

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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COUNCIL

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PREPARATIONS FOR THE MINISTERIAL MEETING

Note by the Chairman

1. At its meeting of 3 November 1983, the Council examined the Report of the Preparatory Committee contained in L/5395 to which was annexed a Draft Ministerial Document. The Council agreed that consultations should be held on the basis of this report and the minute summarizing statements made by delegations at the meeting.
2. This note, which is forwarded to the Council by the Chairman on his own responsibility, contains the texts which have emerged from these consultations. On some items discussions were still continuing when this note was prepared and in these cases the text remains blank. The Chairman will report orally to the Council on these discussions.
3. The French and Spanish texts remain subject to rectifications to bring them into line with the English.
4. The Council is invited to consider the texts and the report of the Chairman with a view to making recommendations to the CONTRACTING PARTIES.

MINISTERIAL DECLARATION

1. The CONTRACTING PARTIES to the General Agreement on Tariffs and Trade have met at Ministerial level on 24-27 November 1982. They recognize that the multilateral trading system, of which the General Agreement is the legal foundation, is seriously endangered. In the current crisis of the world economy, to which the lack of convergence in national economic policies has contributed, protectionist pressures on governments have multiplied, disregard of GATT disciplines has increased and certain shortcomings in the functioning of the GATT system have been accentuated. Conscious of the role of the GATT system in furthering economic well-being and an unprecedented expansion of world trade, and convinced of the lasting validity of the basic principles and objectives of the General Agreement in a world of increasing economic interdependence, the CONTRACTING PARTIES are resolved to overcome these threats to the system.

2. The deep and prolonged crisis of the world economy has severely depressed levels of production and trade. In many countries growth rates are low or negative; there is growing unemployment and a climate of uncertainty, exacerbated by persistent inflation, high rates of interest and volatile exchange rates, which seriously inhibit investment and structural adjustment and intensify protectionist pressures. Many countries, and particularly developing countries, now face critical difficulties created by the combination of uncertain and limited access to export markets, declining external demand, a sharp fall in commodity prices and the high cost of borrowing. The import capacity of developing countries, which is essential to their economic growth and development, is being impaired and is no longer serving as a dynamic factor sustaining the exports of the developed world. Acute problems of debt servicing threaten the stability of the financial system.

3. In the field of trade, the responses of governments to the challenges of the crisis have too often been inadequate and inward-looking. Import restrictions have increased and a growing proportion of them have for various reasons been applied outside GATT disciplines, thus undermining the multilateral trading system. Trade patterns have also been adversely affected by certain forms of economic assistance for production and exports and by some restrictive trade measures applied for non-economic purposes. In the depressed economic circumstances these measures, together with continuing pressures for further protective action, have contributed to further delays in necessary structural adjustment, increased economic uncertainty and discouraged productive investment.

4. The results of the Tokyo Round, including in particular the implementation on schedule of the tariff reductions, have provided some impetus to the functioning of the trading system. However, despite the strength and resilience which it has shown, the stresses on the system, which are reflected in the growing number and intensity of disputes between contracting parties, many of which remain unresolved, have made more pronounced certain shortcomings in its functioning. Existing strains have been aggravated by differences of perception regarding the balance of rights and obligations under the GATT, the way in which these rights and obligations have been implemented and the extent to which the interests of different contracting parties have been met by the GATT. There are also concerns over the manner in which rights are being pursued as well as the manner in which obligations are being fulfilled. Disagreements persist over the interpretation of some important provisions and over their application. Disciplines governing the restriction of trade through safeguard measures are inadequate; there is widespread dissatisfaction with the application of GATT rules and the degree of liberalization in relation to agricultural trade, even though such trade has continued to expand; trade in textiles and clothing continues to be treated under an Arrangement which is a major derogation from the General Agreement - a matter of critical importance to developing countries in particular. Such differences and imbalances are particularly detrimental to the stability of the international trading system when they concern access to the markets of major contracting parties or when, through the use of export subsidies, competition among major suppliers is distorted.

