 p.m.<br>to 5.30 p.m.     | Plenary Session<br>- Ministerial Statements<br>(continued)  |
| Thursday 25 November  | 9 a.m.<br>to 12.30 p.m.    | Plenary Session<br>- Ministerial Statements<br>(continued)  |
|                       | 12.30 p.m.<br>to 1 p.m.    | - Statements by Observer<br>Governments and Invited<br>Organizations  |

Thursday 25 November  
(continued)

3 p.m. onward

Free for Informal Contacts

Friday 26 November

9 a.m.  
to 12.30 p.m.

Plenary Session  
- Ministerial Statements  
(continued)

12.30 p.m.  
to 1 p.m.

- Statements by Observer Governments

3 p.m.  
to 5.30 p.m.

Plenary Session  
- Ministerial Statements  
(continued)

Saturday 27 November

10.30 a.m.  
to 1 p.m.

Adoption of Ministerial Document