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SM/88/282

December 29, 1988

To: Members of the Executive Board
From: The Secretary
Subject: Report on the Midterm Review of the Uruguay Round

There is attached for the information of the Executive Directors a report by the Fund observer on the midterm review of the Uruguay Round, held in Montreal from December 5 to 9, 1988.

Att: (1)

Other Distribution:
Department Heads

INTERNATIONAL MONETARY FUND

Report on the Mid-Term Review of the Uruguay Round

Prepared by the Fund Observer 1/

December 28, 1988

I. Introduction and Summary

The Mid-Term Review of the Uruguay Round was conducted by the Trade Negotiations Committee (TNC), convened at ministerial level in Montreal during December 5-9, 1988 under the chairmanship of Minister Zerbino of Uruguay. The Managing Director addressed the Plenary Session on December 6. 2/

Although the Ministerial meeting was extended for one day, negotiators were unable to agree on a complete set of proposals acceptable to all participants. The primary reason was the inability to find a compromise on agriculture between the United States, which insisted on agreement on long-term goals, and the European Community (EC), which wanted to proceed with short-term measures. In addition, unresolved issues remained on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Safeguards, and Textiles and Clothing. As a result, at its final Plenary, the Ministerial meeting decided to forward the entire package of subjects, including both the results achieved in a number of negotiating areas and the unresolved items, to a meeting to be held at the level of high officials in Geneva in April 1989. It further decided that during the period up to April 1989 the Director-General of GATT, Mr. Arthur Dunkel, in his capacity as Chairman of the TNC at official level, should conduct high-level consultations in the four areas (Textiles and Clothing, Safeguards, TRIPS, and Agriculture) which required further consideration.

II. Highlights of the Discussion

The Ministerial meeting considered two reports prepared in Geneva by the Group of Negotiations on Goods (GNG) and the Group of Negotiations on Services (GNS), respectively. 3/ The GNG report

1/ Jack P. Barnouin (Geneva Office). Fund staff from headquarters attending the meetings were Helen B. Junz (ETR), Margaret R. Kelly (ETR), and Hellmut O. Hartmann (EXR).

2/ MTN.TNC/MIN(88)/ST/35, attached.

3/ MTN.GNG/13 and MTN.GNS/21.

included six sections which had been fully agreed upon by the participants (Non-Tariff Measures, Natural Resource-Based Products, GATT Articles, MTN Agreements and Arrangements, Subsidies and Countervailing Measures, and Trade-Related Investment Measures (TRIMS)), and eight sections (Tariffs, Tropical Products, Agriculture, Textiles and Clothing, Safeguards, TRIPS, Dispute Settlement, and Functioning of the GATT System (FOGS)) where large areas of divergence persisted.

Following a number of informal bilateral and multilateral contacts in the few days preceding the opening of the meeting, the negotiations started on all unresolved items on December 5 with the establishment of four Ministerial Negotiating Groups. These Groups dealt respectively with Services (under the chairmanship of Ms. Gradin of Sweden), Agriculture (under the chairmanship of Mr. Zerbino of Uruguay, TNC Chairman), TRIPS (under the chairmanship of Mr. Ozal of Turkey) and all other pending issues (under the chairmanship of Mr. Crosbie of Canada). These Groups managed to narrow existing differences of view on most but not all of the subjects under their purview. To speed up the negotiating process, it was decided on December 7 to forward all unresolved items to a steering group of 22 Ministers (under the chairmanship of Mr. Zerbino, Chairman of the TNC)--the so-called "green-room" group--which was assisted in its task by a number of informal negotiating and drafting groups. At this level, a consensus emerged on texts acceptable to all participants on Services and on four controversial areas of the negotiations in the field of merchandise trade (Tariffs, Tropical Products, Dispute Settlement, and FOGS). No agreement, however, was reached in four key areas, namely: Agriculture, Textiles and Clothing, Safeguards, and TRIPS.

The failure of the negotiations on Agriculture reflected the fact that the United States and the European Community held widely divergent views on the issues at stake in that sector. It did not prove possible to find a compromise that would bridge these two views. While the U.S. delegation continued to insist that a firm commitment to the elimination of trade-distorting protection and support in the long run constituted a precondition to the launching of negotiations on short-term measures, the EC delegation reiterated that negotiations on the latter should be initiated without precondition.

