

GENERAL AGREEMENT ON TARIFFS AND TRADE

Preparatory Committee

MTN AGREEMENTS AND ARRANGEMENTS

Note by the Secretariat

1. This note is issued under the responsibility of the Secretariat and is intended to facilitate further discussion in the Preparatory Committee. It seeks to identify, in the light of the discussions recorded in PREP.COM(86)SR/2 and earlier discussions, the main considerations which would appear to be relevant should the Committee decide to formulate recommendations on the issue of MTN Agreements and Arrangements. The note is not intended to be a summary of the discussions. It in no way prejudices the views delegations may have as to whether and how the question of MTN Agreements and Arrangements might figure in the Preparatory Committee's recommendations to Ministers, nor should the listing of points for further discussion be regarded as exhaustive.

Main points emerging from the discussion

2. The discussion revealed a concern for the unity and consistency of the GATT system. It was pointed out that the MTN codes represented interpretations of the General Agreement, and in some cases the addition of supplementary provisions, which had not been accepted by all contracting parties and that different contracting parties therefore interpreted and applied the General Agreement differently. Two solutions were suggested to solve this problem: the incorporation of the codes, or certain concepts and disciplines of the codes, into the General Agreement and the creation of conditions facilitating adherence to the codes by as many contracting parties as possible.

3. It was said that relatively few developing countries had acceded to the codes because most of these failed to take the particular interests of developing countries into account. It was also pointed out that this issue had already been examined in a Working Group report adopted by the Council (L/5832/Rev.1) which had not identified any general obstacles to accession nor any generic problems applicable to the codes as a whole. The problem of limited membership in the codes was one of economic interests and of unreadiness to accept additional obligations. The amendment of most of the provisions of the General Agreement required a two-thirds majority. Therefore, so long as less than sixty of the ninety contracting parties did not wish to accept the additional obligations set out in the codes, these could not become part of the General Agreement.

4. There was wide agreement that although the codes had in several areas exercised a useful influence on the trading system by contributing to increased disciplines and predictability in trade policies, some of them could be further improved or expanded. The clarification of ambiguous language in the Subsidies Code, the mutual acceptance of test data by signatories to the Standards Code and the expansion of the coverage of the Government Procurement Code (which was already under discussion in the Code Committees) were among

the changes considered necessary. While there was agreement that the new round would present an occasion to review some of the codes, different views were expressed as to whether such reviews should be held in the groups to be established in the context of the new round, in the existing institutional framework of the GATT or in the Committees and Councils set up under the codes. In this context doubts were expressed as to whether it was appropriate to discuss in a round open to all contracting parties the reform of codes not accepted by all contracting parties.

Points for further discussion

5. Is further concrete action needed to promote the unity and consistency of the GATT system in addition to that set out in the 1979 decision on Action by the CONTRACTING PARTIES on the Multilateral Trade Negotiations (BISD 26S/201)? Would such action be a matter for negotiation or taken in the normal GATT framework?

6. Taking into account the results of the Working Group on MTN Agreements and Arrangements (L/5832/Rev.1), would a general re-examination of the accession problems of developing countries appear useful or could these problems more fruitfully be discussed by the Committees or Councils set up under the codes whenever specific problems are encountered by developing countries desiring to accede?¹

7. Should the codes be reviewed in the existing institutional framework of the GATT, in one or several negotiating groups to be established in the new round, or in the Committees or Councils set up under the codes?

¹It should be noted that the CONTRACTING PARTIES at their Forty-First Session decided to invite the Committee on Subsidies and Countervailing Measures to establish a Working Party to examine obstacles which contracting parties face in accepting the Subsidies Code (SR.41/2, pages 8-9).