MULTILATERAL TRADE NEGOTIATIONS
THE URUGUAY ROUND

RESTRICTED
MTN.GNG/NG8/W/2
4 May 1986

Special Distribution

Group of Negotiations on Goods (GATT)
Negotiating Group on MTN Agreements and Arrangements

MTN AGREEMENTS AND ARRANGEMENTS: SPECIAL AND DIFFERENTIAL TREATMENT FOR DEVELOPING COUNTRIES

Note by the Secretariat

At the first meeting of the Negotiating Group on MTN Agreements and Arrangements, held on 6 March 1987, the secretariat was requested to prepare a factual background note on the provisions contained in the MTN Agreements and Arrangements relating to special and differential treatment for developing countries. The following paper describes, for each of the Codes, any special provisions relating to special and differential treatment and any problems which have arisen concerning the participation of developing countries in the Codes. Current membership of the Codes is shown in the Annex.

I. AGREEMENT ON GOVERNMENT PROCUREMENT

1. Article III of the Agreement is entitled "Special and Differential Treatment for Developing Countries".

Article III:1 and 2

2. The objectives of the Agreement in the area of special and differential treatment are spelt out in paragraph 1 of Article III. This paragraph states, inter alia, that the Parties shall, in the implementation and administration of the Agreement duly take into account the development, financial and trade needs of developing countries, in particular the least-developed countries, in their need to safeguard their balance-of-payments position and ensure a level of adequate reserves; promote the establishment or development of domestic industries and development of other sectors; support industrial units wholly or substantially dependent on government procurement; encourage their economic development through regional or global arrangements among developing countries presented to the CONTRACTING PARTIES and not disapproved by them.

3. Paragraph 2 provides that the Parties shall, in the preparation and application of laws, regulations and procedures affecting government procurement, facilitate increased imports from developing countries, bearing in mind the special problems of the least-developed countries.

4. No particular problems have been raised in the Committee on Government Procurement concerning the above provisions. However, the objectives laid down in paragraph 1 have been referred to in connection with the implementation of paragraph 3.

Article III:3

5. Paragraph 3 states that, with a view to ensuring that developing countries are able to adhere to the Agreement on terms consistent with their development, financial and trade needs, the objectives in paragraph 1 shall be duly taken into account in the course of the negotiations on entity lists of developing countries to be covered by the Agreement. Paragraph 3 further states that developed countries "shall endeavour to include entities purchasing products of export interest to developing countries."

6. At its meetings in January 1981 and February 1983, the Committee adopted procedures for accession of contracting parties (L/5101, Annex II and L/5466, Annex I). Hong Kong and Singapore have been Parties since the entry into force of the Agreement. Israel acceded to the Agreement on 29 June 1983. At the end of the Tokyo round, negotiations on the entity lists of four developing contracting parties remained incomplete. Three of these governments have apparently not pursued negotiations since the entry into force of the Agreement. Two developing contracting parties have held consultations with the Parties, but these have not lead to their accession.

7. Developing countries have referred, directly or indirectly, to Article III:3 on a number of occasions in connection with the question of accession to the Agreement and the criteria used in the negotiations concerning entity offers. This was the case at the Committee meetings of: 8-9 July 1981 (GPR/M/3, paragraph 4); 25-26 May 1983 (GPR/M/8, paragraph 4); 13 November 1983 (GPR/M/9, paragraphs 9 and 17-20); 1-2 February 1984 (GPR/M/10, paragraph 3); 14-15 November 1984 (GPR/M/14, paragraph 4); 2 May 1985 (GPR/M/17, paragraph 3).

8. The Committee's 1983 report to the CONTRACTING PARTIES (L/5503) contained sections dealing with "Adequacy and Effectiveness of the Agreement and Obstacles to Accession to the Agreement". The last paragraph notes, inter alia, that the Committee and its individual members remain ready to discuss further with interested parties any obstacles that they may feel exist to their acceptance of the Agreement.

9. The Committee, when opening the Article IX:6(b) negotiations at its November 1983 meeting, specifically invited governments not Parties to participate. It was pointed out in this connection that such governments would be considered participants when they had tabled an entity offer, and that the tabling could be done at any point during the negotiations. At a meeting of the Committee in February 1984, one Party stated its understanding that the agreed procedures for participation of observers in the Article IX:6(b) negotiations implied that if an observer wished to become a participant on the basis of an entity offer presented prior to the negotiations, it should notify the Committee to this effect. Further, that in doing so, such an observer would undertake the same requirements as the Parties had undertaken in respect of the submission of information on

entities and other aspects of the negotiations (GPR/M/10, paragraphs 34-35). No contrary view was expressed on this understanding. No observer, however, sought to become a participant in the first phase of these negotiations which was concluded at the November 1986 meeting of the Committee.

10. During discussions of problems connected with evaluating the possible benefits of acceding to the Agreement, the subject of transparency was raised (GPR/M/9, paragraph 9, GPR/M/10, paragraph 3). In order to help in alleviating problems of transparency some changes were made in the Committee's procedures regarding the distribution of statistical information. From 1983, the annual statistical reports have been circulated as ordinary GPR documents (and thus made available to observers), statistical reviews are conducted in regular Committee meetings, and statistics are derestricted one year after the conclusion of the annual review.

11. In the report of the Working Group on MTN Agreements and Arrangements (BISD 32S/108) it is noted, inter alia, that "Some members of the Group stressed the multilateral nature of the procedures set out in the Agreement for the entity negotiations between the parties to the Agreement and countries wishing to accept it. Two members said that their countries' efforts to participate had failed because their entity offers had not been found acceptable. They suggested that the parties, in responding to entity offers of developing countries wishing to accept the Agreement, should pay greater attention to the development, financial and trade needs of these countries in accordance with the principles set out in Article III:3. Another member said his authorities were considering the recently revised entity offers of some developing countries in a positive light but did not consider purely symbolic offers sufficient. Relatively limited entity offers by developing countries might be acceptable in the context of a gradual expansion of their entity lists in accordance with an evolutionary clause."

Article III:4-7

12. It is specified in paragraph 6 of Article III, that paragraphs 4 and 5 shall apply mutatis mutandi, to developing countries acceding to the Agreement after its entry into force. Paragraph 4 stipulates that developing countries may negotiate mutually acceptable exclusions from the rules on national treatment[1] with respect to certain entities or products, having regard to the particular circumstances of each case. The considerations mentioned in paragraph 1(a)-(c) of Article III have also to be taken into account. Developing countries participating in arrangements among developing countries referred to in paragraph 1(d) may also negotiate exclusions to their lists, having regard to the particular circumstances of each case, taking into account, inter alia, the provisions on government

[1]The basic principles of the Agreement laid down in Article II.

procurement provided for in the arrangements concerned and, in particular, products which may be subject to common industrial development programmes. Paragraph 5 provides that the developing country Parties may subsequently modify their entity lists in accordance with Article IX:5, (which requires compensatory adjustments with a view to maintaining a comparable level of mutually agreed coverage), having regard to their development, financial and trade needs. Alternatively they may request the Committee to grant exclusions along the same lines as in paragraph 4. Paragraph 7 states that agreed exclusions shall be subject to review in accordance with the provisions of paragraph 13 of Article III.

