

**GENERAL AGREEMENT
ON TARIFFS AND TRADE
WORLD TRADE ORGANIZATION**

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MEASURES TO DEAL WITH MEMBERS IN CATEGORY IV OF
THE ADMINISTRATIVE ARRANGEMENTS ON ARREARS

Background

1. The existing GATT procedures for dealing with arrears will be adopted by the WTO. In October 1988, the GATT Council approved a recommendation on administrative arrangements for improving the cash situation of the GATT, which included as a final stage (Category IV) the following:

"Should a contracting party be in arrears for three years' assessed contributions at the end of GATT's financial year, the situation would be reviewed by the Committee on Budget, Finance and Administration with a view to proposing, as appropriate, other measures to the Council to reinforce the obligation to pay contributions".

(For full details of the administrative measures, see GATT Budget, Finance and Administration Committee Paper L/6384 paras 34 to 41 - see **Annex 1**).

2. In June 1991, the GATT Committee on Budget, Finance and Administration examined the situation of contracting parties with three or more years' assessed contributions outstanding and recommended that "a decision on the introduction of further administrative measures be deferred until the conclusion of the Uruguay Round". (L/6870, paragraph 51)

3. At present there are 21 Contracting Parties in Category IV, see **Annex 2**.

Considerations

4. It is relevant that Article VII-4 of the WTO Agreement states:

"Each Member should promptly contribute to the WTO its share in the expenses of the WTO in accordance with the financial regulations adopted by the General Council".

5. It is appropriate for the WTO to start with a complete set of administrative procedures for dealing with arrears. It is therefore necessary to address the present situation whereby no measures are in place to deal with Members in Category IV.

6. It is important that the financial accounts of the WTO are not distorted by the undifferentiated treatment of chronic and long-term debt.

Recommendation

7. It is recommended that:
- (a) a Member be designated as an Inactive Member if, at the end of a financial year, the full contributions for three or more years, commencing with the year 1989*, are unpaid;
 - (b) the list of Inactive Members be notified to the General Council by the Committee on Budget, Finance and Administration at the beginning of each calendar year with a recommendation that these Members be urged to liquidate their arrears;
 - (c) assessments for Inactive Members for a given year be placed in a separate account and not counted as part of the anticipated revenue of the WTO for that year;
 - (d) as soon as an appropriate payment is made by an Inactive Member, the General Council be notified immediately of the consequential deletion from the list of Inactive Members;
 - (e) Inactive Members be denied access to training or technical assistance other than that necessary to meet their WTO Article XIV-2 obligations;
 - (f) arrears collected from Inactive Members for a given year be placed in the Surplus Account.
8. It is recommended that these measures be introduced with effect from 1 January 1995 except for paragraph 7(c) which would be introduced with effect from the 1996 financial year.

*This is on the understanding that the assets and liabilities of the GATT have been transferred to the WTO.

Note: It is recommended that a comparable resolution be prepared for the Session of CONTRACTING PARTIES in respect of Contracting Parties to GATT 1947 not also Members of the WTO.

Annex 1

34. The Secretariat was requested to report on the experience of other international organizations in dealing with the problem of contributions in arrears (see Annex B).

35. With regard to the possibility of charging interest on outstanding contributions, some members said that they were opposed to such a measure as it would inflict an even heavier burden on contracting parties who already have great difficulties in meeting their financial obligations and would only serve to increase the level of outstanding contributions. Other members thought that interest should not be charged ad infinitum but rather should be limited to three or four years.

36. One member of the Committee suggested that if payment of contributions were more than six months late, the contracting party concerned would be obliged to make an advance payment on the next year's contribution. He further proposed that participation in panels or meetings on Codes could be assessed separately to those contracting parties involved, while another member thought that such a measure might discourage a wider participation in the GATT framework and should not be pursued. It was also suggested that contracting parties in arrears would be charged the costs of a panel that they might request or that costs of panels could be debited to the offending party.

