

**PREPARATORY COMMITTEE
FOR THE
WORLD TRADE ORGANIZATION**

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PREPARATORY COMMITTEE FOR THE
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MINUTES OF MEETING

Held on 31 May 1994

1. The Preparatory Committee for the World Trade Organization (WTO) held its second meeting at the level of Heads of Delegations under the Chairmanship of Mr. Peter D. Sutherland. Observers from the nineteen associated governments and the following four organizations - UN, UNCTAD, IMF, World Bank - attended the meeting in accordance with the Committee's decision at its first meeting (PC/M/1, paragraphs 14-15).

Sub-Committee on Institutional, Procedural and Legal Matters

(a) Chairmanship

2. The Chairman recalled that at its meeting on 29 April, the Committee had agreed to establish a fourth Sub-Committee on Institutional, Procedural and Legal Matters, in addition to the three - namely on Budget, Finance and Administration, on Services and on Trade and Environment - specified in the Ministerial Decisions of 14 April 1994, and whose Chairmen had already been designated. He recalled that further consultations had been necessary before the Chairman of the fourth Sub-Committee could be designated, and it was his understanding that the consultations, which had been conducted by the Chairman of the CONTRACTING PARTIES, were now concluded.

3. The Chairman of the CONTRACTING PARTIES said that he had had a series of informal contacts with delegations, on the basis of which he proposed that Mr. Kesavapany (Singapore) be nominated as Chairman of the Sub-Committee on Institutional, Procedural and Legal Matters.

4. The Committee approved the proposed nomination.

5. The representative of India said that he had been asked by the newly nominated Chairman of the Sub-Committee on Institutional, Procedural and Legal Matters to express the latter's appreciation for the confidence all had shown in appointing him to this position, and for their assistance and co-operation in helping him discharge the tasks assigned to the Sub-Committee. The Chairman hoped to convene the first meeting of the Sub-Committee within a week or so, at which he would present its work programme for consideration.

(b) Transitional arrangements

6. The Chairman said he wished to refer to the important matter of putting in place transitional arrangements to deal with ongoing activities under the GATT 1947, including the Tokyo Round Agreements, after the entry into force of the WTO Agreement. A specific example was pending dispute settlement cases when the parties concerned withdrew from any of these instruments. There were, of course, other institutional questions that would also need to be addressed. Accordingly, he proposed

that the Sub-Committee be given the task of making specific proposals in these areas for consideration by the Preparatory Committee.

7. The Committee so agreed.

Review of Work done under the Sub-Committees

8. The Chairman said that the three Sub-Committees dealing with Budget, Finance and Administration, Services and Trade and Environment had all had their first meetings.

9. The Sub-Committee on Trade and Environment had met on 11 May. Its Chairman would now be holding informal consultations on a detailed work programme for the period leading up to the first Ministerial meeting of the WTO. The next formal meeting of the Sub-Committee was planned for late June or early July. This meeting would consider the results of the Chairman's informal consultations, and also take decisions on the questions of observer participation and the type of records to be maintained of the Sub-Committee's proceedings. More meetings would be scheduled in the autumn.

10. The Sub-Committee on Budget, Finance and Administration had met on 16 May, and had considered issues related to its work programme for the immediate future. The Sub-Committee had agreed to its Chairman's suggestion to deal initially with the following among the subjects included in its terms of reference as defined by the relevant Ministerial Decisions:

- the seat of the WTO, a decision on which was needed so that the headquarters agreement could be drafted;
- guidelines for the assessment of budgetary contributions of the WTO Members; and
- organizational structure and staffing requirements of the WTO.

11. Following a discussion on the question of the seat and, in particular, the procedures to be followed in selecting the seat, the Sub-Committee had agreed to start the examination of proposals by Governments received at the latest by 15 June. Participants had also agreed that the Sub-Committee should aim to complete its examination in time to enable the Preparatory Committee to take a decision regarding the seat before the summer break. The Sub-Committee's Chairman would be holding informal consultations on the appropriate procedures. In respect of the assessment of budgetary contributions and the organizational structure and staffing requirements of the WTO, the Secretariat was in the process of finalizing background notes together with proposals designed to assist the deliberations.