13. One developing country has availed itself of the provisions concerning agreed exclusions.

Article III:8-12

14. Paragraphs 8-9 deal with technical assistance for developing country Parties. Paragraph 10 provides that the developed country Parties shall establish, individually or jointly, information centres to respond to reasonable requests from developing country Parties for information relating to government procurement in general as well as actual proposed procurements. All developed country Parties have set up information centres and have procedures in place for technical assistance. The "Practical Guide to the Agreement on Government Procurement" published in March 1985, contains information which could also be of value to interested non-signatory governments.

15. Paragraphs 11-12 provide that special treatment shall be granted to least-developed country Parties and to suppliers in those countries in the context of any measures in favour of developing country Parties. The Parties may also grant the benefits of the Agreement to suppliers in the least-developed countries which are not Parties. This has been done by many of the Parties to the Agreement.

16. At the conclusion of the first phase of Article IX:6(b) negotiations on 21 November 1986 it was agreed to add the following new provision to Article III:

> "10. Technical assistance referred to in paragraphs 8 and 9 above would include translation of qualification documentation and tenders made by suppliers of developing country Parties from a GATT language designated by the entity, unless developed country Parties deem translation as burdensome, and, in that case, explanation shall be given to developing country Parties upon their request addressed either to the developed country Parties or to their entities." (GPR/M/24, page 14).

Article III:13

17. The Committee is required to review annually the operation and effectiveness of Article III and after each three years of its operation, to carry out a major review in order to evaluate its effects. Having regard to the development, financial and trade situation of the developing countries concerned, the Committee is also required to examine whether exclusions provided for in accordance with the provisions of paragraphs 4 to 6 shall be modified or extended. The Committee has had two major reviews, in November 1983 and November 1986. At the first review it was agreed that, in view of statements made by non-Parties in the GATT Council, observers be invited to explain to the Committee problems they might have encountered in acceding to the Agreement so that the Committee might be in a position to examine such problems with a view to ascertaining whether something could be done to make accession of interested observers easier. No written communications were received in response to this invitation. At the November 1986 meeting no statements were made under the relevant agenda item.

Article III:14

18. This provision stipulates that in the course of further rounds of Article IX:6(b) negotiations, the developing country Parties shall give consideration to the possibility of enlarging their lists of entities having regard to their economic, financial and trade situation. Comments which seem relevant to this provision were made in the 1985 Working Group (see last sentence of paragraph 11 above).

Article IX:6(b)

19. It is specified that negotiations undertaken pursuant to the above provision shall be "with a view to broadening and improving this Agreement on the basis of mutual reciprocity having regard to the provisions of Article III."

20. At the meeting in November 1986 one Party emphasized the need to improve the Agreement so as to make it more attractive for developing countries to accede to it (GPR/M/24, paragraph 25). Another Party added that to make the Agreement more attractive would be another way of broadening coverage (idem, paragraph 46).

Note to Article I, paragraph 1

21. This note states that "Having regard to general policy considerations relating to tied aid, including the objective of developing countries with respect to the untying of such aid, this Agreement does not apply to procurement made in furtherance of tied aid to developing countries so long as it is practised by Parties."

Note to Article V, paragraph 14(h)

22. This note reads as follows: "Having regard to the general policy considerations of developing countries in relation to government procurement, it is noted that under the provisions of paragraph 14(h) of Article V, developing countries may require incorporation of domestic content, offset procurement, or transfer of technology as criteria for award of contracts. It is noted that suppliers from one Party shall not be favoured over suppliers from any other Party."

23. A suggestion was made in the first phase of the Article IX:6(b) negotiations, to delete this note (GPR/W/56, Rev.5, item 14). At the meeting on 27 February 1986 one observer expressed concern that proposals such as this would result in the dilution of provisions for developing countries and take the Agreement even further out of reach of those among them who wished to accede to it (GPR/M/21, paragraph 11). The suggested elimination of the note was not agreed upon. Instead, the following new sentence has been added to the note in the Protocol amending the Agreement: "Where known, these requirements shall be specified in the notice of proposed procurement and tender documentation." (GPR/M/24, page 18).

II. AGREEMENT ON IMPLEMENTATION OF ARTICLE VII (Customs Valuation)

24. The question of the difficulties that particular countries, especially developing countries, might have in accepting the Agreement was a major issue in its negotiation that was not resolved until November 1979, when the text of a Protocol aimed at meeting the requirements of developing countries was worked out. The provisions on special and differential treatment in the Agreement, including its Protocol, relate to the following:

Article 21.1 and Protocol, paragraph 1:2

25. These provisions provide for possible delay of the application of the provisions of the Agreement by developing countries from the date of its entry into force for such countries. Four countries (one of which has accepted the Agreement subject to ratification) are presently invoking Article 21.1. One of these Parties requested an extension of its period of delay under the provisions of paragraph 2 of the Protocol (VAL/17). On 23 January 1986 the Committee on Customs Valuation agreed to this request and extended the delay until 1 July 1987 (see document VAL/M/16). Further statements on the matter were made in November 1986 (VAL/M/19, paragraphs 44-52).

Article 21.2

26. This provision provides for possible additional delay of the application of the computed value method of valuation. Three countries (one of which has accepted the Agreement subject to ratification) presently invoke Article 21.2. In the decision referred to in paragraph 2 above, the

Committee noted that, under Article 21.2 of the Agreement, the Party in question will delay the application of Article 1.2(b) (iii) and Article 6 for a further period of two years after the application of all other provisions of the Agreement.

Article 21.3

27. This provision covers technical assistance to be furnished by developed country Parties to requesting developing country Parties on mutually agreed terms. Annex II of the Agreement also stipulates in paragraph 2(e) that one of the responsibilities of the Technical Committee established under the auspices of the Customs Co-operation Council, is "to facilitate, as requested, technical assistance to Parties with a view to furthering the international acceptance of this Agreement."

28. The sixth (1986) annual review of the operation and implementation of the Agreement states that "Technical assistance aimed at providing information to assist countries in their consideration of joining the Agreement and at helping countries in their preparations for the application of the Agreement has continued to be a matter of high priority to Parties, the Committee on Customs Valuation and the Technical Committee. Technical assistance is being made available to both developing country Parties and other developing countries interested in the Agreement." (VAL/28, page 7).

29. Information on technical assistance activities relating to the Agreement is contained in documents VAL/W/29/Rev.1 and Addendum 1-2 and VAL/W/29/Rev.2). Further information has been provided at the meetings of the Committee by Parties and the Customs Co-operation Council.

Protocol, paragraph I:3

30. Developing countries may make a reservation concerning minimum values on a limited and transitional basis under such terms and conditions as may be agreed by the Parties. One country has reserved the right to retain a system of fixed tariff values (VAL/M/16, paragraphs 11-12). Another country has obtained a decision from the Committee whereby it retains minimum values and reference prices on certain products until 23 July 1988 (VAL/M/18, paragraph 3). See also VAL/M/19, paragraphs 32-37.

Protocol, paragraph I:4

31. Developing countries may make reservations concerning possible removal of the discretion accorded to importers regarding the order of application of the deductive and computed methods of valuation. Five countries (one of which has acceded to the Agreement subject to ratification) are at present invoking this provision.

Protocol, paragraph I:5

32. Developing countries may enter reservations concerning application of Article 5.2 whether or not the importer so requests. Four countries (one of which has acceded to the Agreement subject to ratification) are at present invoking this provision.

