

# GENERAL AGREEMENT ON TARIFFS AND TRADE

PREP.COM(86)W/41/Rev.1/Add.1  
22 July 1986

Special Distribution

---

Preparatory Committee

Original: English

## COMMUNICATION FROM BRAZIL

### Addendum

The following statement, made to the Preparatory Committee by the representative of Brazil on 16 July 1986, has been forwarded to the Chairman of the Preparatory Committee by the delegation of Brazil with the request that it be circulated to all members of the Committee on behalf of Argentina, Brazil, Cuba, Egypt, India, Nicaragua, Nigeria, Peru, Tanzania, Yugoslavia

The ten less developed contracting parties, which had submitted three weeks ago a draft Ministerial Declaration to the Preparatory Committee in document PREP.COM(86)W/41, after considering carefully the reactions of other delegations to their proposals, have decided to submit a revised version of that document which I now have the honour to formally present to the Committee. The revised text represents an attempt to take on board some of the comments made with respect to the previous proposal and it has been restructured so as to contain a short Declaration - which largely reproduces the Declaration in document W/41 with some small adjustments - and four decisions entitled:

- (a) decision on standstill, rollback and safeguards,
- (b) decision on the launching of a round of multilateral trade negotiations,
- (c) decision on commodities,
- (d) decision on the need for parallel efforts in the monetary and financial fields.

In the new text the operative part of our Declaration has been shifted to the corresponding decisions and their annexes, some of which have remained unchanged, though in others we have introduced some alterations which I will point out to you.

The first set of changes that I wish to underline relates to the commitments on standstill and rollback, which together with the Annex on safeguards form the three annexes to the first draft decision. While we have retained the essential elements of our previous proposal, we have somewhat altered the legal format of the commitment in suggesting that they be treated as two separate protocols to be signed by fully empowered government representatives in Punta del Este. The idea is to expedite the process of entry into force of the commitment without sacrificing its firmness and credibility or the degree to which governments will be bound to respect it. As can be seen from section III in the Protocol on Standstill (page 8), it is expected that the Protocol would enter into force provisionally among those having signed it once the requirement that at least two thirds of contracting parties sign it has been met; definitive entry into force would come about as two thirds of GATT contracting parties deposit with the Director-General the final instruments of acceptance. We hope to have dealt, in this manner, with the difficulties a large number of delegations had expressed with regard to the previous requirement that the commitment be taken by executive order or presidential decree subject to appropriate legislative sanction, as necessary.

As regards rollback, other than the sections on entry into force which follow the same pattern as the one I have just described, it is worth noting that the new text no longer requires that the commitment be taken only by developed contracting parties in favour of less developed contracting parties. Thus all contracting parties will be affected by the

requirement to eliminate within a specific time schedule all restrictive import measures affecting trade in goods. Notification of the phase-out actions adopted for the implementation of the Protocol on rollback shall be sent to GATT, at the latest, three months after the entry into force of the Protocol.

The second decision approves the launching of a round of multilateral trade negotiations covering all barriers to trade in goods and proposes for adoption at Punta del Este negotiating plans in the areas of agriculture, tropical products, tariffs and natural-resource products, included in annexes to the decision. We have taken a very big step in this connection by showing a readiness to embark on a new round of multilateral trade negotiations without an explicit link to the prior undertaking of firm and credible standstill and rollback commitments. It remains however that we cannot commit ourselves to actually start negotiations unless the undertakings to standstill and rollback are entering into force. In the text of the draft decision itself we further propose the creation of a Negotiations Committee for the putting into effect of detailed negotiating plans for all areas to be treated in the negotiations, and for the supervision of the conduct of the negotiations proper - including the establishment of dates for the starting and the conclusion of the negotiations. As we continue to believe that we should take utmost care to ensure that the whole negotiating process be subject to the control of GATT discipline, it is also foreseen in the decision launching the round that the CONTRACTING PARTIES will examine the results of the trade negotiations at the end of the process and shall take appropriate action to incorporate such results into the GATT through the adoption of Protocols as necessary.

With respect to the annexes to the decision on the launching of a round of multilateral trade negotiations, I would like to point out that the texts on special procedures for LDCs (Annex I) and on agriculture are the same as previously circulated. We have however included three new annexes on Tropical Products, Tariffs and Natural-Resource Products respectively.

The decision on commodities represents an attempt to deal with an area of interest to a very wide cross-section of developing countries through a renewed commitment by contracting parties to take urgent and adequate multilateral action in the appropriate fora with a view to improving conditions of world commodity markets and stabilizing prices for commodities at equitable and remunerative levels.

Finally, the Decision on the need for parallel efforts in the monetary and financial fields reinstates the position which had already been voiced by developing countries, and indeed other contracting parties, that a process of review of the international financial and monetary systems is necessary in order to ensure that the benefits arising from trade liberalization are not put into jeopardy. GATT should be called upon to examine in depth, in this context, the effects of exchange rate fluctuations on international trade.

