

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Trade and Development  
Seventy-Fourth Session  
28 May 1993

## DRAFT NOTE ON PROCEEDINGS OF THE SEVENTY-FOURTH SESSION

Prepared by the Secretariat

Chairman: H.E. Mr. Mounir Zahran (Egypt)

1. The Seventy-Fourth Session of the Committee on Trade and Development was held on 28 May 1993 under the Chairmanship of H.E. Ambassador Mounir Zahran (Egypt). The Committee adopted the agenda proposed in GATT/AIR/3438.

### Procedures and modalities for the examination of the MERCOSUR Agreement

2. The Chairman recalled that the question of possible procedures and modalities for the examination of the MERCOSUR Agreement had been on the Agenda of the Committee in 1992 and that the then Chairman of the Committee, Ambassador Seade (Mexico), had held a number of informal consultations on the matter. At their 48th Session in December 1992, the CONTRACTING PARTIES had requested their Chairman to pursue consultations on this question and, on behalf of the CONTRACTING PARTIES, to determine possible procedures and modalities for the examination of the MERCOSUR Agreement including, as appropriate, the terms of reference for a working party. In pursuance of the mandate given by the CONTRACTING PARTIES, Ambassador Zutshi (India), the Chairman of the CONTRACTING PARTIES, had conducted several informal consultations and intended to submit, for consideration and approval by the Committee, the result of these consultations. The Chairman then invited the Chairman of the CONTRACTING PARTIES to take the floor.

3. Ambassador Zutshi (India), Chairman of the CONTRACTING PARTIES, informed the Committee that, as a result of the informal consultations, it appeared that a possible solution was the establishment by the Committee on Trade and Development of a working party with the following terms of reference: "to examine the Southern Common Market Agreement (MERCOSUR) in the light of the relevant provisions of the Enabling Clause and of the General Agreement, including Article XXIV and to transmit a report and recommendations to the Committee for submission to the CONTRACTING PARTIES, with a copy of the report transmitted as well to the Council. The examination in the working party will be based on a complete notification and on written questions and answers." This solution had been facilitated by the consultations held in 1992 by the then Chairman of the Committee, Ambassador Seade (Mexico), and through the cooperation demonstrated by all countries that had participated in the process of informal consultations, in particular the United States and the MERCOSUR countries. He believed that this compromise was a good solution, since it took into account the concerns of all contracting parties. He therefore commended it for adoption by the Committee.

4. The representative of Switzerland expressed appreciation for the efforts made by the CONTRACTING PARTIES' Chairman to find a compromise solution. Nevertheless, Switzerland had not been convinced that a comprehensive examination of the MERCOSUR Agreement was within the terms of reference of the Committee on Trade and Development. Moreover, the solution proposed affected significantly the competence and the functioning of the Council. While Switzerland would not oppose the consensus on the compromise solution, it wished to underline that the establishment of a working party by the Committee for the examination of the MERCOSUR Agreement should not constitute a precedent for the examination of other regional arrangements. Switzerland would closely follow the examination of the MERCOSUR Agreement in the working party to be established, as well as future developments in the integration process under the Agreement, and reserved all its GATT rights including in regard to a possible re-examination of the Agreement in a working party to be established by the Council.

5. The representative of Singapore, speaking on behalf of ASEAN countries, also expressed appreciation for the result of the consultations held by the Chairman of the CONTRACTING PARTIES. Like Switzerland, but for opposite reasons, Singapore also considered that the solution proposed should not constitute a precedent for the examination of other regional arrangements. Each case should be examined on its own merit and the review procedures established accordingly.

6. The representative of Australia expressed appreciation of the compromise solution which would enable the commencement of the examination of the MERCOSUR Agreement. While Australia joined the consensus, it wished to state that free-trade agreements and customs unions, regardless of whether parties to them were developed or developing countries, should always be subject to the requirements of Article XXIV of the General Agreement and should be primarily examined in the light of those provisions. Despite some apparent shortcomings of Article XXIV, a firm application of its provisions was in the interest of the GATT system, particularly given the increasing spread of regional trade arrangements. Therefore, the solution proposed by the Chairman of the CONTRACTING PARTIES in order to allow the starting of the examination of the MERCOSUR Agreement was exceptional and did not constitute a precedent for future examinations of regional agreements.

7. The representatives of El Salvador, Venezuela, Pakistan, Egypt and Mexico also supported the compromise solution submitted by the Chairman of the CONTRACTING PARTIES and stressed that it should not constitute a precedent for the examination of free-trade arrangements among developing countries. In this connection, the representatives of Venezuela, Pakistan and Egypt recalled that the relevant GATT provision for examining preferential trade arrangements concluded among developing countries was the Enabling Clause, which was aimed at facilitating such arrangements through provision of more favourable treatment to developing countries within the GATT legal system.

8. The representative of the European Communities supported the compromise solution for the examination of the MERCOSUR Agreement which was very much along the lines of the approach initially put forward by the Community. However the compromise solution should not be considered as a precedent for examining other free-trade arrangements.

9. The representative of Canada stated that, while his country could support the compromise solution, it was important that the MERCOSUR Agreement be examined in the light of relevant GATT provisions, in particular Article XXIV, and that the examination be carried out with the same rigour as in the case of an Article XXIV working party established by the Council.

10. The Committee took note of the statements and agreed to establish a working party for the examination of the MERCOSUR Agreement with the terms of reference proposed by the Chairman of the CONTRACTING PARTIES in the understanding that this decision would not constitute a precedent. In accordance with the usual GATT practice, the membership of the Working Party would be open to all contracting parties indicating their wish to serve on it. The Committee also authorized its Chairman to designate the Chairman of the Working Party in consultation with the contracting parties primarily interested.