

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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Limited Distribution

COUNCIL

OBSERVER STATUS IN GATT

Note by the Secretariat

The following is a revision of the Note prepared by the Secretariat (C/129 and Supplements 1-4) at the Council's request in 1984. The present Note draws for the most part on the earlier text in summarizing existing practice with respect to admission of non-contracting parties and international organizations as observers at CONTRACTING PARTIES' sessions and at meetings of the Council and its subsidiary bodies. It also reflects more recent developments, including the introductory comments by the Chairman at the meeting of the Council on 16 May 1990 (C/M/241).

The Appendices to this Note have been updated to reflect the situation as at 1 June 1990.

I. Observers at sessions of the CONTRACTING PARTIES

1. The Rules of Procedure for sessions of the CONTRACTING PARTIES (BISD 12S/10) provide as follows:

Rule 8: "The representatives of countries signatories of the Final Act adopted at the conclusion of the United Nations Conference on Trade and Employment at Havana which have not become contracting parties may attend meetings in the capacity of observers participating in the discussions without vote."

Rule 9: "Representatives of other governments invited to the United Nations Conference on Trade and Employment and of intergovernmental organizations may attend the meetings as observers on the invitation of the CONTRACTING PARTIES and, on the invitation of the CONTRACTING PARTIES, participate without vote in accordance with the terms of such invitation."

2. Pursuant to these rules, the CONTRACTING PARTIES have admitted as observers at sessions the governments listed in Appendix I, List 1. Rule 9 has been applied to all countries not falling under Rule 8, whether they were invited to the Havana Conference or not.

3. The United Nations has observer status. Also, certain of its specialized agencies and regional commissions, and several other international organizations, have been admitted as observers. Those currently invited to sessions are listed in Appendix I, List 2.

4. Occasional references by governments to "permanent" observer status are taken to mean that requests are not related to a particular session only. There have been a few instances where observer status has been requested by a government or international organization, and was therefore granted, only for a particular session; but observer status has normally been granted for an indefinite period.

5. International non-governmental organizations (NGOs) do not have "consultative status" in GATT; none have been admitted as observers at sessions.

6. The composition of observer delegations is left to the governments or international organizations concerned.

II. Observers at Council meetings

A. Governments

7. Contracting parties are not ipso facto members of the Council¹, but can become so by simply announcing their wish to become members. Several contracting parties have not taken that step and are observers in the Council (Appendix II, List 1). A government which has acceded provisionally to the GATT can become a member of the Council, without voting privileges (BISD 9S/7).

8. Observers at sessions of the CONTRACTING PARTIES do not automatically have that status at meetings of the Council or its subsidiary bodies. At its first meeting in September 1960 (C/M/1, item 4), the Council agreed that the following should be invited to be represented by observers at Council meetings:

"governments, as follows: contracting parties and governments having acceded provisionally which were not members of the Council; governments associated with the work of the CONTRACTING PARTIES through special arrangements or which had been invited to participate in the work of the CONTRACTING PARTIES; and governments otherwise in the process of acceding or of being associated with the work of the CONTRACTING PARTIES".

9. Thereafter, whenever any non-contracting party has sought observer status in the Council, the request has referred to the possibility of future accession, although as stated by the Chairman at the May 1990 Council meeting, the process relating to the accession of governments to GATT is subject to separate procedures (C/M/241, item 1).

¹See the list of Council members in C/159.

10. A number of governments apply the substantive provisions of the General Agreement on a de facto basis² and, as such, are among the non-contracting parties invited as observers at sessions (Appendix I, List 1). In respect of observer status for meetings of the Council, however, these governments are treated like those of other non-contracting parties.

11. The Council has never taken a decision on the rights and obligations of observers. Some guidance in this respect may be found in the Rules of Procedure 8 and 9 for sessions of the CONTRACTING PARTIES', referred to in paragraph 1 of this Note. These Rules foresaw that observers may attend meetings and participate in discussions without vote. Following these guidelines, the Council has, in practice, invited observers to speak after Council members have spoken on a particular point.

B. International organizations

12. As in the case of non-contracting party governments, international organizations with observer status at sessions are not automatically admitted as observers to the Council. At its first meeting in September 1960 (C/M/1, item 4), the Council agreed that the following should be invited to be represented by observers at Council meetings;

"inter-governmental organizations, as follows: International Monetary Fund, Organization for European Economic Co-operation, United Nations, other inter-governmental organizations directly interested in matters before the Council, and also the secretariats of regional associations for economic integration."

13. Thereafter, a number of other international organizations have sought and been admitted as observers at Council meetings in accordance with this provision. The current list is shown in Appendix II, List 2.

III. Observers at subsidiary bodies

14. The procedures followed by the Intersessional Committee, predecessor to the Council, provided for contracting parties not members of that Committee or of a working party established by it, to be represented by observers at meetings of the Committee or working party (BISD 7S/7). Those procedures did not deal with non-contracting party governments or with international organizations.

15. While the Council's own procedures do not deal explicitly with the rights of non-contracting party observers, there is a longstanding practice under which governments and international organizations with observer status in the Council are invited to attend the meetings of all subsidiary

²See the Note by the Secretariat circulated in C/130.

bodies as observers, except those of the Committee on Budget, Finance and Administration. These subsidiary bodies have followed Council practice in respect of inviting observers to speak.

16. In a few instances, non-contracting party governments without Council observer status have been invited on an ad hoc basis to attend meetings of subsidiary bodies because of a direct involvement in the subject matter under discussion. This practice was followed in the case of the EEC Agreements with Algeria, Jordan, Lebanon and Syria, when the Lomé Agreements were being examined, and in the case of the Caribbean Basin Economic Recovery Act. In such cases, the invitation has been made by the Council itself and not by the subsidiary body concerned.

