GENERAL AGREEMENT ON

TARIFFS AND TRADE

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MEASURES AFFECTING THE WORLD MARKET FOR COPPER ORES AND CONCENTRATES

Report of the Group of Governmental Experts

1. The Group of Governmental Experts on Measures Affecting the World Market for Copper Ores and Concentrates was established by the Council at its meeting on 15 July 1986 (C/M/201) following the request by the European Economic Community for a working party (C/W/439, L/5627, L/5654, L/5992). The terms of reference of the Group are as follows:

> "To examine problems falling under the competence of the General Agreement relating to current trends in world trade in copper, including the supply and demand situation for copper concentrates and refined copper, and to report to the Council."

2. The Chairman of the Council designated Mr. M. Cartland (Hong Kong) as Chairman of the Group in consultation with interested delegations.

3. The Group of Experts met on 23 and 24 October 1986, 11 December 1986, 5 March 1987 and on 8 May 1987. The meetings were attended by members of the Group and observers from international organizations.[1]

4. The Group of Experts had before it the background study on copper prepared by the secretariat for the Working Party on Natural Resource Products (MDF/W/10 and Add.1), the study on tariff escalation in the copper industry (TAR/W/26) and updated tables on world production, consumption prices and trade (Spec(86)58). It also had before it documents submitted by the EEC (Spec(86)59, Spec(87)12), and Japan (Spec(87)9 and Add.1).

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[1] Australia, Austria, Canada, Chile, Côte d'Ivoire, European Communities and their Member States, Finland, India, Indonesia, Japan, Korea, Rep.of, Malaysia, Mexico, Norway, Peru, Sweden, United States, Yugoslavia, Zaire, and Zimbabwe.

UNCTAD, ITC, IMF, World Bank, EFTA and CIPEC, and Brazil and Costa Rica as observers.

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5. The Group agreed to focus its discussion on the following subjects:

(i) production and consumption structure of the world copper industry;

(ii) supply and demand situation;

(iii) pricing policies;

(iv) trends in world trade, including protective measures.

6. During the discussion, members of the Group referred to developments in the copper industry. The demand for copper has been relatively low for several years. World consumption of refined copper grew at an annual average rate of 4.3 per cent annually in the period from 1960 to 1980 and reached its peak of 9.85 million tons in 1979, almost double the amount in 1960. It declined and then stagnated in the following years and with the exception of 1984 it has remained below the level attained in 1979. It stood at 9.6 million tons in 1985, 2.4 per cent less than in 1979. The decrease in copper consumption has been largely influenced by depressed or relatively low economic growth as copper consumption depends to a large extent on activities in the capital goods sector. However, the long-term decline in world copper consumption is also due to other factors such as competition from substitutes (optical fibres, aluminium and other metals, plastics, etc.), technological changes and changes in design of products for which copper is a major input. The analysis of the end-use pattern of copper consumption shows that the intensity of use of copper (consumption per unit of GDP) has declined substantially in all developed countries which are major consumers of copper, as the result of lower copper consumption per unit of output, particularly in the electrical, industrial, engineering and transportation sectors.

7. In recent years, a number of copper mine-producing countries have tended to increase the domestic processing of copper concentrates. However, at the same time, low prices for refined copper, and strict anti-pollution regulations resulting in increased costs of production have led to shutdowns or production cutbacks in mine and smelter and refining production in many countries. These developments together with an excess of world smelter and refining capacity have contributed to shortages in world copper concentrates supplies for custom smelters and refiners in the countries which have low or no copper mine production and depend heavily on imports. In contrast, there exists a potential oversupply of refined copper in the world market, as metal production protential continues high while consumption has largely stagnated. The imbalance between refined copper capacity and relatively stagnant demand affects negatively the level of copper prices.

8. Until the early 1970s, world trade in copper had been increasing fairly steadily at a rate of about 4 per cent a year. However, since 1975,

the slowdown in economic growth in major consuming areas, has influenced adversely the continuous development of international trade in copper. This situation has affected particularly the developing producing countries, which depend heavily on copper exports for their earnings. Most copper trade takes place in the form of refined copper, which in 1985 accounted for 55 per cent of copper exports of market-economy countries. In the same year, copper ores and concentrates accounted for about 21 per cent, and blister and anode copper about 14 per cent of all market-economy trade in copper.