On TRIPS--a sector of major importance to many developing countries--the most contentious issue was whether the negotiations to be initiated in 1989 should encompass the definition of substantive norms including the question of their effective enforcement. This was strongly advocated by the industrialized countries but was opposed by many developing countries on the grounds that all normative activities

regarding TRIPS should remain within the World Intellectual Property Organization (WIPO). To break the deadlock, it was suggested that a multilateral framework for TRIPS encompassing the definition of substantive norms could be negotiated in the same manner as the multilateral framework on Services, i.e., outside GATT but under the purview of the TNC. This compromise proposal, however, did not meet with a consensus.

On Textiles and Clothing, the key issue was whether substantive negotiations should begin in early 1989 without preconditions (the position of the developed countries) or whether such negotiations should get under way only after an agreement had been reached on a time frame for the phasing out of the Multifibre Arrangement (MFA) and on a firm standstill commitment against new restrictions under the MFA (the position of the developing countries). On Safeguards, the unresolved issues included the question of a time limit for the application of safeguard measures; whether these measures should be applied in a selective or a nondiscriminatory manner; and whether gray-area measures resulting in selective application should be proscribed.

When it became clear on December 8 that an agreement was not possible on Agriculture, several Latin American country members of the Cairns Group 1/ withdrew their support from agreements already reached on Services and other areas. This initiative, which was endorsed by a number of other developing countries, led the "green-room" group to suggest that the Mid-Term Review be suspended until April 1989 when it would be resumed at the level of high officials. In keeping with this suggestion, the TNC meeting at its final Plenary adopted the following decision:

- the Committee will hold a meeting at the level of high officials in the first week of April 1989;
- the results achieved at the Montreal meeting as reflected in the present document are put "on hold" until that meeting;
- during the period up to April 1989, Mr. Arthur Dunkel, in his capacity as Chairman of the Committee at official level, should conduct high-level consultations on the four items (Textiles and Clothing; Agriculture; Safeguards; and Trade-Related Aspects of Intellectual Property Rights, Including Trade in Counterfeit Goods) which require further consideration;

1/ The Cairns Group comprises Argentina, Australia, Brazil, Canada, Chile, Colombia, Hungary, Indonesia, Malaysia, New Zealand, the Philippines, Thailand, and Uruguay.

- the entire package of subjects should be reviewed at the meeting of the Trade Negotiations Committee in April 1989;
- the Committee declares its determination to press forward and complete the negotiations as foreseen in 1990.

The implications of the above decision are as follows:

First, neither the Group of Negotiations on Goods (GNG)--and its subgroups--nor the Negotiating Group on Services (GNS) are likely to meet before the April 1989 meeting of high-level officials; the period until then will be devoted to the above-mentioned high-level consultations on the four remaining areas of difficulties.

Second, the results achieved in the negotiations which are put on "hold" include: (i) agreements of a largely procedural nature reached in Geneva or in Montreal in ten areas of the negotiations on merchandise trade (GATT Articles, Natural Resource-Based Products, MTN Agreements and Arrangements, Subsidies and Countervailing Measures, TRIMS, Non-Tariff Measures, Tariffs, Dispute Settlement, FOGS, and Tropical Products); and (ii) an agreement reached during the Montreal meetings which set comprehensive guidelines for the negotiation of a framework regarding the progressive liberalization of trade in services. Of the above, only the agreement on Tropical Products would provide for the implementation of concrete liberalization measures by developed countries. Among these countries, however, only Australia, Austria, New Zealand, and the Nordic countries will implement such measures immediately, while the EC will limit itself to the introduction of some improvements in its GSP treatment of Tropical Products and some measures for least-developed countries.

Third, Mr. Dunkel will not be in a position to consult formally with the Managing Director of the International Monetary Fund and the President of the World Bank on strengthening the relationship of GATT with other relevant organizations until after agreement on the whole package is reached in April 1989. However, it was agreed that informal discussions at the staff level could begin at an earlier date.

In the final Plenary, the Chairman of the TNC, the Director-General of GATT, the EC Commissioner in charge of foreign trade (Mr. de Clercq) and the U.S. Trade Representative (Mr. Yeutter) deemed the review a success despite the lack of consensus on a comprehensive package. They referred to the fact that agreements had emerged on Services and in ten areas in the negotiations on goods; that differences had been narrowed in three of the four remaining problem areas (Safeguards, Textiles, and TRIPS); and that Ministers had been forced to focus on the need to successfully conclude

the Mid-Term Review by April 1989. The Ministers of Australia and New Zealand expressed deep disappointment about the lack of progress in Agriculture. The Australian Minister stressed that this issue could not be left to officials in Geneva but would require officials in Washington and Brussels to reassess their positions and prepare their constituencies for change. Several Ministers from developing countries urged all developed countries that had made offers on Tropical Products to implement them without waiting for the final outcome of the Mid-Term Review.