Protocol, paragraph I:6

33. This provision recognizes the concerns expressed by certain developing countries regarding importations by sole agents, sole distributors and sole concessionaires and contains a provision for study of this question, if problems arise in practice, with a view to finding appropriate solutions.

Protocol, paragraph I:7

34. This provision concerns the interpretation of Article 17 regarding the rights of customs administrations to satisfy themselves as to the truth or accuracy of any statement, document or declaration. It recognizes that Parties, subject to their national laws and procedures, have the right to expect the full co-operation of importers in these enquiries. Although this provision applies to all Parties, it was included to respond in particular to concerns expressed by developing countries.

Protocol, paragraph I:8

35. This provision recognizes that the price actually paid or payable includes all payments actually made or to be made as a condition of sale. The last sentence of the foregoing paragraph is relevant to this provision as well.

Procedures concerning reservations

36. Under certain of the provisions on special and differential treatment, reservations involving developing countries are automatically accepted (Protocol, paragraphs I:4 and 5). In other cases, including all reservations by developed countries, reservations are subject to the consent of the other Parties (Article 23). At its first meeting, in January 1981, the Committee adopted procedures for reservations (VAL/M/1, Annex 2).

Obstacles to acceptance which contracting parties may have faced

37. A special meeting of the Committee on Customs Valuation was held on 9 May 1985 on the adequacy and effectiveness of the Agreement and obstacles to its acceptance which contracting parties might have faced. A secretariat background document noted, inter alia, that the 1983 report to the CONTRACTING PARTIES, had mentioned that: "the following are the principal difficulties cited by the twenty-two countries that had replied

to the questionnaire as of the last meeting of the Technical Committee in March 1983... training of customs personnel (mentioned by eleven countries); determining procedures and practices for the application of the Agreement (six countries); loss of revenue because of the provisions on commissions and advertizing and related expenses (six countries); providing guidance to importers (five countries); preparation of laws, regulations and rulings to implement the Agreement (five countries); greater risk of fraud (three countries); and transactions between related parties (three countries). (See background document, VAL/W/28, paragraph 6.)

38. The above-mentioned background document contains a number of additional points concerning, inter alia, work undertaken in the Technical Committee and in the CCC that might be of relevance to consideration of factors affecting accession such as studies, advisory opinions, technical assistance and the Seoul Declaration (see VAL/12), adopted unanimously by the ninety-five member countries of the Customs Co-operation Council at its annual plenary session in May 1984, which urges, inter alia, all those countries not yet Parties to the GATT Valuation Code to intensify their efforts to accede and implement it as soon as possible. In informing the Committee about this matter at the Committee's November 1984 meeting, the observer from the CCC said that the Seoul Declaration was highly significant in indicating the belief of the members of the CCC that the future of the CCC in the field of valuation lay with the GATT Valuation Code (VAL/M/11, paragraph 7). The 1984 annual review elaborated further on "additional benefits for trade of developing countries" (VAL/13, pages 9-10).

39. Prior to the special meeting of the Committee in May 1985 observers were invited to participate in informal consultations on questions relating to accession. A report on these informal consultations, held on 16 April 1985, was made to the special meeting. As regards factors or difficulties influencing decisions on accession, the following points made by the Chairman to the Committee can be cited:

> "two observers had said that for them the decision was not a purely national one, but one that would have to be taken collectively or in a co-ordinated fashion by the regional groupings to which they belonged;
>
> an observer had said that in his country an important concern was the extent to which the Agreement gave customs adequate possibilities to deal with false invoicing and, as a related matter, its possible implications for government revenue in his country. In the experience of his country, even where the buyer and seller were not related in terms of Article 15 or the existence of such a relationship could not be established, collusion between the buyer and seller to provide a false invoice was a common practice;

reference had also been made to the technical and administrative requirements involved in adopting the Agreement - for example, the need to adapt national legislation and procedures, and to train staff - although it had been recognized that the provisions on special and differential treatment, in particular the possibility of delayed implementation, were of considerable assistance in overcoming these problems;

the need for fuller information on the GATT valuation system before a decision could be taken had been stressed."

40. As regards what could be done to meet these problems, the Chairman's report listed a number of suggestions made by observers:

"several had referred to the importance of technical assistance, at the national and/or regional levels, to clarify the provisions of the Code and assist in training and the process of its implementation;

an observer had referred to the interest of his country in learning from the experience of those developing countries already applying the Agreement;

an observer had suggested that the Parties should investigate ways of guaranteeing the authenticity of invoice values through mutual administrative arrangements." (VAL/M/12, paragraph 3)

41. The Chairman's report also refers to certain points which had been made by Parties to the Agreement in the course of the informal consultations: "As to the question of the risk of fraud... Article 17 and paragraph 7 of the Protocol reaffirmed the rights of customs administrations... all valuation systems were faced with problems of fraud and... it was possible to establish procedures to deal with such problems wherever fraud was suspected. As regards implications for revenue, it had been recognized that the taxable base may be subject to some reduction compared to some other systems because of the exclusion of certain uplifts, but it had been pointed out that the conclusion reached in those Parties that had endeavoured to quantify this had been that the shrinkage was very small. Moreover, a value had to be put on the simplicity and the savings of administrative expenses that had resulted from the application of the Code and also on co-operation with other countries." (Idem, paragraph 4)

42. At the special meeting of the Committee some Parties noted, inter alia, that "the main difficulties facing developing countries with acceding to the Agreement appeared to be technical ones, in the resolution of which technical assistance was most important... technical assistance was readily available from many sources." (Idem, paragraphs 6-7).

43. In the report to the Council of the Working Group on MTN Agreements and Arrangements adopted by the Council in July 1985, it was mentioned that "The members of the Group shared the favourable evaluation of this Agreement by the Committee on Customs Valuation. (BISD 32S/108)

Substantial difficulties encountered by Parties in applying the Agreement and general appreciation of experience with the operation and implementation of the Agreement

44. The sixth (1986) annual review of the implementation and operation of the Agreement states, inter alia, that "As in previous years of operation of the Agreement, no Party has reported any substantial difficulty with applying the Agreement." (VAL/28, paragraph 11). ..."As in previous years, Parties have indicated general satisfaction with their experience with the operation and implementation of the Agreement, which has continued to contribute towards the realization of its objectives and to creating improved conditions for the conduct of international trade. While some two-thirds of international trade is already subject to the provisions of the Agreement, this contribution would be enhanced by the adoption of the Agreement by more countries." (Idem, paragraph 16)

III. AGREEMENT ON TECHNICAL BARRIERS TO TRADE (Standards)

Special and differential treatment of developing countries

45. In the preamble to the Agreement it is recognized that developing countries may encounter special difficulties in the formulation and application of technical regulations, standards and methods for certifying conformity with technical regulations and standards. Article 12 sets out provisions on "Special and differential treatment of developing countries". Under these provisions Parties are required to take into account the special development, financial and trade needs, as well as special problems including institutional and infrastructural difficulties experienced by developing countries.

Article 12.1 and 12.2

46. Parties are required to provide differential and more favourable treatment to developing countries which have adhered to the Agreement through the provisions of Article 12, as well as through the relevant provisions of other Articles of the Agreement. Article 12.2 requires Parties to give particular attention to the provisions of the Agreement concerning developing countries' rights and obligations and to take into account the needs of developing countries in their implementation of the Agreement at the national level and in the operation of the Agreement's institutional arrangements.