5. The CONTRACTING PARTIES recognize that the interdependence of national economies means that no country can solve its trade problems in isolation and also that solutions would be greatly facilitated by parallel efforts in the financial and monetary fields. In this light, they commit themselves to reduce trade frictions, overcome protectionist pressures, limit export subsidies having prejudicial effects on trade and promote the liberalization and expansion of trade. They are therefore determined to create, through concerted action, a renewed consensus in support of the GATT system, so as to restore and reinforce confidence in its capacity to provide a stable and predictable trading environment and respond to new challenges.

6. The CONTRACTING PARTIES have accordingly decided:

- to reaffirm their commitment to abide by their GATT obligations and to support and improve the GATT trading system, so that it may contribute vigorously to the further liberalization and expansion of trade based on mutual commitment, mutual advantage and overall reciprocity, and the most-favoured-nation clause;

- to preserve, in the operation and functioning of GATT instruments, the unity and consistency of the GATT system; and
- to ensure that GATT provides a continuing forum for negotiation and consultation, in which an appropriate balance of rights and obligations can be assured for all contracting parties and the rules and procedures of the system are effectively and fairly applied, on the basis of agreed interpretations, for the economic development and benefit of all.

7. In drawing up the work programme and priorities for the 1980's, the contracting parties undertake, individually and jointly:

- (i) to make determined efforts to ensure that trade policies and measures are consistent with GATT principles and rules, and to refrain from taking new measures that protect domestic markets or adversely affect international competition which are inconsistent with or circumvent their obligations in the GATT, or which would nullify or impair benefits accruing to contracting parties under the General Agreement;
- (ii) to dismantle, or to bring into conformity with GATT, trade measures which are inconsistent with or circumvent their obligations under the General Agreement or which nullify or impair benefits accruing to contracting parties under the General Agreement;
- (iii) *
- (iv) to give fullest consideration, in the application of measures falling within the GATT framework, and in the general exercise of their GATT rights, to the trading interests of other contracting parties and the shared objective of trade liberalization and expansion;
- (v) to abstain from taking restrictive trade measures, for reasons of a non-economic character, not consistent with the General Agreement;

*Discussion continuing.

- (vi)(a) to ensure the effective implementation of GATT rules and provisions and specifically those concerning the developing countries, thereby furthering the dynamic role of developing countries in international trade;
- (b) to ensure special treatment for the least-developed countries, in the context of differential and more favourable treatment for developing countries, in order to ameliorate the grave economic situation of these countries;
- (vii) to bring agriculture more fully into the multilateral trading system by improving the effectiveness of GATT rules, provisions and disciplines and through their common interpretation; to seek to improve terms of access to markets; and to bring export competition under greater discipline. To this end a major two-year work programme shall be undertaken, during the period of which existing or new export subsidy policies shall be subject to the terms of the undertakings of 7(i), (ii) and (iv), as appropriate;
- (viii) to bring into effect expeditiously a comprehensive understanding on safeguards to be based on the principles of the General Agreement;
- (ix) to ensure increased transparency of trade measures and the effective resolution of disputes through improvements in the operation of the pertinent procedures, supported by a determination to comply with rulings and respect recommendations;
- (x) to examine ways and means of, and to pursue measures aimed at, liberalizing trade in textiles and clothing, including the eventual application of the General Agreement, after the expiry of the 1981 Protocol extending the Arrangement Regarding International Trade in Textiles, it being understood that in the interim the parties to the Arrangement shall adhere strictly to its rules;
- (xi) to give continuing consideration to changes in the trading environment so as to ensure that the GATT is responsive to these changes.

SAFEGUARDS

The CONTRACTING PARTIES decide:

That, having regard to the objectives and disciplines of the General Agreement, there is need for an improved and more efficient safeguard system which provides for greater predictability and clarity and also greater security and equity for both importing and exporting countries, so as to preserve the results of trade liberalization and avoid the proliferation of restrictive measures; and

That to this end, effect should be given to a comprehensive understanding to be based on the principles of the General Agreement which would contain, inter alia, the following elements:

- (i) Transparency;
- (ii) Coverage;
- (iii) Objective criteria for action including the concept of serious injury or threat thereof;
- (iv) Temporary nature, degressivity and structural adjustment;
- (v) Compensation and retaliation; and
- (vi) Notification, consultation, multilateral surveillance and dispute settlement with particular reference to the role and functions of the Safeguards Committee.