We hope that this revised text is fully appreciated for what it is, namely an effort on our part to show receptiveness to concerns and ideas expressed by other contracting parties and an attempt to put us closer to formulations that may be transmitted by this Preparatory Committee to the meeting in Punta del Este without compromising our basic stands.

The revised version of the Group of Ten proposal continues to deal only with issues related to trade in goods, the acknowledged sphere of jurisdiction of the General Agreement.

This of course should not come as a surprise to any delegation in this Preparatory Committee, for the countries comprising the Group of Ten have long held the view that for a variety of reasons the case for action in GATT in new areas such as services has clearly not been established.

A few specific and general proposals, however, have been made in this Preparatory Committee to include in the proposed new round of trade negotiations besides services other non-GATT issues, among which investment and intellectual property rights. It might be appropriate thus for the Group of Ten to refer to these matters at this stage.

In relation to services, the exchange of information carried out in the context of the CONTRACTING PARTIES' Decisions of 1982, 1984 and 1985 clearly demonstrates that data provided so far has been insufficient and unbalanced, that basic definitions are lacking and that important issues raised by developing contracting parties have not been addressed. It is therefore not possible to take up at this stage the question of "whether or not any multilateral action is appropriate and desirable". In this situation, it becomes impossible to visualize negotiations in the context of a multilateral trade round in GATT or in a GATT framework.

Starting from the assumption that the envisaged Punta del Este Ministerial meeting will be a CONTRACTING PARTIES meeting, the Group of Ten countries would of course be ready to deal with the issue of services, not here in the Preparatory Committee, but in the agreed context of the action which is to be expected from CONTRACTING PARTIES in the light of the Decisions adopted by them in 1982, 1984 and 1985.

The questions of investment, intellectual property rights and workers' rights share with that of services the status of being completely outside the GATT jurisdiction.

Moreover, in these new areas there has been no consensus decision by CONTRACTING PARTIES even for a preliminary exchange of information, as in the case of services.

The invocation of a possible need to update GATT cannot and should not be so interpreted as to give any individual contracting party the right to propose changes to the General Agreement which would alter it beyond recognition and that too, without the observance of GATT rules and procedures on how to amend it and furthermore in disregard of its basic objectives and scope.

The heart of the matter, Mr. Chairman, is that the GATT cannot be amended by collateral agreements or arrangements negotiated among a few and put into effect by a minority, as new international standards of trade regulation.

The sad experience of the Tokyo Round in this regard cannot be allowed to be repeated. The integrity of the GATT was then seriously impaired by the ad hoc nature of that round which gave a few developed contracting parties a free hand to go ahead in a non-transparent way with the elaboration of a number of Codes which, under the guise of interpreting GATT provisions, have in fact modified them. The conditional application of the m.f.n. rule arising out of the operation of most of these Codes is indeed a most blatant deviation from the fundamental rule of the General Agreement - that of non-discrimination.

Under our basic contract - the General Agreement - the only rights which can be legitimately invoked are those which are contained therein. And this is the reason why we cannot acknowledge the claim of some developed contracting parties, important as they may be in their share of world trade, to an absolute right to make any proposals without regard to GATT jurisdiction or without observing the corresponding GATT procedures for the amendment of its provisions.

Attempts to bypass the GATT rules for amendment cannot but face the strong objection of contracting parties which, perhaps because less important as trading partners, value greatly the preservation of the integrity of the General Agreement.

Let me conclude, Mr. Chairman, by expressing the hope that CONTRACTING PARTIES in their collective wisdom will prepare the deliberations in Punta del Este in a manner which is consistent with what should be the common aims of preserving and strengthening the multilateral trading system as embodied in the GATT.

A new round of multilateral trade negotiations can only be justified and accepted if it meets those requirements. And this is the reason why, Mr. Chairman, we understand that the Ministerial meeting in Punta del Este cannot but be a CONTRACTING PARTIES meeting and that any new round that might eventually be launched there has to be a GATT round under the authority of the CONTRACTING PARTIES.

In order to ensure the success of such a meeting and of such a round, you can all depend on the full support of the ten contracting parties on whose behalf I have introduced the revised version of document PREP.COM(86)W/41/Rev.1.

It is our expectation, Mr. Chairman, that, having outreached the date of 15 July, we should consider, as you suggested, our debate in the Preparatory Committee as having come to its completion and that consultations should now start on the basis of the proposals already tabled

on the different issues. It is our understanding in light of the decision of CONTRACTING PARTIES in November 1985 that discussions on each issue would proceed separately.

Finally, Mr. Chairman, I would ask you to be kind enough to circulate the full text of this presentation together with the revised version now formally introduced.