

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

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Group of Negotiations on Goods (GATT)

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Negotiating Group on GATT Articles

COMMUNICATION FROM THE UNITED STATES

The following communication, dated 16 November 1987, has been received from the delegation of the United States with the request that it be circulated to members of the Group.

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ARTICLE XXVI:5

Article XXVI:5, together with the provisions of the Protocol of Provisional Application and some other Accession Protocols, specify the territorial application of the General Agreement. Paragraph 5(c) deals with the situation where a territory for which a contracting party has "international responsibility" and for whom it has accepted the provisions of General Agreement has or acquires "full autonomy" in its commercial policy and wishes to become a GATT contracting party in its own right. The Article provides that all that is necessary is a declaration confirming these facts by the sponsoring contracting party, and the dependency, or former dependency, may become a full contracting party.

Unlike accessions to the General Agreement, which are governed by the provisions of Article XXXIII, adherence to the GATT under Article XXVI:5(c) has not involved negotiations or establishment of any additional documentation, such as a Protocol or a Schedule of Concessions, indicating the terms of the new contracting party's GATT participation. Procedures adopted for such adhesions, contained in the Sixth Supplement to the BISD, and in L/2910 provide for no such documents, and this practice was confirmed in the Working Party report contained in the Tenth Supplement of the BISD. This Working Party concluded that governments succeeding under Article XXVI:5(c) are subject to the terms and conditions previously accepted for it by the metropolitan government, including, if applicable, its Schedule of Concessions.

In practice, however, it has been difficult to clearly establish the GATT obligations of governments adhering to the General Agreement under these provisions, particularly whether the GATT Schedule of the sponsoring government is applicable.

According to the latest supplement of the Basic Instruments and Selected Documents (BISD) and the recent notification of Botswana's succession (L/6211), 41 of the current 95 GATT contracting parties have "succeeded" to the General Agreement under the provisions of Article XXVI:5. Less than half have established GATT Schedules of Concessions and the extent of other GATT obligations are not easily verifiable.

In the context of negotiations in the Negotiating Group on GATT Articles, the United States proposes that Article XXVI:(c) be revised or otherwise noted or expanded with a view to improving the ability of GATT contracting parties to know the obligations of governments succeeding to the GATT under its provisions. This should include the establishment of the appropriate GATT Schedule at the time of adherence to the GATT as a full contracting party.