That such an understanding should be drawn up by the Council for adoption by the CONTRACTING PARTIES not later than their 1983 Session.

GATT RULES AND ACTIVITIES RELATING TO DEVELOPING COUNTRIES

The CONTRACTING PARTIES:

1. Instruct the Committee on Trade and Development bearing in mind particularly the special responsibility of the developed contracting parties in this regard, to consult on a regular basis with contracting parties individually or collectively, as appropriate to examine how individual contracting parties have responded to the requirements of Part IV.

2. Urge contracting parties to implement more effectively Part IV and the Decision of 28 November 1979 regarding "differential and more favourable treatment, reciprocity and fuller participation of developing countries";
3. Urge contracting parties to work towards further improvement of GSP or MFN treatment for products of particular export interest to least-developed countries, and the elimination or reduction of non-tariff measures affecting such products;
4. Agree to strengthen the technical co-operation programme of GATT;
5. Instruct the Committee on Trade and Development to carry out an examination of the prospects for increasing trade between developed and developing countries and the possibilities in GATT for facilitating this objective;

To this effect, the CONTRACTING PARTIES are also taking the decisions annexed and decide to review the action taken in these areas at their 1984 Session.

TRADE IN AGRICULTURE

With the purpose of accelerating the achievement of the objectives of the General Agreement, including Part IV, and recognizing that there is an urgent need to find lasting solutions to the problems of trade in agricultural products, the CONTRACTING PARTIES decide to undertake preparations, including the preparation of the procedures and modalities to be used in the pursuit of improved market access and the further liberalization of agricultural trade, as a basis for decisions to be taken at a meeting to be held in 1984. They accordingly decide:

I. That the following matters be examined, in the light of the objectives, principles and relevant provisions of the General Agreement and also taking into account the effects of national agricultural policies, with the purpose of making appropriate recommendations. The examination shall cover all measures affecting trade, market access and competition and supply in agricultural products, including subsidies and other forms of assistance.

1. Trade measures affecting market access and supplies, with a view to achieving greater liberalization in the trade of agricultural products, with respect to tariffs and non-tariff measures, on a basis of overall reciprocity and mutual advantage under the General Agreement.

2. The operation of the General Agreement as regards subsidies affecting agriculture, including export subsidies, with a view to examining its effectiveness, in the light of actual experience, in promoting the objectives of the General Agreement and avoiding subsidization seriously prejudicial to the trade or interests of contracting parties. Other forms of export assistance will be included in this examination.
3. Trade measures affecting agriculture maintained under exceptions or derogations without prejudice to the rights of contracting parties under the General Agreement.

II. That in carrying out the tasks enumerated above, full account shall be taken of the need for a balance of rights and obligations under the GATT, and of the special needs of developing countries in the light of the GATT provisions providing for differential and more favourable treatment for such contracting parties. Full account shall also be taken of specific characteristics and problems in agriculture, of the scope for improving the effectiveness of GATT rules, provisions and disciplines and agreed interpretations of its provisions.

III. That for the purpose of carrying out this work, an improved system of notifications shall be introduced so as to ensure full transparency.

IV. That a Committee on Trade in Agriculture shall be established, open to all contracting parties, for the purpose of carrying out the tasks enumerated above and of making recommendations. The Committee will report periodically on the results achieved and make appropriate recommendations to the Council and the CONTRACTING PARTIES for consideration not later than their 1984 Session.

TROPICAL PRODUCTS

The CONTRACTING PARTIES decide to carry out, on the basis of the work programme pursued by the Committee on Trade and Development, consultations and appropriate negotiations aimed at further liberalization of trade in tropical products, including in their processed and semi-processed forms, and to review the progress achieved in eliminating or reducing existing obstacles to trade in tropical products at their 1984 Session.

QUANTITATIVE RESTRICTIONS AND OTHER NON-TARIFF MEASURES

The CONTRACTING PARTIES decide:

1. To review, in a group created for the purpose, existing quantitative restrictions and other non-tariff measures, the grounds on which these are maintained, and their conformity with the provisions of the General Agreement, so as to achieve the elimination of quantitative restrictions which are not in conformity with the General Agreement or their being brought into conformity with the General Agreement, and also to achieve progress in liberalizing other quantitative restrictions and non-tariff measures, adequate attention being given to the need for action on quantitative restrictions and other measures affecting products of particular export interest to developing countries; and
2. That the group should make progress reports to the Council and that its complete report containing its findings and conclusions should be available for consideration by the CONTRACTING PARTIES at their 1984 Session.