37. One member considered that a better financial management of the system of mailing documents would entail savings which could improve the cash situation significantly. He thought that the Committee could request the Secretariat to ask contracting parties if they wanted to collect their documents on their own through their Geneva-based delegations or to receive them by mail locally or in capitals, on payment of an appropriate fee.

38. The Committee was ultimately of the opinion that financial measures such as the charging of interest on contributions in arrears should not be introduced.

39. A number of members were not prepared to accept measures which would infringe upon the rights of contracting parties under the GATT. They would favour those which would cause administrative inconvenience or embarrassment for contracting parties in arrears. In addition, it was suggested that there would be a permanent point on the Council agenda under which the Director-General would inform the Council on the state of contributions. Contracting parties with contributions in arrears could then be asked to report to the Council on measures they intend to take in order to meet their obligations.

40. Some members thought that measures should be imposed only after the level of outstanding contributions reached that equal to two years' assessments, and that there should furthermore be a grace period of four months before such sanctions were applied. Others felt that the administrative measures should go further in order to assure their effectiveness. Yet others expressed reservations on the principle itself of applying sanctions to contracting parties.

41. So as to avoid the occurrence of arrears in the future, the Committee recommends to the Council that the fundamental obligation to pay contributions in full be reinforced and that gradually implemented administrative measures be introduced as from 1 January 1989.¹ These measures, which would be

¹ These measures will not be applied in case of outstanding contributions relating to 1987 and/or earlier assessments.

applied, where appropriate, after three month's notice by the Secretariat to the contracting party concerned and the granting of a grace period of one month, would comprise:²

After one full year's assessed contribution remains outstanding at the end of GATT's financial year:

- documentation would not be posted to delegations to the GATT in Geneva,
- representatives would not be nominated to preside over GATT bodies.

After more than one but less than two full years' assessed contributions remain outstanding at the end of GATT's financial year:

- documentation would not be posted to delegations to the GATT in Geneva,
- representatives would not be nominated to preside over GATT bodies,
- new membership to and participation in the Committee on Budget, Finance and Administration would be reserved for contracting parties whose contributions are paid or who have not more than one full year's assessment outstanding.

After two but less than three full years' assessed contributions remain outstanding at the end of GATT's financial year:

- documentation would not be posted to delegations to the GATT in Geneva,
- representatives would not be nominated to preside over GATT bodies,
- new membership to and participation in the Committee on Budget, Finance and Administration would be reserved for contracting parties whose contributions are paid or who have not more than one full year's assessment outstanding,
- documentation would not be posted to contracting parties,
- recommendations by the Committee on Budget, Finance and Administration to the Council or CONTRACTING PARTIES on financial matters would be acted on only by contracting parties whose contributions are paid or who have less than two full years' assessments outstanding.

After three full years' assessed contributions remain outstanding at the end of GATT's financial year:

Should a contracting party be in arrears for three full years' assessed contributions at the end of GATT's financial year, the situation would be reviewed by the Committee on Budget, Finance and Administration with a view to proposing, as appropriate, other measures to the Council to reinforce the obligation to pay contributions.

² The first grace period will be extended to 30 June 1989. All contributions received from 1 January 1988 to 30 June 1989 will, in the first instance, be credited against the 1988 assessment unless otherwise instructed by the contracting party concerned. All contributions received after 30 June 1989 will, in the first instance, be credited against the oldest outstanding contribution beginning with 1988; the contracting party concerned may however elect to pay first the amounts due under any instalment plans established under paragraph 25 a) and b).

Annex 2

List of contracting Parties which are in Category IV as of 30 September 1994.

Antigua and Barbuda
Burundi
Cameroon
Central African Republic
Chad
Congo
Dominican Republic
Gambia
Ghana
Haiti

Kenya
Mauritania
Nicaragua
Niger
Rwanda
Senegal
Sierra Leone
Suriname
Togo
Uganda
Zaire