

GENERAL AGREEMENT ON TARIFFS AND TRADE

CONFIDENTIAL

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Multilateral Trade Negotiations

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FRAMEWORK

(Circulated at the request of a number of delegations)

I. GENERAL ENABLING CLAUSE

1. The provisions of paragraph 1 of Article I shall not prevent contracting parties from according differential and more favourable treatment generally to all the less-developed contracting parties in all aspects of their trade with contracting parties, without according such treatment to developed contracting parties, provided that such differential and more favourable treatment be designed to facilitate the conduct of trade of the less-developed contracting parties and not to raise barriers to the trade of other contracting parties.
2. The provisions in paragraph 1 above are applicable to the interpretation and implementation of any pertinent provisions of the General Agreement and of any other instruments related to the General Agreement in such a way as to secure additional benefits for the less-developed contracting parties.
3. The CONTRACTING PARTIES shall take implementing decisions to facilitate the application of the above provisions, as necessary.
4. Any contracting party applying the provisions of paragraphs 1 and 2 shall notify the CONTRACTING PARTIES and furnish them all useful information relating to the actions taken.
5. Any contracting party which considers that any benefit accruing to it under the General Agreement may be or is being impaired unduly as a result of actions taken under paragraph 1, 2 or 3 shall have adequate opportunity for consultations with other contracting parties or with the CONTRACTING PARTIES.

II. GENERALIZED SYSTEM OF PREFERENCES

1. The provisions of paragraph 1 of Article I shall not prevent contracting parties from according, at any time, generalized, non-reciprocal and non-discriminatory preferential tariff treatment to products originating in the territory of less-developed contracting parties, without according such treatment to like products of developed contracting parties, provided that such treatment shall be designed to facilitate trade from the less-developed contracting parties and not to raise barriers to the trade of other contracting parties.

2. Any contracting party which introduces preferential tariffs or modifies its existing preferential tariff rates shall notify the CONTRACTING PARTIES and furnish them with all useful informations relating to these actions.
3. Contracting parties according preferential concessions should endeavour to constantly improve the quantity and quality of such preferential concessions in keeping with the needs of the less-developed contracting parties.
4. The contracting party according such preferential treatment will consult with any less-developed contracting party or parties, prior to modifications or withdrawals of preferential concessions.
5. Any contracting party taking action under paragraphs 2 and 3 above shall afford adequate opportunity for consultations at the request of any other contracting party which considers that any benefit accruing to it under the General Agreement may be or is being impaired unduly as a result of such action.

III. NEGOTIATED PREFERENTIAL CONCESSIONS

1. The provisions of paragraph 1 of Article I shall not prevent a contracting party from negotiating with and from according preferential concessions to a less-developed contracting party or parties, which shall be applied on a non-discriminatory basis to all less-developed contracting parties.
2. If a preferential concession is so negotiated between a contracting party and a less-developed contracting party, the preferential concessions so accorded will be inscribed in a new Part III of the appropriate Schedule annexed to the General Agreement under Article II of the Agreement, and the concession accorded by the less-developed contracting party shall be inscribed in Part I of the appropriate Schedule annexed to the General Agreement.
3. The products described in Part III of the Schedule relating to any contracting party, which are the products of territories of less-developed contracting parties, shall, on their importation into the territory to which the Schedule relates, and subject to the terms, conditions or qualifications set forth in that Schedule, be exempt from ordinary customs duties in excess of those set forth and provided for therein. Such products shall also be exempt from all other duties or charges of any kind imposed on or in connexion with importation in excess of those imposed on or those directly and mandatorily required to be imposed thereafter by legislation in force in the importing territory on that date.

4. Modifications or withdrawals of concessions appearing in Part III of the Schedules shall be subject to the negotiation procedures applicable to Part I of the Schedules.

5. Any contracting party concluding a negotiation for granting, modifying or withdrawing a concession under paragraphs 1, 2, 3 and 4 above, shall afford adequate opportunity for consultations at the request of any other contracting party which considers that any benefit accruing to it under the General Agreement may be or is being impaired unduly as a result of such action.

IV. BALANCE OF PAYMENTS

A

1. The contracting parties recognize that less-developed contracting parties generally suffer a structural imbalance in their balance of payments, as a result of the growth process of their economies, and the constant need to increase their imports of goods, services and capital resources and, therefore, that less-developed contracting parties find it necessary to take measures, including trade measures, to protect their balance of payments or to prevent its further deterioration or to help redress significant bilateral deficits with a developed contracting party.