Article 12.3

47. With regard to preparation and application of technical regulations, standards, test methods and certification systems, this provision is intended to emphasize that in applying the operative provisions of the Agreement (Articles 2.1, 3.1, 4.1, 7.1, 8.1 and 9.1) the particular needs of developing countries are to be taken into account, and unnecessary obstacles not created to their exports.

Articles 12.4 to 12.6

48. Article 12.4 recognizes that technical regulations and standards adopted in developing countries reflect their particular technological and socio-economic conditions. While the Agreement requires in Article 2.2, that standards developed at international level be used as a basis for national standards, under Article 14.4 developing countries are allowed to deviate from international standards which are not compatible with their development needs. In parallel with the provisions of Article 2.3, those of Article 12.5 and 12.6 encourage Parties to the Agreement to facilitate participation of developing countries in international standardization and certification work and to promote preparation of international standards on products of special interest to developing countries.

Article 12.8

49. This provision allows a developing country which is unable to fully discharge its obligations to request specified exceptions from obligations under the Agreement. The Committee is empowered to grant these exceptions for a limited period, after having considered the special problems encountered by the developing country.

50. One developing country has obtained a time-limited exception under the provisions of Article 12.8. In accordance with the terms of the Understanding which was reached between that country and Parties to the Agreement before the former signed the Agreement in 1983, it was initially granted an exception for a period of two years from the obligations of Article 7.2. This exception was successively extended by the Committee until 1 April 1987 (TBT/M/12 and TBT/M/24).

51. In the Working Group on MTN Agreements and Arrangements it was proposed that the signatories to the Agreement grant a time-limited waiver from certain obligations under the Agreement for all developing countries wishing to participate. However, it was also pointed out that Article 12.8 of the Agreement gave the Committee on Technical Barriers to Trade the power to grant, upon request, specified, time-limited exceptions from obligations under the Agreement, and that no additional procedures were needed (BISD, 32S).

Article 12.9

52. This provision ensures that developed country Parties take into account in their consultations under Article 14.1 and 14.2 with developing countries, the special difficulties experienced by these countries and referred to in the Preamble to the Agreement.

Article 12.10

53. In the annual reviews on the implementation and operation of the Agreement under Article 15.8, the Committee takes note of reports by Parties on the special and differential treatment granted to developing

countries at national and international levels as required by the provisions of this Article. The results of the annual review for 1986 are recorded in documents TBT/25 and Suppl.1 and TBT/M/23.

54. Given the nature of the special difficulties and problems which developing countries encounter in the standards-related areas, the provisions of the Agreement on transparency including notifications of proposed technical regulations and certification systems and the establishment of enquiry points are of special importance to developing country Parties. As stipulated in Article 10.4, the GATT secretariat draws the attention of developing country Parties to notifications received in accordance with the Agreement, which relate to products of particular interest to them.

55. A Special Meeting of the Committee on Technical Barriers to Trade was held in May 1985 following an invitation by the CONTRACTING PARTIES to examine the adequacy and effectiveness of the Agreement and the obstacles to acceptance which contracting parties may have faced (L/5756). At that meeting it was recognized that the problems of infrastructure for carrying out obligations under the Agreement were more acute in developing country Parties than in developed country Parties, and that developing countries had had administrative difficulties, in particular, in establishing the necessary infrastructure during the initial stages of their acceptance of the Agreement.

56. Several participants in the Special Meeting expressed their interest in a more active participation by developing country Parties in the work of the Committee, as well as in facilitating access to the Agreement by more developing countries. An information meeting held by the Committee, also in May 1985, was considered as a positive step in that direction (TBT/20).

Technical Assistance

57. Under Article 11, where obligations to grant technical assistance apply to requests from developed and developing country Parties alike, each provision of that Article makes a special reference to developing countries. The obligations of Article 12.7 deal specifically with technical assistance to developing countries with a view to removal of unnecessary obstacles to the expansion and diversification of exports from these countries. However, such advise and assistance is in some cases subject to mutually agreed terms and conditions. In accordance with Article 12.7 such terms and conditions will be determined taking into account the stage of development of the requesting developing country.

Article 11.1 - 11.5

58. The areas in which a Party is required to advise and to grant technical assistance are:

(i) the preparation of technical regulations;

(ii) the establishment of national standardizing bodies;

(iii) participation in international standardizing bodies;

(iv) the establishment of certification bodies for providing a certificate or mark of conformity with the standards adopted within the territory of the requesting Party (Article 11.4).

(v) the establishment of regulatory bodies, or certification bodies for providing a certificate or mark of conformity with technical regulations and the methods by which their technical regulations can best be met Article.

(iv) steps that should be taken by the producers in the requesting country, if they wish to take part in certification systems operated by governmental or non-governmental bodies within the territory of the Party receiving the request.

Article 11.6 - 11.7

59. Parties which are members or participants of international or regional certification systems are required to advise and grant technical assistance in order to enable the requesting Parties to establish such institutions and legal framework which would enable them to fulfil the obligations of membership and participation in such systems. Parties are likewise required to encourage certification bodies within their territories if such bodies are members or participants in international or regional certification systems, to advise and consider requests for technical assistance regarding the establishment of the institutions which would enable the relevant bodies within the territories of the requesting Party to fulfil the obligations of membership and participation.

Article 11.8

60. This provision requires Parties to give priority to the technical assistance needs of least-developed countries.

61. In considering the ways in which the provisions of Article 11 could be given operational significance, the Committee agreed to the following procedures for the exchange of information on technical assistance. Specific needs for technical assistance as well as information that may be provided by potential donor countries on their technical assistance programmes may be communicated to Parties through the secretariat. In agreement with requesting countries or potential donor countries, as the case may be, the information concerning specific needs and technical assistance programmes would be circulated by the secretariat to all signatories on an informal basis. Whilst information would be multilateralized in this manner, technical assistance would continue to be provided on a bilateral basis. The secretariat would reflect the

information circulated under this procedure in the documentation prepared for annual reviews of the implementation and operation of the Agreement if the Parties concerned so agree. Technical assistance would remain as an item of the agenda of the Committee on a permanent basis and would be included on the agenda of a regular meeting of the Committee when so requested by a signatory in accordance with the agreed procedures (TBT/M/17).

62. In the Special Meeting held in May 1985, Parties considered that any action to make the implementation of the provisions of the Agreement on technical assistance more effective would also be of value in improving decision-making processes and in facilitating the establishment of efficient information exchange systems in developing countries. One Party suggested that special efforts should be made to improve the operation of Article 11 of the Agreement. In the Working Group on MTN Agreements and Arrangements, several members expressed their gratitude for the technical assistance which various Parties to the Agreement had offered to facilitate their acceptance of the Agreement (BISD, 32S).

63. In May 1985 the Committee also held an Information Meeting with developing country signatories and non-signatories. In his report on this meeting the Chairman of the Committee stated that interested delegations had made presentations which gave detailed explanations and views on various topics relative to the Agreement. He said that despite the efforts which had been made by the Committee to organise such a meeting, attendance by non-signatory developing countries had fallen short of expectations. However, delegations from non-signatory developing countries which attended reported that preparations for acceptance of the Agreement had reached an advanced stage in their capitals. These delegations had sought clarification under various topics presented by Parties and had discussed the scope of the Agreement with regard to standards-related issues of concern to their countries and to developing countries in general (TBT/M/19).