9. Almost two-thirds of market-economy copper ores and concentrates exports originate in developing countries, namely Chile, Mexico, Papua New Guinea, Indonesia, the Philippines, Peru, Zaire and Malaysia. Most of these products are destined to developed countries, notably to Japan and the Federal Republic of Germany. Japan which has important smelting and refining capacities and very small domestic mine production relies largely on foreign supplies of copper ores and concentrates. On average, its imports of ores and concentrates have accounted for about two-thirds of the imports of market-economy countries. Other important importers have been the Republic of Korea, Finland and Sweden. Though there has been a certain improvement in the copper concentrates market in the last two years, the custom concentrates market has been generally under pressure for several years due to shortages in supplies for the reasons expressed above.

10. Trade in refined copper has been stagnating since 1980 mainly due to declining exports by some developed countries, namely Canada and Japan. In contrast, exports of developing countries as a whole have increased. Most of refined copper exports are destined to developed countries, in particular to the EEC and to a lesser extent to the United States and Japan. The latter countries have increased considerably their imports in recent years.

11. Though the majority of the positive m.f.n. rates on copper were reduced in the Tokyo Round, certain important m.f.n. rates were either bound at the same level or only marginally reduced. In most countries m.f.n. duties increase with the higher degree of copper processing. In certain countries tariff protection starts already beyond the mining stage, while others initiate such protection with copper refining or semi-manufacturing or both. Imports from developing countries enjoy duty-free or preferential rates under GSP schemes. However, the GSP schemes of certain countries are subject to quantitative limitations or country exclusion provisions on copper products of their major interest.

12. Referring to shortages in copper concentrates, some members of the Group considered that the major difficulty in securing supplies of this product is due to market distortions. Customs smelters in some countries have been able to offer higher prices for copper concentrates as a result of government and other policies, such as tariff protection of domestic refined copper production, higher domestic prices of refined copper

compared with market prices (LME price), and unofficial import quotas. Traditionally, purchasing contracts for copper concentrates are based on prices for refined copper minus a treatment and refining margin expressed in United States cents per lb. of copper, reflecting the processing costs and the profit of the smelter. As this margin is similar at most smelters, none of them could pay higher prices for copper concentrates without suffering financial losses unless they benefit from special measures of support.

13. One member of the Group, referring to his country, argued that tariffs maintained by his government for copper products are fully legitimate under GATT. He explained that terms and conditions of purchasing contracts are outside the competence of GATT as they are determined purely by commercial considerations. Also prices for refined copper are based on free competition. There is no governmental intervention in prices or a price cartel. The producer price is a list price at which the producer wants to sell. Therefore it is not comparable with the metal exchange market price. Domestic selling prices customarily include, inter alia, inland freight costs for delivery while the LME price is set on the basis of f.o.b. LME approved warehouses. His country also does not maintain any restrictions on imports of refined copper, which fluctuate in line with demand. Ceiling limitations exist only with respect to duty-free imports under the GSP.

14. One delegation further stated that the abnormally high internal prices for copper metal, together with the low refining costs, which prevail in one country can only be possible on the basis of concealed import restrictions. These concealed import restrictions, in his view, violate GATT Articles, such as Article X, paragraphs 1 and 3, Article XI, paragraphs 1 and 2 and Article XIII, paragraph 3b as well as Article 3c of the Licensing Code. Another delegation also wondered whether quantitative trade restrictions, either mandatory or voluntary, existed in the same country. The representative of the country concerned thought that points raised by these delegations were irrelevant and were not included in the terms of reference of the Group. He stated that the information presented on his country by these delegations was erroneous and misleading. He argued that there is no evidence of any hidden restrictive practices in trade or pricing policy in his country. He pointed out that his delegation had submitted to the Group factual information which in his view clearly showed that the trade and pricing policies discussed did not, in any way, violate GATT Articles.

15. Several members of the Group considered that countries should not protect their industry by artificial means but should aim at competitiveness. They thought that the copper industry is another example of changes in industrial structure. Structural adjustment should be allowed to function, permitting the resource-producing countries to develop their processing industry, assuming they could be competitive. With respect to trade and trade policy measures they felt that the trade policy applied to copper and copper products needs further liberalization.

16. The Group was unable to agree on whether certain pricing and trading practices mentioned above, constituted a distortion in the supply and demand situation of copper concentrates, with an aggravating impact on world trade conditions. Members of the Group agreed, however, that world trade in copper has been negatively affected by various factors relating to production policies, structural changes, decline and changing patterns of consumption, and trade policy measures maintained by some countries. They considered that a strengthened free trade system and improved market access are the basic foundations for the development of world copper trade. They expressed the hope that further liberalization of copper trade would be achieved through the Uruguay Round of trade negotiations.