2. The contracting parties furthermore recognize that the balance-of-payments situation of a less-developed contracting party is often jeopardized by external factors, such as restrictive measures taken by other contracting party or parties that affect essential exports of that less-developed contracting party.

3. Therefore, the contracting parties agree that:

- (a) the basic objective of consultations with less-developed contracting parties on actions taken by them is to seek means of redressing their balance-of-payments situation;
- (b) less-developed contracting parties shall be permitted to determine the nature of the safeguard measures which they deem appropriate to protect their balance-of-payments position against threats or actual deterioration;
- (c) less-developed contracting parties may deviate from the provisions of non-discriminatory application of such measures, provided that the CONTRACTING PARTIES consider such deviation instrumental in helping the less-developed contracting party overcome its difficulties.

B

4. Consultations on balance-of-payments restrictions introduced by less-developed contracting parties shall take fully into account the objectives and considerations contained in A above. Such consultations shall be held in the Balance-of-Payments Committee.
5. Simplified consultation procedures shall be adopted for balance-of-payments consultations with less-developed contracting parties, excepting when: (a) the less-developed contracting party taking the action requests full consultation procedures; (b) the Balance-of-Payments Committee decides otherwise.
6. In the case of paragraph 5(b) above, a contracting party or contracting parties wishing to propose a full consultation shall submit to the Committee in detail the reasons which justify such consultation. The Committee shall examine the matter, and if agreement on such a proposal cannot be reached, the contracting party or contracting parties making the request shall be invited to consult with the less-developed contracting party applying the balance-of-payments measures. If such consultations are not deemed satisfactory by the requesting contracting party or parties, these may submit the matter to the Chairman of the Committee, who shall make a final ruling on the matter.
7. In considering a request made under paragraph 6 above, the Committee and its Chairman shall take inter alia the following factors into consideration:
 - (a) whether, in the light of the prevailing economic situation, an excessively long period of time has elapsed since the initial balance-of-payments action was taken;
 - (b) whether, during this period of time, internal and external changes in the economic situation of the less-developed contracting party no longer seem to justify the maintenance of the restrictions applied;
 - (c) whether new measures have been introduced.
8. Under simplified consultation procedures, the Balance-of-Payments Committee shall:

/to be completed/
9. Under full consultation procedures, the Balance-of-Payments Committee shall:
 - (a) follow regular consultation procedures recommended by the CONTRACTING PARTIES under Articles XII:4(b) and XVIII:12(b) of the General Agreement (BISD, 18th Supplement, pages 52-53), wherever applicable;

- (b) consider an objective trade policy-oriented study, to be prepared by the secretariat, including (i) an evaluation of trade restrictive measures taken by other contracting parties that might have adversely influenced the balance-of-payments situation of the less-developed contracting party, and (ii) possible external corrective measures to improve the balance-of-payments situation of the less-developed contracting party;
 - (c) examine the overall trade situation of the less-developed contracting party together with measures imposed by other countries that might have precipitated the action taken by that less-developed contracting party;
 - (d) take into account the development, financial and trade needs of the less-developed contracting party when formulating its conclusions or recommendations on the consultations;
 - (e) address, if it deems necessary, recommendations to other contracting parties, with a view to individual or collective action to help redress the balance-of-payments situations of the less-developed contracting party.
10. If action pursuant to recommendations under paragraph 9(e) above is not taken, the less-developed contracting party may submit the question to the Council for consideration and action in accordance with procedures under Articles XXII and XXIII of the General Agreement.

C

11. The contracting parties recognize that safeguard action for balance-of-payments purposes taken by a developed contracting party may seriously affect the economies of less-developed contracting parties. Consequently, developed contracting parties compelled to take action under Article XII of the General Agreement undertake not to apply such trade restricting measures to exports from less-developed contracting parties, excepting if:

- (a) products imported from less-developed contracting parties are found to be a direct or major cause of the balance-of-payments difficulties;
- (b) restraints on imports of certain products from developed contracting parties are found to be insufficient to contain the major inflow of such imports, provided imports of such products are a direct or major cause of the balance-of-payments difficulties;
- (c) the safeguard action is not likely to cause a direct and substantial damage to the economy or the export earnings of the less-developed contracting parties.

12. Action taken under sub-paragraphs (a) to (c) of paragraph 11 above shall be subject to scrutiny under regular consultation procedures in the Balance-of-Payments Committee, which may issue recommendations on such action.
13. In such cases, the provisions of paragraph 10 in B above shall apply.