TARIFFS

The CONTRACTING PARTIES decide:

1. That prompt attention should be given to the problem of escalation of tariffs on products with increased processing with a view to effective action towards the elimination or reduction of such escalation where it inhibits international trade, taking into account the concerns relating to exports of developing countries; and agree
2. That wide acceptance of a common system for classifying products for tariff and statistical purposes would facilitate world trade and therefore recommend prompt action towards the introduction of such a system. They take note of the ongoing work to this end in the Customs Co-operation Council. They further agree that, if such a system is introduced, the general level of benefits provided by GATT concessions must be maintained, that existing concessions should normally remain unchanged and that any negotiations that may prove necessary should be initiated promptly so as to avoid any undue delay in the implementation of a system. They also agree that technical support shall be provided by the GATT secretariat to developing contracting parties in order to fully assist their participation in such a process.

MTN AGREEMENTS AND ARRANGEMENTS

The CONTRACTING PARTIES decide to review the operation of the MTN Agreements and Arrangements, taking into account reports from the Committees or Councils concerned, with a view to determining what action if any is called for, in terms of their decision of November 1979. The CONTRACTING PARTIES further agree that, for this purpose, the review should focus on the adequacy and effectiveness of these Agreements and Arrangements and the obstacles to the acceptance of these Agreements and Arrangements by interested parties.

STRUCTURAL ADJUSTMENT AND TRADE POLICY

The CONTRACTING PARTIES decide to continue the work on structural adjustment and trade policy in order to focus on the interaction between structural adjustment and the fulfillment of the objectives of the General Agreement, and to review the results of this work at their 1983 Session.

TRADE IN COUNTERFEIT GOODS

The CONTRACTING PARTIES instruct the Council to examine the question of counterfeit goods with a view to determining the appropriateness of joint action in the GATT framework on the trade aspects of commercial counterfeiting and, if such joint action is found to be appropriate, the modalities for such action, having full regard to the competence of other international organizations. For the purposes of such examination, the CONTRACTING PARTIES request the Director-General to hold consultations with the Director-General of WIPO in order to clarify the legal and institutional aspects involved.

EXPORT OF DOMESTICALLY PROHIBITED GOODS

The CONTRACTING PARTIES decide that contracting parties shall, to the maximum extent feasible, notify GATT of any goods produced and exported by them but banned by their national authorities for sale on their domestic markets on grounds of human health and safety.

At their 1984 Session, the CONTRACTING PARTIES will consider in the light of experience gained with this notification procedure, the need for

study of problems relevant to the GATT in relation to exports of domestically prohibited goods and of any action that may be appropriate to deal with such problems.

EXPORT CREDITS FOR CAPITAL GOODS

The CONTRACTING PARTIES:

Are aware that official export credit provisions on capital goods which apply to developing countries may pose problems for the expansion of imports into these countries consistent with their trade and development needs;

Therefore recommend that contracting parties, members of those international arrangements concerning official export credit matters, when reviewing or revising their various international undertakings, give special attention to relevant credit provisions, including specific terms and conditions, in order to facilitate the expansion of developing countries' imports of capital goods consistent with their trade and development needs; and

Request the Director-General of the GATT to consult with the contracting parties concerned and report to the 39th Session.

TEXTILES AND CLOTHING

The CONTRACTING PARTIES decide:

1. To carry out on a priority basis a study of:
 - (i) the importance of textiles and clothing in world trade and particularly for the trade prospects of developing countries;
 - (ii) the impact on economic activity and prospects of countries participating in textiles trade, of the existing systems of restraints and restrictions relating to textiles and clothing, principally the MFA;
 - (iii) consequences for economic and trade prospects in these countries of a phasing out on the basis of the provisions of the General Agreement, or of the continued maintenance, of the restraints and restrictions applied under the existing textile and clothing regimes, principally the MFA; and

2. To examine expeditiously, taking into account the results of such a study, modalities of further trade liberalization in textiles and clothing including the possibilities for bringing about the full application of GATT provisions to this sector of trade.