IV. AGREEMENT ON INTERPRETATION AND APPLICATION OF ARTICLES VI, XVI AND XXIII (SUBSIDIES AND COUNTERVAILING MEASURES)[1]

GATT rules

64. Article XVI of the General Agreement does not contain any special provision regarding developing countries. However, the prohibition to use export subsidies on exports of non-primary products is applicable only to those contracting parties which have signed the 1960 Declaration Giving Effect to the Provisions of Article XVI:4 (see page 70). Consequently all developing countries, except one, are not bound by this prohibition.

---

[1] This section of the paper is identical with the relevant part of an extended paper on the Subsidies Code which has been produced for the Negotiating Group on Subsidies and Countervailing Measures (MTN.GNG/NG10/W/4).

Agreement on Subsidies and Countervailing Measures - Article 14 - Developing countries (main provisions)

Article 14 - Developing countries

65. Signatories recognize that subsidies are an integral part of economic development programmes of developing countries.

66. Accordingly, this Agreement shall not prevent developing country signatories from adopting measures and policies to assist their industries, including those in the export sector. In particular the commitment of Article 9 shall not apply to developing country signatories, subject to the provisions of paragraphs 5 through 8 below.

67. Developing country signatories agree that export subsidies on their industrial products shall not be used in a manner which causes serious prejudice to the trade or production of another signatory.

68. There shall be no presumption that export subsidies granted by developing country signatories result in adverse effects, as defined in this Agreement, to the trade or production of another signatory. Such adverse effects shall be demonstrated by positive evidence, through an economic examination of the impact on trade or production of another signatory.

69. A developing country signatory should endeavour to enter into a commitment to reduce or eliminate export subsidies when the use of such export subsidies is inconsistent with its competitive and development needs.

Relevant Decisions by the Committee on Subsidies and Countervailing Measures

70. At its 28 March 1980 meeting, the Committee on Subsidies and Countervailing Measures took the following decision on procedures concerning commitments to be undertaken under Article 14:5 (SCM/M/2, paragraphs 5 and 31):

> "In accordance with footnote 32 to Article 14:5, countries intending to enter into a commitment under Article 14:5 should notify the Committee in good time. For this purpose they are invited to notify the Chairman of the Committee of the proposed commitments at least forty-five days before the matter is taken up by the Committee".

71. This decision was accompanied by a statement by the Chairman concerning the operation of this decision (SCM/M/2, paragraph 36):

"(a) The Chairman will seek to consult informally with signatories and the country proposing to undertake the commitment before formally putting the commitment before the Committee;

(b) when the matter comes before the Committee, signatories of the Agreement may request the Committee:

(i) to seek further clarification and information on the proposed commitment;

(ii) to examine, in the light of the provisions of Article 14:5, the applicability of the provisions of Articles 14:6 and 14:8 to the proposed commitment;

(c) the Committee then takes note of the commitment."

Description of the problem

72. The Agreement on Subsidies and Countervailing Measures provides for special treatment for developing countries regarding export subsidies on non-primary products (as defined by the Agreement, i.e. including minerals) only. It maintains, therefore, the existing legal situation of developing countries under the General Agreement with one important modification, namely that their right to use export subsidies on non-primary products is formally recognized. This right is, however, subject to the qualification that these subsidies shall not be used in a manner which causes serious prejudice to the trade or production of another signatory. The only provision of Article 14 which has been discussed in the Committee on Subsidies and Countervailing Measures is its paragraph 5. The question has arisen as to whether developing countries, when adhering to the Agreement on Subsidies and Countervailing Measures must necessarily make a commitment so that other signatories extend to them the benefits of the Agreement, including the injury test, in the application of countervailing duties. The difficulties in negotiating the commitment referred to above have affected accession of a number of developing countries to the Agreement.

Discussion in the Committee on Subsidies and Countervailing Measures

Statement by the representative of the United States at the meeting of 8 May 1980

73. "The representative of the United States believed that the Agreement negotiated on subsidies and countervailing measures in the MTN was one of the most important, perhaps the most important, agreement emanating from the MTN. The United States had long sought greater discipline over the use of subsidies that conferred unfair competitive advantages upon the products of the subsidizing country and believed that the new subsidies/countervailing Agreement was a significant initial step in this direction. He also believed that through the Agreement significant gains had been made in the area of transparency with respect to the use of subsidies, in the area of consultation, conciliation, and dispute

settlement procedures at the international level: and in the area of transparency and due process with respect to the administration of domestic countervailing duty laws and regulations. He said that the United States was pleased that the Agreement finally laid out an agreed international framework for taking countervailing actions in respect of problems generated by the use of trade distorting subsidies. He recalled that the United States had taken the necessary legislative and administrative steps to implement fully its obligations under this Agreement, and the relevant United States laws and regulations in the countervail area had been notified in SCM/1/Add.3. He believed it crucial that all signatories implemented the Agreement on a timely basis, both on the subsidies side and on the countervailing measure side, in fulfilment of their obligations. He expected that a systematic review of how signatories had implemented the Agreement would be undertaken by the Committee this autumn. Referring to the procedures for dealing with export subsidy commitments made by developing countries as called for by Article 14:5, he said that his own informal contacts with developing countries had led him to believe that considerable uncertainty remained as to the position of the United States with respect to commitments by developing countries in the export subsidy field. He recalled that the United States' countervailing duty law was enacted in 1897 without an injury test. Under the protocol of provisional application, this law was consistent with the GATT obligations of the United States. When the United States expanded the scope of the countervailing duty law to cover duty-free imports in 1975, an injury test was included for such imports to comply with their GATT obligations. Prior to the negotiation of the subsidies code. the United States still had no injury test in its domestic countervailing law for dutiable merchandise. One of the major objectives of the trading partners of the United States in negotiating this code was to have the United States expand its injury test to dutiable products and to make the test one of 'material injury'. The fundamental negotiating position of the United States had been that they would give other countries a material injury test in their law for dutiable, as well ad duty-free, products in return for increased discipline over other countries' trade distorting subsidy practices. Essentially, this remained their position. With respect to developing countries, he believed that increased discipline entailed commitments by developing countries to bring their export subsidy practices into line with their own particular trade and development needs. In some developing countries, this implied a complete and prompt phase-out of export subsidies; in others, it implied a less rigorous reduction of export subsidies. The United States' position was that it could extent the benefits of an injury test in its law only to those countries that had undertaken increased discipline in the subsidies area. In the case of developing countries, this meant that the United States could only apply its new countervailing duty law to those developing countries that had undertaken commitments with regard to their export subsidies practices. The United States was flexible as to the contents of these commitments, as long as there was a commitment to eliminate export subsidies as soon as possible depending upon a country's competitive and development needs. The United States was

anxious to have developing countries sign this Agreement and to extend the benefits of their new countervailing duty law, including an injury test, to them. He said that while he in no way contested the right of any country to sign this code without the commitments he had referred to, his Government would find it impossible to apply their new law to imports from developing countries which did not provide commitments." (SCM/M/3, paragraph 11)

