

# GENERAL AGREEMENT ON

RESTRICTED

## TARIFFS AND TRADE

C/W/524

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### UNITED STATES - TRADE MEASURES AFFECTING NICARAGUA

#### Communication from Nicaragua

The following communication has been received from the Permanent Mission of Nicaragua with the request that it be circulated to the contracting parties.

With a view to the implementation of Article XXIII:2 of the General Agreement, Nicaragua requests that the GATT Council of Representatives agree as follows:

Taking into account the Panel's report entitled "United States - Trade Measures Affecting Nicaragua" (document L/6053) and the discussions concerning this issue that have taken place in the Council and during the forty-second session of the CONTRACTING PARTIES (documents C/M/188, C/M/191, C/M/196, C/M/204, C/M/208, and SR.42/1);

Considering the Panel's conclusions, in particular "that the embargo had virtually eliminated all opportunities for trade between the two contracting parties and that it had, consequently, seriously upset the competitive relationship between the embargoed products and other directly competitive products" (paragraph 5.6), "that the consequences of the embargo on Nicaragua's trade and economy were severe" (paragraph 5.14) and that "embargoes such as the one imposed by the United States ran counter to basic aims of the GATT" (paragraph 5.16);

Taking note that the Panel decided, for the reasons mentioned in paragraph 5.11 of its report, "not to propose a ruling in this case on the basic question of whether actions under Article XXI could nullify or impair GATT benefits of the adversely affected contracting party";

Recognizing that, in accordance with the Decision concerning Article XXI of the General Agreement adopted by the CONTRACTING PARTIES on 30 November 1982, "when action is taken under Article XXI, all contracting parties affected by such action retain their full rights under the General Agreement", and that, consequently, measures adopted under Article XXI are subject to the provisions of Article XXIII:2 of the General Agreement;

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Noting that, under the embargo imposed by the United States, not only imports from Nicaragua into the United States are prohibited but also exports from the United States to Nicaragua, and that, in these circumstances, as stated in the Panel's report, "a suspension of obligations by Nicaragua towards the United States could not alter the balance of advantages ... under the General Agreement in Nicaragua's favour" (paragraph 5.11);

Having seen the decisions and resolutions adopted in the United Nations on this matter;

the CONTRACTING PARTIES

Decide to adopt the Panel's report contained in document L/6053;

Recognize Nicaragua's rights under Article XXIII in respect of the injury resulting from the measures applied by the United States in the context of Article XXI;

Conclude that the application of the embargo has nullified and impaired the benefits accruing to Nicaragua under the General Agreement as envisaged in Article XXIII:1(b);

Recommend to the United States that it take into consideration the negative effects of the application of the embargo on the functioning of the multilateral system and on international trade relations and likewise its serious consequences for the trade and economy of a developing contracting party, and that it lift the embargo promptly; and

Welcome any action that may be taken by contracting parties to grant trade concessions to Nicaragua, inter alia through special and differential treatment within the framework of the General Agreement and the legal framework agreements.