V. SAFEGUARD ACTION FOR ECONOMIC DEVELOPMENT PURPOSES

1. The contracting parties recognize that action under Article XVIII, Sections A and C of the General Agreement may be necessary to implement programmes and policies of economic development.
2. Consequently, contracting parties agree that recourse to any action under Article XVIII, Sections A and C may be justified either by the need to establish particular industries, or by the need to implement relevant features of the economic development plans and programmes of the less-developed contracting party, including: (a) economic structural adjustment; (b) industrial and agricultural development; (c) adjustment to changing trade patterns; and (d) promotion and diversification of exports.

VI. CONSULTATION, DISPUTE SETTLEMENT AND SURVEILLANCE PROCEDURES UNDER ARTICLES XXII AND XXIII¹

1. Contracting parties shall notify the other contracting parties of all government decisions which might be relevant to the trade interests of less-developed contracting parties in advance of the date on which measures object of such government decision are to enter into force.
2. In critical circumstances, to be determined by the CONTRACTING PARTIES, where delay would cause serious damage, which it would be difficult to repair, measures referred to in paragraph 1 above, may be taken provisionally on the condition that notification shall be made immediately after taking such measures.
3. Upon a notification under paragraph 1 or 2 above, the contracting party making the notification shall promptly enter into consultation with a less-developed contracting party directly or indirectly concerned, if so requested by such a contracting party.

¹The present paper is a consolidation of the Brazilian proposals (underlined texts) with the Decision of 5 April 1966.

4. The result of this consultation or consultations shall be notified to the Director-General, who shall accordingly inform the contracting parties.
5. If such consultations between a less-developed contracting party and a developed contracting party in regard to any matter falling under paragraph 1 of Article XXIII do not lead to a satisfactory settlement, the less-developed contracting party complaining of the measure may request the good offices of the Director-General, or of the Chairman of the CONTRACTING PARTIES or of the Council, who shall use their good offices with a view to facilitating a solution.
6. To this effect the contracting parties concerned shall, at the request of the Director-General, or of the Chairman of the CONTRACTING PARTIES or of the Council, promptly furnish all relevant information.
7. On receipt of this information, the Director-General or the Chairman of the CONTRACTING PARTIES or of the Council shall promptly consult with the contracting parties concerned and with such other contracting parties or intergovernmental organizations as they consider appropriate with a view to promoting a mutually acceptable solution.
8. After a period of two months from the commencement of the consultations referred to in paragraph 7 above, if no mutually satisfactory solution has been reached, the Director-General or the Chairman of the CONTRACTING PARTIES or of the Council shall, at the request of one of the contracting parties concerned, bring the matter to the attention of the CONTRACTING PARTIES or the Council, to whom he shall promptly submit a report on the action taken by him, together with all background information.
9. Upon receipt of the report, the CONTRACTING PARTIES or the Council shall forthwith appoint a panel of experts to examine the matter with a view to recommending appropriate solutions. The members of the panel shall act in a personal capacity and shall be appointed in consultation with, and with the approval of, the contracting parties concerned (according to procedures to be established).
10. In conducting its examination and having before it all the background information, the panel shall take due account of all the circumstances and considerations relating to the application of the measures complained of, and particularly of their impact on the trade and economic development of affected less-developed contracting parties.
11. The panel shall, within a period of sixty days from the date the matter was referred to it, submit its findings and recommendations to the CONTRACTING PARTIES or to the Council, for a prompt recommendation or a ruling in a specially convened session, if necessary. Where the matter is referred to the Council, it may, in accordance with Rule 8 of the Intersessional Procedures adopted by the CONTRACTING PARTIES at their thirteenth session, address its recommendations directly to the interested contracting parties and concurrently report to the CONTRACTING PARTIES.

12. Should the recommendation or ruling of the CONTRACTING PARTIES or the Council be favourable to the complainant, such recommendation or ruling should include:

- (i) withdrawal of the measure that led to the complaint; or
- (ii) adequate trade compensation to the affected less-developed contracting party; or
- (iii) authorization to the less-developed contracting party to withdraw concessions or suspend its obligations under the General Agreement, in regard to the contracting party causing the damage.

13. Upon the issuance of the recommendation or ruling referred to in paragraphs 11 and 12 above, the CONTRACTING PARTIES or the Council, if so requested by the complainant, shall keep the matter under close surveillance.

14. Within a period of ninety days from the date of the decision of the CONTRACTING PARTIES or the Council, the contracting party to which a recommendation or ruling is directed shall report to the CONTRACTING PARTIES or the Council on the action taken by it in pursuance of the decision.