Statement by the observer for India at the meeting of 8 May 1980*

74. "The observer for India joined the observer for Colombia in stressing the concern that the statement by the representative of the United States had caused to developing countries, potential signatories to this Agreement, and the danger that such restrictive interpretations were taking the goal of developing countries' participation further away. He recalled his statement made on behalf of developing countries at the March meeting of the Committee. He was happy to note that the United States were not questioning the right of developing countries to accede to the Agreement without any commitments being made in terms of Article 14:5. He was concerned that despite this recognition, the United States had, in their domestic legislation, provisions which necessitated these commitments, at least in terms of application of the injury test to developing countries. In terms of logic one would tend to draw the conclusion that the United States legislation was not in line with the provisions of the Agreement, not even in line with their interpretation of the provisions of the Agreement. He hoped that the Committee would include this aspect of the United States' domestic legislation in its systematic review. He stressed that several aspects of the United States policy and of its implementation of the Agreement were still not clear to him. How could one talk about commitments 'across-the-board' in terms of all developing countries? Who would decide what a developing country's competitive needs were apart from that country itself? Would it be an across-the-board decision irrespective of the requirements and needs of a particular developing country? These matters should also be reviewed when the Committee undertook the review of the United States legislation. He also considered it inconsistent with the Agreement that the United States legislation established a link between Articles 14:5 and 19:9. He strongly endorsed the view expressed by the observer for Colombia that this approach nullified benefits under Articles 14:1 and 14:2 and jeopardized the balanced of interests that developing countries had secured in this Agreement." (SCM/M/3, paragraph 18)

---

*Other statements on this issue are contained in SCM/M/2, paragraphs 5-38, SCM/M/3, paragraphs 11-24 and SCM/M/19, paragraphs 4-20 and 46-62.

Statement of the Chairman of the Committee at its meeting of 19 March 1985

75. "First, from the legal point of view there were no obstacles, as such, to acceptance of the Code by any contracting party. The only requirement was a procedural one, i.e. to deposit an appropriate instrument of acceptance with the Director-General of the GATT and following thirty days after, the Code would enter into force for any such contracting party. To say that there were obstacles to acceptance, inherent in the Code, was therefore not correct. The general term of 'obstacles' had been used to cover bilateral problems which might arise between certain contracting parties, in particular the fact that one major signatory was extending benefits of the Code only to those developing countries which had made commitments under Article 14:5. In view of this legal situation he wished to stress that what the Committee had to do here had not so much to deal with legal problems or with general GATT problems but with a practical problem which could hardly be defined in Code terms. This was why a practical solution had been sought. One should therefore look at this solution from a practical point of view and be aware that any attempt to place this solution strictly within the legal framework of the Code may prove unsuccessful. The proposed procedures in SCM/W/86/Rev.2 were voluntary and optional and nobody was obliged to use them and they could not affect, in any way, the existing rights and obligations of Code signatories." (SCM/M/26, paragraph 3)

Draft Procedures concerning Commitments under Article 14:5 - Proposal by the Chairman (SCM/W/86/Rev.2, paragraphs 2-5)

76. "2. If a developing country acceding to the Code elects to enter into a commitment it may wish to state that:

(a) it will reduce or eliminate its export subsidies when the use of such export subsidies is inconsistent with its competitive and development needs; and

(b) it will consult with the Committee on any export subsidy practice which any signatory, in the light of paragraph 4 below, considers appropriate to be the subject of a commitment and will take, as appropriate, a Committee's recommendation into account.

3. Any signatory which has reason to believe that a commitment would be appropriate in respect of a specific export subsidy practice of the acceding country may notify such a practice to the Committee.

4. There shall be no presumption that export subsidies granted by an acceding country on a particular product should be the subject of a commitment. Any such contention must be substantiated by positive evidence that one or more of the following conditions holds:

(a) the acceding country is an established supplier*, and the amount of the export subsidy on the product in question has increased* compared to the subsidy received by other suppliers;

(b) the export subsidy in question results in prices of an established supplier being materially below those of other suppliers to the same market;

(c) the export subsidy in question results in the acceding country's supplies of a product to an individual market accounting for more than 50 per cent of all imports of this product into the market concerned;

(d) the export subsidy has been found to cause injury to the domestic industry in the complaining signatory and is subject to a final countervailing duty measure at the time of accession.*

In a situation where any of the above-noted conditions has been demonstrably shown to exist and one or more other countries are granting subsidies on exports to the market in question, the acceding country which can substantiate that its subsidies are equal to or below the average should not be subject, in this market, to more severe disciplines than the other countries.

5. The Committee shall review the practice and shall make an appropriate decision. If, as a result of its review, the Committee concludes that the practice in question should be the subject of a commitment, it shall make a recommendation to the acceding country to include such a practice into its commitment, i.e. to eliminate or reduce the subsidy in question or to eliminate its prejudicial effect."

77. At its special meetings held (in pursuance of the decision of the CONTRACTING PARTIES of 30 November 1984) in March and April 1985 (SCM/M/26 and SCM/M/28), the Committee examined the above-noted proposal (SCM/W/86/Rev.2). Some signatories considered that the procedures as drafted did not adequately address the basic problem relating to the application of Article 14:5 and that the proposed procedures could affect the balance of their rights and obligations. Interested developing country observers in the Committee, however, supported the adoption of the draft procedures. The Committee was unable to agree on the procedures and, in the absence of any other concrete proposals, requested the Chairman to hold further consultations.

78. At its meeting held in April 1986 the Committee on Subsidies and Countervailing Measures established a Working Party to examine obstacles which contracting parties face in accepting the Agreement. The Working Party met on 13 June 1986. It had a first exchange of views and requested the secretariat to prepare a note on the operation of Articles 14:5 and 19:9 of the Agreement. This note has been circulated in SCM/W/116.

---

*See footnotes in SCM/W/86/Rev.2, page 2.

V. AGREEMENT ON IMPORT LICENSING PROCEDURES

79. There are relatively few provisions in the Import Licensing Code relating to special and differential treatment for developing countries. The Preamble makes reference to the "particular trade, development and financial needs of developing countries". Specific references in the Articles of the Code are:

> Article 1:2: "The Parties shall ensure that the administrative procedures used to implement import licensing regimes are in conformity with the relevant provisions of the GATT including its annexes and protocols, as interpreted by this Agreement, with a view to preventing trade distortions that may arise from an inappropriate operation of those procedures, taking into account the economic development purposes and financial and trade needs of developing countries."
>
> Article 2:2: (d) and (e) (footnote). A developing country Party, which has specific difficulties with the requirements of these sub-paragraphs, may, upon notification to the Committee, delay the application of these sub-paragraphs by not more than two years from the date of entry into force of the Agreement for such Party.
>
> Article 3(b) The developing countries "would not be expected to take additional administrative or financial burdens" on account of providing information on products subject to import licensing. It is not entirely clear whether this provision applies only to the statistical information referred to in Article 3(b)(iv) or to all the information mentioned in 3(b); see, in particular, an exchange of views between the United States and India in 1983 (LIC/M/8, paras 5 and 6).

