

**GENERAL AGREEMENT  
ON TARIFFS AND TRADE**

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**COUNCIL  
4 October 1994**

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ISSUANCE AND DERESTRICTION OF GATT DOCUMENTS

Communication from the United States

The following communication dated 22 September 1994 has been received from the Office of the United States Trade Representative in Geneva with the request that the matter be inscribed on the Agenda of the Council meeting on 4 October 1994.

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The rules of the CONTRACTING PARTIES to the General Agreement concerning the restriction and derestriction of documents were adopted in the early days of the GATT and have not been systematically reviewed by the CONTRACTING PARTIES since that time. Under these rules, almost all GATT documents are issued as restricted documents, regardless of whether their content needs to be kept confidential. Some documents have never been derestricted even though the need for confidentiality has disappeared. The rules do not appear to strike the proper balance between, on the one hand, the need to protect the deliberative process by keeping certain information confidential – in particular, information contained in working drafts, information that could provoke speculative transactions or information the release of which could hamper the negotiating process – and, on the other hand, the very real need for public awareness and scrutiny of the activities of the GATT. Furthermore, the rules appear to create unnecessary obstacles to scholarly research on the GATT and an often unfair inequality of access to information on GATT activities.

The United States suggested at the 9-10 February 1993 meeting of the GATT Council that the Council review these rules with a view to improving current procedures. The Council took note of this concern and informal consultations, under the leadership of Ambassador Szepesi, formerly Chairman of the Council and currently Chairman of the CONTRACTING PARTIES, have been held on several occasions since that time.

Ambassador Szepesi's consultations have led to significant progress, and have not been entirely concluded. However, in light of the few remaining scheduled meetings of the GATT Council prior to the end of the year and the anticipated entry into force of the Agreement Establishing the World Trade Organization, the United States believes it is appropriate at this time to place before the Council for its consideration a set of specific proposals for improvements to current procedures on the issuance and derestriction of documents.

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Accordingly, the United States proposes that:

- (1) all documents circulated by the Secretariat to contracting parties (and designated observers) should be circulated as unrestricted except for: (a) working drafts (including "-/W/-" documents and those issued in the "-/SPEC/-" series), (b) documents presenting positions in Article XXVIII tariff negotiations (issued in the "SECRET/-" series), (c) documents submitted by a delegation that the delegation requests should be circulated as restricted, and (d) documents issued in a new series designated by decision as restricted;
- (2) current practice should be clarified and formalized to permit derestriction either (a) generally through periodic publication by the GATT Secretariat of a list of restricted documents that had been issued during the previous six months, or (b) specifically upon the request of any contracting party for consideration of the derestriction of particular GATT documents;
- (3) the Secretariat should be instructed to publish a list of historical GATT 1947 records that remain restricted (perhaps those more than three years old) so that they could be considered for derestriction; and
- (4) current practice providing the right of any contracting party to object to the derestriction of a document or part thereof should be preserved.

The United States looks forward to working together with other delegations to introduce improvements to current GATT procedures as rapidly as possible, so that historical GATT documents might be dealt with in an efficient manner and that the improved practices could be carried over into the WTO. Moreover, rapid action on these proposals will help to ensure their expeditious consideration by bodies established under certain agreements and arrangements under the auspices of the GATT, such as the Committees and Councils of the Tokyo Round Agreements, that do not come under the aegis of the GATT Council and its procedures.