12. The Sub-Committee on Services had met on 19 May, and had focused essentially on the organization of future work. The work programme had been described in a Secretariat Note entitled "Functions of the Sub-Committee on Services" (PC/SCS/W/1), which had served as the basis for the discussions. The Sub-Committee had agreed to give priority attention to the following areas:

- overseeing the negotiations that had already begun in relation to the Movement of Natural Persons, Maritime Transport, Basic Telecommunications and Financial Services;
- discussing outstanding issues relating to the scope of the GATS, with a view to making a final report to the Preparatory Committee before the end of the year; and
- developing guidelines for the notifications required under certain Articles of the GATS.

13. The Sub-Committee would also undertake preparatory work on the modalities for further negotiations mandated by the GATS, contribute to the development of terms of reference for the GATS Council and its subsidiary bodies, and be involved in the verification of all schedules of commitments in services.

14. As could be seen, the work programme for the Sub-Committee, even for the current year, was a heavy one. The Sub-Committee's next meeting would be held on 12 July.

Work under the Preparatory Committee

15. The Chairman said that there were important areas of work which had to be addressed directly by the Preparatory Committee. The most immediate was the implementation of the mandate contained in paragraph 8(b)(i) of the Ministerial Decision Establishing the Preparatory Committee (MTN.TNC/45(MIN), Annex IV). Based on consultations with delegations and the Secretariat's own thinking, he was now in a position to put forward certain specific proposals on how this work might be conducted pragmatically and expeditiously.

16. To complement bilateral negotiations on the schedules in goods and services, a multilateral process was needed to enable the Preparatory Committee to fulfil its mandate of examining and approving schedules of concessions and commitments to the GATT 1994 and schedules of specific commitments to the GATS in respect of signatories of the Final Act listed in paragraph 1(a) of the Ministerial Decision on Acceptance of and Accession to the WTO (MTN.TNC/45(MIN), Annex I).

17. It was proposed that, under the overall authority of the Preparatory Committee, the Secretariat would organize a multilateral process similar to the one leading up to the Marrakesh Ministerial meeting. This would ensure periodic monitoring of progress and maximum transparency.

18. The multilateral process on goods would be conducted by the Secretariat and would focus on the following matters:

- The verification of schedules of LLDCs that might be submitted, following the conclusion of bilateral negotiations, between now and the entry into force of the WTO. It should be kept in mind that in accordance with paragraph 1 of the Ministerial Decision on Measures in Favour of Least-Developed Countries, countries in this category could submit their schedules until April 1995 and still be original members of the WTO.
- The verification, following the conclusion of bilateral negotiations, of schedules of States or separate customs territories which had acceded to GATT 1947 under Article XXVI:5(c) but were not in a position to establish schedules to GATT 1994, and the schedules of States or separate customs territories which became contracting parties to the GATT 1947 between now and the entry into force of the WTO. It should be kept in mind that their GATT 1994 and GATS schedules would have to be approved by the Preparatory Committee before the entry into force of the WTO if these States and separate customs territories were to be original members of the WTO.
- The verification of the schedules of participants that were either least-developed countries or countries that had become contracting parties under Article XXVI:5(c) of the GATT 1947, which had been provisionally attached to the Marrakesh Protocol.

19. In respect of goods, he proposed that the process be conducted, as before, under the supervision of Mr. Hoda, Deputy Director-General of GATT.

20. In the area of services, following the conclusion of bilateral negotiations, the verification of GATS schedules of any signatory of the Final Act to which paragraph 1 of the Decision on Measures in Favour of the Least-Developed Countries applied, or which became a contracting party under Article XXVI:5(c) of the GATT 1947 before 15 April 1994 and was not in a position to establish a schedule to the GATS for inclusion in the Final Act, should be carried out by the Sub-Committee on Services and procedures should be put in place for this purpose.

21. The Preparatory Committee would receive regular reports on progress in both the areas that he had just outlined, and would take account of the results achieved in deciding whether to approve the GATT 1994 and the GATS schedules of the participants concerned. The matter would therefore ultimately come before the Preparatory Committee in this way.

22. A further element of work under paragraph 8(b)(i) dealt with governments that were signatories to the Final Act and to whom paragraph 5 of the Final Act applied, namely those that wished to join the WTO and that were in the process of joining GATT 1947. China had schedules on goods and services attached to the Marrakesh Protocol on a provisional basis. But there were also others that had, as yet, no schedules on goods and services and whose requests to join GATT 1947 were currently under examination in working parties established by the Council.