80. The Agreement has 27 signatories (counting the EC as one). Twelve are developing countries. There are 30 observers.In 1983/84 the Code Committee arranged for informal consultations with interested parties to examine what obstacles might exist to their joining the Agreement (LIC/M/9, 10 and 11). The main problems which seemed to emerge were characterized as (a) inadequate information available in capitals concerning the functioning of the Agreement; (b) perceived inconsistencies with, or conflicts between, national legislation and the provisions of the Agreement. The representative of Egypt had suggested that the Agreement's provisions did not provide adequate flexibility, for example in the time period provided for in the footnote to Article 2:2, and that the need for interpretative notes or amendments could be examined in an ad hoc group or working party of the Committee in which non-signatory developing countries could participate on an equal footing with signatories. The EEC and New Zealand did not see non-participation by developing countries as implying substantive problems. Developing countries were urged to let the Committee know where the problems lie.

81. In the meeting of the Committee held on 19 March, some delegations suggested that the secretariat should make a checklist of problems arising in the operation of the Agreement, including those related to special and differential treatment. This idea is currently under discussion in informal consultations.

VI. ANTI-DUMPING CODE

82. The Anti-Dumping Code contains a provision (Article 13) which stipulates:

> "It is recognized that special regard must be given by developed countries to the special situation of developing countries when considering the application of anti-dumping measures under this Code. Possibilities of constructive remedies provided for by this Code shall be explored before applying anti-dumping duties where they would affect the essential interests of developing countries."

83. At its first meeting of 5 May 1980 the Committee took a decision concerning the application and interpretation of the Agreement in relation to developing countries (ADP/2). The most important operative provision of this decision reads as follows:

> "In the case of imports from a developing country, the fact that the export price may be lower than the comparable price for the like product when destined for domestic consumption in the exporting country does not per se justify an investigation or the determination of dumping unless the other factors mentioned in Article 5:1 are also present. Due consideration should be given to all cases where, because special economic conditions affect prices in the home market, these prices do not provide a commercially realistic basis for dumping calculations. In such cases the normal value for the purposes of ascertaining whether the goods are being dumped shall be determined by methods such as a comparison of the export price with the comparable price of the like product when exported to any third country or with the cost of production of the exported goods in the country of origin plus a reasonable amount for administrative, selling and any other costs and for profits."

84. At its meeting of 14 June 1982 the Committee agreed that, in general, the Anti-Dumping Code continued to be perceived by Parties to be balanced between rights and obligations and provided a satisfactory framework for the implementation of Article VI. In this connection, the Committee noted that no Party had expressed the wish to renegotiate or amend the provisions of the Code (ADP/12).

85. The Committee held a special meeting on 22 April 1985 in pursuance of the decision of the CONTRACTING PARTIES (L/5756) to examine the adequacy and effectiveness of the Agreement on Implementation of Article VI of the General Agreement and the obstacles to acceptance of the Agreement which contracting parties may have faced. The Committee used document ADP/12 as a reference point for the discussion and considered the different elements contained therein. In the absence of any further comments by signatories or observers, the Chairman concluded that the views expressed in that document were still fully valid.

86. The Ad-Hoc Group on the implementation of the Anti-Dumping Code is currently examining a draft recommendation concerning the use of price undertakings in anti-dumping proceedings involving developing countries.

VII. ARRANGEMENT REGARDING BOVINE MEAT

87. The Arrangement Regarding Bovine Meat contains provisions for special and differential treatment of developing countries in Articles I (objectives), III (information and market monitoring) and IV (functions of the International Meat Council and co-operation between the participants to the Arrangement).

- According to the objectives, the Arrangement should inter alia "secure additional benefits for the international trade of developing countries in bovine meat and live animals... by means of inter alia" the promotion of long-term price stability and improvement of the earnings of bovine meat exporting developing countries.

- As concerns the information required from participants, it is expressly limited to what is available to them.

- Article IV provides that when measures are considered by the Meat Council "due consideration shall be given to special and more favourable treatment to developing countries, where this is feasible and appropriate."

88. In accordance with the provisions of the Arrangement Regarding Bovine Meat, the Arrangement is open for acceptance by all countries, whether contracting parties or not, which are members of the United Nations or of one of its specialized agencies. There are no formal or procedural obstacles to acceptance inherent in the terms of the Arrangement and neither the International Meat Council nor is the secretariat aware of any country that has failed to adhere because of the obligations of the Arrangement. The countries that have accepted the Arrangement to date represent approximately 91 per cent of world exports of fresh chilled and frozen beef and veal, about 82 per cent of world imports and 73 per cent of world production which is to say that most countries interested (except India and USSR) in the bovine meat sector are members of the Arrangement. Of the twenty-seven signatories, twelve are developing countries.

VIII. THE INTERNATIONAL DAIRY ARRANGEMENT (IDA)

89. One stated objective of the IDA is to further economic and social development of developing countries (Article I). Participants have accordingly agreed to foster recognition of the value of dairy products in improving nutritional levels and of ways to make such products available to developing countries and to do this in co-operation with the FAO and other organizations (Article V). This provision is rather unique for the IDA, and similar provisions are not found in other commodity arrangements, the only exception being the Food Aid Convention negotiated in the Kennedy Round. These objectives have been successfully met. During the seven years the IDA has been in operation, more than 2 million tons of skimmed milk powder, some 30 thousand tons of whole milk powder, more than 300 thousand tons of anhydrous milk fat and significant quantities of other dairy products have been provided as food aid. This has constituted a significant contribution to economic and social development in the recipient countries.

90. When carrying out its periodic evaluations of the dairy market situation and outlook, the International Dairy Products Council takes particular account of the situation of developing countries (Article IV:2), and when considering measures that could be taken to resolve the problems, due account is taken of special and favourable treatment to be provided for developing countries (Article IV:4).

91. The obligation to supply information applies fully to all participants, but developed participants and any developing participants able to do so, are required to consider sympathetically any request to them for technical assistance from developing participants (Article III:2).

92. The IDA is open for acceptance by governments members of the United Nations or of one of its specialized agencies. The main reasons why a number of developing countries have not sought membership may be the current market situation, with a structural and general surplus of dairy products and consequently a buyer's market, as it is not evident that the IDA itself, nor any particular provisions in it should discourage or prevent for instance developing importing countries from seeking membership. Indeed, in addition to the provisions mentioned above, the provisions of the three Protocols whereby exporting participants have undertaken to provide supplies on a priority basis to developing importing participants and the non-application of some price provisions for transactions other than normal commercial transactions, (i.e. food aid, donations, sales destined for relief, development or welfare proposes) should constitute valid reasons for developing importing countries to join the IDA. (These are the Protocol Regarding Certain Milk Powders, Articles 3:8 and 5:1, Protocol Regarding Milk Fat, Articles 3:7 and 5:1 and Protocol Regarding Certain Cheeses, Articles 3:7 and 5:1).

93. The 1985 discussions of MTN Agreements and Arrangements brought out that, in spite of some shortcomings, the IDA had proven to be useful in several respects as it had brought together and strengthened previous arrangements and the product coverage had been extended. It had contributed to improve co-operation in the field of dairy trade, provided a specialized forum for discussion of, and consultations on problems related to international trade in dairy products and provided an effective facility for the exchange of information (L/5811 paragraph 8, BISD 32S/172, paragraph 9 and BISD 32S/115 and 116, paragraphs 21 to 25).

IX. THE AGREEMENT ON TRADE IN CIVIL AIRCRAFT

94. The Agreement on Trade in Civil Aircraft does not contain any provisions for special and differential treatment of developing countries. The benefits of the tariff reductions agreed under the Agreement accrue to non-signatories as well as signatories.