3. This work should be completed for consideration by the CONTRACTING PARTIES at their 1984 Session.

FORESTRY PRODUCTS AND NON-FERROUS MINERALS AND METALS

The CONTRACTING PARTIES decide:

That problems falling under the competence of the General Agreement relating to tariffs, non-tariff measures and other factors affecting trade in the sectors of forestry products and of the principal non-ferrous minerals and metals should be examined with a view to recommending possible solutions; and

That for this purpose the Council shall decide upon the terms of reference, time-frame and procedures.

EXCHANGE RATE FLUCTUATIONS AND THEIR EFFECT ON TRADE

The CONTRACTING PARTIES agree:

To request the Director-General to consult the Managing Director of the International Monetary Fund on the possibility of a study of the effects of erratic fluctuations in exchange rates on international trade, to report to the Council on the results of these consultations and to forward any such study to the Council so that the it may consider any implications for the General Agreement.

DUAL PRICING AND RULES OF ORIGIN

The CONTRACTING PARTIES agree:

To request the Council to make arrangements for studies of dual-pricing practices and rules of origin; and

To consider what further action may be necessary with regard to these matters when the results of these studies are available.

ITEMS ON WHICH DISCUSSIONS ARE STILL CONTINUING

[DISPUTE SETTLEMENT PROCEDURES]

[SUBSIDIES]

[FISHERIES]

[SERVICES]

[TRADE-RELATED PERFORMANCE REQUIREMENTS]

[TRADE IN HIGH TECHNOLOGY]

ANNEX

GATT RULES AND ACTIVITIES RELATING TO DEVELOPING COUNTRIES

The CONTRACTING PARTIES:

1. Decide, in order to improve the review and surveillance procedures in regard to the implementation of Part IV, that:

- (a) the Committee on Trade and Development, bearing in mind particularly the special responsibility of the developed contracting parties in this regard, shall adopt a programme of consultations with contracting parties individually or collectively, as appropriate, to examine how individual contracting parties have responded to the requirements of Part IV;
- (b) each such consultation shall be based on information supplied by the contracting party or parties in question and additional factual material prepared by the secretariat;
- (c) the Committee on Trade and Development shall also examine other aspects of existing procedures for reviewing the implementation of Part IV and for dealing with problems relating to the application of its provisions, and prepare guidelines for their improvement.

2. Invite the Committee on Trade and Development to review the operation of the Enabling Clause as provided for in its paragraph 9, with a view to its more effective implementation, inter alia, with respect to objectivity and transparency of modifications to GSP schemes and the operation of consultative provisions relating to differential and more favourable treatment for developing countries;

3. Invite contracting parties to pursue action as follows towards facilitating trade of least-developed countries and reducing tariff and non-tariff obstacles to their exports:

- (a) further improve GSP or m.f.n treatment for products of particular export interest to least-developed countries, with the objective of providing fullest possible duty-free access to such products;
- (b) use, upon request and where feasible, of more flexible requirements for rules of origin for products of particular export interest to least-developed countries;

- (c) eliminate or reduce non-tariff measures affecting products of particular export interest to least-developed countries;
- (d) facilitate the participation of least-developed countries in MTN Agreements and Arrangements;
- (e) strengthen the technical assistance facilities of the GATT secretariat targeted to the special requirements of least-developed countries;
- (f) strengthen trade promotion activities, through the ITC and other initiatives, such as by encouraging the establishment of import promotion offices in importing countries;
- (g) give more emphasis to the discussion and examination of policy issues of interest to least-developed countries in the context of further efforts to liberalize trade.

4. Decide to strengthen the Technical Co-operation programme of the GATT with a view to facilitating the more effective participation of developing countries in the GATT trading system:

- (a) by responding to increasing requests for seminars and other technical assistance activities;
- (b) by permitting increased participation in the GATT Commercial Policy Courses, and the inclusion in the training programme of a regular course in the Spanish language;
- (c) by encouraging, in the context of this programme, appropriate contributions from individual contracting parties.

5. Invite contracting parties individually to grant new voluntary contributions or provide other forms of assistance to the ITC.