15. If on examination of the report referred to in paragraph 14 above, it is found that a contracting party to which a recommendation or ruling has been directed has not complied in full with the relevant recommendation or ruling of the CONTRACTING PARTIES or the Council, and that any benefit accruing directly or indirectly under the General Agreement continues in consequence to be nullified or impaired, the CONTRACTING PARTIES may authorize:

- (i) withdrawal of concessions or suspensions of obligations as in paragraph 12(iii) above; or
- (ii) other joint action by the CONTRACTING PARTIES, including suspension of rights under the General Agreement of the developed contracting party causing the damage;
- (iii) any other measure.

16. In determining the extent of the concessions to be withdrawn by the less-developed contracting party or of the latter's obligations under the General Agreement referred to in paragraphs 12(iii) and 15(i) above that might be suspended in regard to the developed contracting party causing the damage, the CONTRACTING PARTIES or the Council shall evaluate the damage not only in terms of trade coverage but also in terms of its impact on the trade flows of the less-developed contracting party.

17. In the pertinent matters mentioned above, the Director-General of GATT shall on his own initiative or if so requested by a less-developed complainant, provide technical assistance to the less-developed complainant.

18. If consultations, held under paragraph 2 of Article XXXVII, relate to restrictions for which there is no authority under any provisions of the General Agreement, any of the parties to the consultations may, in the absence of a satisfactory solution, request that consultations be carried out by the CONTRACTING PARTIES or the Council pursuant to paragraph 2 of Article XXIII and in accordance with the procedures set out above, it being understood that a consultation held under paragraph 2 of Article XXXVII in respect of such restrictions will be considered by the contracting parties as fulfilling the conditions of paragraph 1 of Article XXIII if the parties to the consultations so agree.

VII. RECIPROCITY, NEGOTIATIONS, MODIFICATIONS, WITHDRAWALS AND SUSPENSIONS OF CONCESSIONS

1. Negotiations between developed and less-developed contracting parties under Article XVIII, paragraph 7, Article XXVIII, Article XXVIII bis and Article XXXVI and other pertinent provisions, shall be governed by the following rules and criteria, so as to ensure additionality of benefits to less-developed contracting parties:

- (a) developed contracting parties shall not seek, neither shall less-developed contracting parties be required to make, equivalent concessions that are inconsistent with the latter's development, financial and trade needs;
- (b) consequently, in determining whether an exchange of concessions is mutually advantageous, special weight shall be given, among other factors, to the relative impact of each concession on the national economy and particularly on the external trade flows of the negotiating contracting parties;
- (c) a developed contracting party may negotiate with a group of less-developed contracting parties taken collectively;
- (d) a less-developed contracting party may negotiate a single concession in exchange for several different concessions by developed contracting parties;
- (e) the implementation of a concession accorded by a less-developed contracting party may be deferred by this less-developed contracting party for a period of up to three years and, then, the implementation of the concession may be staged over a period of time to be agreed between the negotiating contracting parties;

- (f) a less-developed contracting party may, at any time, invoke Article XVIII, Section A, to seek adjustment or modification of concessions accorded to it by a developed contracting party or parties, in order to compensate the less-developed contracting party for emerging imbalances in the value of previous reciprocal concessions as a result of new patterns of trade and to take into account its economic development needs;
- (g) under the pertinent provisions of the General Agreement (Articles XVIII:7(b); XVIII:21; XXIII:2; XXVIII:3(a); XXVIII:3(b); and XXVIII:4(d)), when agreement is not reached between a developed contracting party and a less-developed contracting party, the developed contracting party may withdraw or suspend a concession to a less-developed contracting party with the prior authorization of the CONTRACTING PARTIES which shall take into account, inter alia, the following considerations:
 - (i) the measure adopted by the developing contracting party is serious enough, in the light of the national economic interests of the developed contracting party, to justify such action;
 - (ii) the measure adopted by the developed contracting party does not impair the implementation of the programmes and policies of economic development of the less-developed contracting party;
 - (iii) the developed contracting party requesting authorization to suspend or withdraw a concession is the principal supplier of the product affected by the measure taken by the less-developed contracting party.
- (h) the relative importance of a particular product for the trade of a less-developed contracting party shall be duly recognized in the definition of its substantial supplier interest;
- (i) principal supplier rights for withdrawal or modification of a concession by a developed contracting party shall be extended to a less-developed contracting party or a group of less-developed contracting parties having substantial supplier interest;
- (j) a less-developed contracting party withdrawing or modifying a concession may offer compensation only to the contracting party with which the concession was initially negotiated;
- (k) if the concession was initially negotiated with more than one contracting party, the less-developed contracting party may offer compensation only to that contracting party which is also, at the time, the principal supplier;
- (l) if the initial negotiating contracting party cannot be determined, the less-developed contracting party may offer compensation only to the principal supplier.