IV. Documents

17. Observer governments and international organizations receive copies of the main GATT documents series (L/, C/, C/W/, etc.) and of documents relating to the subsidiary bodies which they attend as observers. It is to be noted that in 1988, the Council approved a recommendation of the Budget Committee to the effect that observer governments be invited to contribute as from 1 January 1989 a minimum of SwF 1,000 towards the cost of documentation services provided by the Secretariat (C/M/226, item 14).

V. Review

18. At the Council meeting on 16 May 1990, the Chairman recalled that in July 1984, the then Chairman had undertaken to proceed with informal consultations concerning procedures and conditions for considering requests for observer status and the rôle of observers in GATT meetings. Such consultations had been held from 1984 to 1986, but had not led to concrete results. Against this background, the Council agreed to the Chairman's suggestion that "the whole issue of the status of observers and the rights and obligations of observers be reviewed at the end of 1992." (C/M/241, item 1).

APPENDIX I

OBSERVERS

CONTRACTING PARTIES SESSIONS

1. Governments

Countries applying
the General Agreement
on a de facto basis*

Countries signatories
of the Havana Final
Act which have not
become contracting
parties (Rule 8)

Countries not falling
into the first two
categories and which
have been granted
observer status

Algeria**
Angola
Bahamas
Bahrain
Brunei-Darussalam
Cambodia
Cape Verde
Dominica
Equatorial Guinea
Fiji
Grenada
Guinea-Bissau
Kiribati
Mali
Mozambique
Papua New Guinea
Qatar
St. Christopher
and Nevis
St. Lucia
St. Vincent and
the Grenadines
Sao Tomé and Príncipe
Seychelles
Solomon Islands
Swaziland
Tonga
Tuvalu
United Arab Emirates
Yemen, Democratic****

Afghanistan
Bolivia***
Costa Rica***
Ecuador
El Salvador**
Guatemala**
Iran
Iraq
Jordan
Lebanon
Liberia
Panama
Syria
Venezuela**

Bulgaria**
China**
Ethiopia
Guinea
Honduras**
Laos
Libyan Arab Jamahiriya
Nepal**
Paraguay**
Saudi Arabia
Somalia
Sudan
Union of Soviet
Socialist Republics
Viet Nam
Yemen Arab Rep.****

* See the Note by the Secretariat in C/130.

** Currently negotiating for accession or for resumption of contracting party status.

*** Ratification of Protocol of Accession pending.

**** Merged into the Republic of Yemen on 26 May 1990.

2. International organizations

United Nations (UN)

UN bodies and specialized agencies:

Economic and Social Commission for Asia and the Pacific (ESCAP)
Economic Commission for Africa (ECA)
Economic Commission for Europe (ECE)
Economic Commission for Latin America and the Caribbean (ECLAC)
Economic and Social Commission for Western Asia (ESCWA)
Food and Agriculture Organization (FAO)
International Labour Organization (ILO)
International Monetary Fund (IMF)
United Nations Conference on Trade and Development (UNCTAD)
United Nations Educational, Scientific and Cultural Organization (UNESCO)
United Nations Industrial Development Organization (UNIDO)
World Bank
World Intellectual Property Organization (WIPO)

Other organizations:

African, Caribbean and Pacific Group of States (ACP Group)
Andean Group Secretariat
Caribbean Community Secretariat
Central African Customs and Economic Union (UDEAC)
Commonwealth Secretariat
Cooperation Council for the Arab States of the Gulf (GCC)
Council of Europe
Customs Cooperation Council (CCC)
European Free Trade Association (EFTA)
Inter-American Development Bank (IDB)
Latin American Integration Association (ALADI)
Latin American Economic System (SELA)
League of Arab States
Organization for Economic Co-operation and Development (OECD)
Organization of American States (OAS)
Organization of the Islamic Conference
Secretariat of the General Treaty on Central American Economic Integration
(SIECA)
West African Economic Community (CEAO)

APPENDIX II

OBSERVERS

COUNCIL

1. Governments:

Contracting parties

Burundi
Cyprus
Haiti
Kenya
Malta

Non-contracting parties

Algeria*
Bolivia**
Bulgaria*
China*
Costa Rica**
Ecuador
El Salvador*
Guatemala*
Honduras*
Iran
Nepal*
Paraguay*
Saudi Arabia
Union of Soviet
Socialist Republics
Venezuela*

2. International organizations:

United Nations (UN)

UN bodies and specialized agencies:

Economic Commission for Africa (ECA)
Economic Commission for Europe (ECE)
Economic Commission for Latin America and the Caribbean (ECLAC)
Economic and Social Commission for Asia and the Pacific (ESCAP)
Food and Agriculture Organizations (FAO)
International Monetary Fund (IMF)
United Nations Conference on Trade and Development (UNCTAD)
World Bank
World Intellectual Property Organization (WIPO)

Other organizations:

African, Caribbean and Pacific Group of States (ACP Group)
Andean Group Secretariat
Caribbean Community Secretariat
Cooperation Council for the Arab States of the Gulf (GCC)
European Free Trade Association (EFTA)
Inter-American Development Bank (IDB)
Latin American Integration Association (ALADI)
Latin American Economic System (SELA)
Organization for Economic Co-operation and Development (OECD)
Organization of American States (OAS)
Secretariat of the General Treaty on Central American Economic Integration
(SIECA)

* Currently negotiating for accession or for resumption of contracting party status.

** Ratification of Protocol of Accession pending.