95. The Committee had several discussions on the "Adequacy and effectiveness of the Agreement and obstacles to acceptance which contracting parties may have faced." These were prompted by the Council's invitation (20 April 1983) and later by the CONTRACTING PARTIES Decision of 30 November 1984 (L/5756).

96. In response to the Council's invitation (1983) the Committee clearly expressed a desire to have an open discussion with interested contracting parties, in particular developing countries producers of aircraft or components, on the obstacles they perceived to accepting the Agreement (see report to CONTRACTING PARTIES L/5554).

97. In response to the CONTRACTING PARTIES' Decision (1984), the Committee held a special meeting, reported as follows in paragraph 3 of the Committee's Report to the CONTRACTING PARTIES (L/5880):

> "The meeting was to provide an opportunity for non-signatory contracting parties to express their view in a general discussion on the adequacy and effectiveness of the Agreement and the obstacles they may have encountered to its acceptance. The Committee noted that there were no non-signatories attending the meeting to inform it of the obstacles they might have encountered."

98. It would thus appear that at present no substantial obstacles to the participation of developing countries in the Agreement are perceived to exist.

MTN AGREEMENTS - Legal Status as of 30 April 1987 [1]

COUNTRIES / CONTRACTING PARTIES		Geneva 1979 Protocol	Suppl. 1979 Protocol	Tech. Barriers	Gov't. Procur.	Subsid. Counter-vail	Bovine Meat	Dairy	Customs Val.	Import Lic.	Civil Aircraft	Anti-Dumping
Argentina	AR	A		S	O	O	A	A	A*	S	O	O
Australia	AU		A	O		A*	A	A	A	A		A
Austria	AT	A		A	A	A	A		A	A	A	A
Bangladesh	BD			O	O	O	O	O	O	O	O	O
Barbados	BB											
Belgium	BE	A	A	A							A	
Belize	BZ						Prov.					
Benin	BJ											
Brazil	BR		A	A	O	A	A	O	A*	O	O	A
Burkina Faso	BF											
Burma	BU							O				
Burundi	BI											
Cameroon	CM				O				O		O	
Canada	CA	A	A	A	A	A	A	O	A*	A	A	A
Cent.Afr.Rep.	CF											
Chad	TD											
Chile	CL		A	A	O	A	O	O	O	A		O
Colombia	CO			O		O	A		O	O		O
Congo	CG											
Côte d'Ivoire	CI		A	O	O	O	O	O	O	O		O
Cuba	CU			O	O	O	O	O	O	O		O
Cyprus	CY											
Czechoslovakia	CS	A		A*	O	O			A	A	O	A
Denmark	DK	A*		A*							A*	
Dominican Rep.	DO		A		O					O		
Egypt	EG		A	A	O	A	A	S	O	A	S	A
EEC	CE	A	A	A	A	A	A	A	A	A	A	A
Finland	FI	A		A	A	A	A	A	A	A		A
France	FR	A		A							A	
Gabon	GA			O	O	O	O	O		O	O	
Gambia	GM											
Germany	DE	A*		A*							A*	
Ghana	GH			O		O				O	O	O
Greece	GR			S							S	
Guyana	GY											
Haiti	HT		A				O	O				
Hong Kong	HK			A	A	A			A	A		A
Hungary	HU	A		A*	O	O	A	A	A	A		A
Iceland	IS	A										
India	IN		A	A	O	A	O	O	A*	A	O	A
Indonesia	ID		A	O	O	A*			O	O	O	O
Ireland	IE	A		A							A	
Israel	IL	S	A	O	A	A*		O	O	O	O	O
Italy	IT	A		A							A	
Jamaica	JM	A			O	O		O		O		
Japan	JP	A*		A	A	A	A	A	A	A	A	A
Kenya	KE				O		O					
Korea	KR		A	A	O	A			A*	O		A
Kuwait	KW											
Luxembourg	LU	A		A							A	

A : Accepted S : Signed (acceptance pending) O : Observer *reservation, condition and/or declaration

[1] English only./Anglais seulement./Inglés solamente.

[2] Including Protocol. Upon entry into force of the Agreement on 1 January 1981, the provisions of the Protocol were deemed to be an integral part of the Agreement.

COUNTRIES CONTRACTING PARTIES		Geneva 1979 Protocol	Suppl. 1979 Protocol	Tech. Barriers	Gov't. Procur.	Subsid. Countervail	Bovine Meat	Dairy	Customs Val.[2]	Import Lic.	Civil Aircraft	Anti-Dumping
Madagascar	MG						O					
Malawi	MW								A*			
Malaysia	MY		A	O	O	O			O	O		O
Maldives	MV											
Malta	MT			O	O	O	O	O		O	O	O
Mauritania	MR											
Mauritius	MU										O	
Mexico	MX			O		O	O	O		O		O
Netherlands	NL	A		A							A	
New Zealand	NZ	A		A	O	A	A	A	A*	A		O
Nicaragua	NI			O	O	O	O	O	O	O		O
Niger	NE											
Nigeria	NG			O	O	O	A	O	O	A	O	O
Norway	NO	A		A	A	A	A	A	A	A	A	A
Pakistan	PK		A	A		A			O	A		A
Peru	PE		A	O	O	O			O	O		O
Philippines	PH			A	O	A*			O	A*		O
Poland	PL	A		O		O	A	A	O	A	O	A
Portugal	PT			A							A	O
Romania	RO	A		A	O	O	A	A	A	A	A	A
Rwanda	RW			S								
Senegal	SN			O		O				O		O
Sierra Leone	SL											
Singapore	SG		A	A	A	O			O	A	O	A
South Africa	ZA	A			O	O	A	A	A	A		O
Spain	ES	A	A	A		A			A		A	A
Sri Lanka	LK			O		O			O	O	O	O
Suriname	SR											
Sweden	SE	A		A	A	A	A	A	A	A	A	A
Switzerland	CH	A		A	A	A	A	A	A	A	A	A
Tanzania	TZ			O		O				O		O
Thailand	TH			O	O	O	O		O	O		O
Togo	TO											
Trin. & Tob.	TT			O	O	O	O	O	O	O	O	O
Turkey	TR			O	O	A	O	O	S	O	O	O
Uganda	UG											
United Kingdom	GB	A		A*	A*				A*	A*	A*	
United States	US	A		A	A	A	A		A	A	A	A
Uruguay	UY		A			A	A	A				O
Yugoslavia	YU	A		A		S	A	O	A	A	O	A
Zaire	ZR		A	O	O	O	O		O	O		O
Zambia	ZM											
Zimbabwe	ZW											
OTHER COUNTRIES												
Botswana	BW								A*			
Bulgaria	BG			O		O	A	A	O	O		O
Costa Rica	CR						O					
Ecuador	EC			O	O	O			O	O		O
Guatemala	GT						A*					
Lesotho	LE								A*			
Panama	PA						O	O				
Paraguay	PY						Prov.					
Tunisia**	TN			A		O	A	O		O	O	O
Venezuela	VE					O				O		

A : Accepted S : Signed (acceptance pending) O : Observer * reservation, condition and/or declaration

[1] English only./Anglais seulement./Inglés solamente.

[2] Including Protocol. Upon entry into force of the Agreement on 1 January 1981, the provisions of the Protocol were deemed to be an integral part of the Agreement.

**Provisional accesion to GATT.