23. It was relevant to recall here that the Ministerial Decision regarding Acceptance of and Accession to the Agreement Establishing the World Trade Organization asked, *inter alia*, that the Preparatory Committee work jointly, to the extent practicable, with the Working Parties established by the CONTRACTING PARTIES to GATT 1947. In the spirit of this Decision, and in order to minimize duplication of effort, he would ask the Preparatory Committee to agree:

- (a) that in pursuance of paragraph 1(b) of the Decision on Acceptance of and Accession to the Agreement Establishing the WTO, the Preparatory Committee request the existing GATT working parties also to examine on its behalf, for cases of States or separate customs territories which would be in a position to join the GATT 1947 before the entry into force of the WTO Agreement and which also wished to accept the WTO Agreement in accordance with Article XIV of that Agreement, their schedules of concessions and commitments to GATT 1994 and the schedules of specific commitments to the GATS. In other words, the Working Parties would take on this larger responsibility. The Preparatory Committee, when deciding whether to approve such schedules, would take into account the results of the examination of the GATT working parties and the technical verification of these schedules in the process on goods proposed to be conducted under Mr. Hoda and on services intended to be conducted under the Sub-Committee on Services; and
- (b) that in pursuance of paragraph 2 of the Decision on Acceptance of and Accession to the Agreement Establishing the WTO, the Preparatory Committee, upon request by any State or separate customs territory to accede to the WTO in accordance with Article XII of the WTO Agreement, initiate the process of accession. If such a request were made by a State or separate customs territory for which a GATT working party already existed, the working party concerned should be requested to examine it on behalf of the Preparatory Committee and report to the Preparatory Committee.

24. The Committee agreed to these proposals.

25. The Chairman said that these arrangements would now be communicated to the Chairman of the GATT Council, to the chairmen of the twenty-one GATT working parties concerned, and to the Sub-Committee on Services for action, as appropriate. Consultations would be held shortly to flesh

out further details regarding the organization of work in all of these areas. The Preparatory Committee would maintain its overall supervisory rôle and would receive periodic reports on progress.

26. One general point needed to be made regarding the work programme he had just outlined and, in particular, the perspective with which, he believed, the Preparatory Committee should approach it. As the mandate suggested, all activity under the Committee should be geared to two crucially important objectives: first, to facilitate maximum possible participation in the WTO and its entry into force as scheduled; and second, to ensure that the WTO and all its subordinate bodies were fully operational from day one. Beyond these goals, he would suggest that the WTO and its bodies be left with all the flexibility they would need to develop further working procedures and to set priorities.

27. In this same context, he wished to make a final point regarding the ratification of the WTO by participants. The situation today had not changed substantially since the Marrakesh Ministerial meeting. As all were no doubt aware, there were a very large number of governments that had signed subject to ratification or not yet signed the WTO. The feedback he had from most capitals was that governments remained entirely committed to completing their ratification processes by the end of the year, and he was constantly in contact with them in this regard. In most cases, the weeks before the summer break in Geneva would be of special importance to the efforts being made in capitals. The Preparatory Committee should monitor progress in this area at periodic intervals.

28. Still on ratification, he said that among the 125 Uruguay Round participants there were, of course, a large number that wished to join the WTO as soon as possible and for whom effective technical assistance from the Secretariat was crucial towards completing the requirements for ratification and, thereby, facilitating ratification. He had in mind, in particular, the assistance needed by governments in the preparation and submission of draft schedules in goods and services which could thereafter be finalized following bilateral negotiations. The Secretariat was in regular contact with most governments in this position. In his capacity as Chairman, he had brought this matter to the attention of the capitals concerned. All in all, the Secretariat was proceeding with its technical cooperation programme on a priority basis, under the overall responsibility of Mr. Seade, Deputy Director-General of GATT.

29. The representative of India sought confirmation that the Sub-Committee on Services would be involved in the overall verification of the services schedules not only of LLDCs and those states and customs territories that had, or would, become contracting parties under Article XXVI:5(c), but also of those that sought accession under Article XXXIII.

30. The Chairman confirmed that the procedures as suggested by him and agreed by the Committee provided for the verification of GATS schedules being carried out by the Sub-Committee on Services in all cases.

31. The Committee took note of the statements.