The inability to reach agreement on all issues is a measure of the wide-ranging nature of the Uruguay Round. As agreed in Punta del Este, the Uruguay Round aims to resolve not only longstanding problems in areas such as Agriculture, Textiles, and Safeguards, but also to encompass within the multilateral trading system the new areas of Services and TRIPS. Seen in this light, the extension of the Mid-Term Review process beyond the week of Montreal is understandable. There was simply not enough time to resolve all the most difficult problems, and the decisions taken acknowledge that it was better to stop the clock than to attempt to paper over major difficulties through the adoption of ambiguous wording which would have unduly complicated the second stage of the Round.

Moreover, the numerous issues which were settled in Montreal are unlikely to be reopened in Geneva if an agreement emerges on the few key pending issues. In this sense, the results achieved in Montreal constitute a firm basis for a successful outcome of the Mid-Term Review in April. Among these results, the agreement reached on Services is of special importance because it represents a significant breakthrough given the differences prior to Montreal on this issue. In particular, the decision to negotiate a framework agreement which may include labor mobility was a major concession to developing countries by the industrial countries.

Finally, the Director-General of GATT has been given the major challenge of tying up a large number of loose ends in preparation for the April meeting. In particular, he will be personally responsible for the negotiations on Agriculture.

III. The Sectorial Results

The results achieved at the Montreal meeting in the field of trade in services and in ten areas of the negotiations on trade in goods are included in a comprehensive document forwarded by the Ministers to the high-level officials' meeting scheduled to be held in Geneva in April 1989. 1/ Although, in principle, these results may be reassessed at the later meeting, they are unlikely to be modified especially if a consensus emerged at that meeting on the issues which are still pending. They therefore constitute a major achievement of the Ministerial meeting on which a few comments are called for.

1. Negotiations on trade in goods

a) Tariffs

The approved text calls for a substantial reduction or, as appropriate, elimination of tariffs by all participants with a view to achieving lower and more uniform rates. This would include the reduction or elimination of high tariffs, tariff peaks and escalation, and low tariffs, with a target amount for overall reduction at least as ambitious as that achieved by the formula participants adopted in the Tokyo Round. It is also agreed that the scope of bindings should be substantially increased and that liberalization measures adopted since June 1, 1986 should be recognized appropriately. Substantive negotiations on these aspects should begin no later than July 1, 1989.

b) Non-Tariff Measures

It is recognized that the reduction or elimination of nontariff measures by all participants is a central element of the successful outcome of the Uruguay Round. A number of broad guidelines have been set up for the pursuit of the negotiations in the second stage of the Round.

c) Natural Resource-Based Products

The agreed text stipulates that participants should continue to pursue the objectives of the fullest liberalization of trade in natural resource-based products, including those in processed and semi-processed forms. It is further agreed that substantive negotiations should begin as soon as possible, taking into account the work already carried out in three product areas--fisheries, forestry, and nonferrous metals and minerals.

1/ MTN.TNC/7(MIN) attached. On the four items which remain pending the document includes the relevant bracketed sections of the report prepared in Geneva by the GNG.

d) Tropical Products

On the eve of the opening of the Montreal meeting, an agreement emerged between 10 developed countries (Australia, Austria, Canada, the EC, Finland, Japan, New Zealand, Norway, Sweden, and Switzerland) and 11 developing countries (Brazil, Colombia, five Central American countries, Malaysia, Mexico, the Philippines, and Thailand) on a list of concessions on tariff and nontariff measures and on improvements in existing General System of Preferences (GSP) schemes. 1/ A separate list of concessions was issued at the same time by the United States. 2/ The developing countries signatories of the Lomé Convention expressed a strong reservation on the package of concessions offered by the EC on the grounds that this package resulted in a significant reduction of the preferences they enjoyed under the Convention. 3/

Pursuant to the decision to keep on "hold" the results achieved at Montreal, Canada, Japan, Switzerland, and the United States have indicated that they will not implement their offers on tropical products prior to the April meeting of the TNC. For its part, the EC has announced that in the period up to the April meeting it will limit itself to the introduction of some improvement in its GSP treatment of tropical products and to the implementation of some measures for the least-developed countries. By contrast, Australia, Austria, Finland, New Zealand, Norway and Sweden have expressed their intention to implement their offers on tropical products without further delay.

Besides taking note of the concessions offered by certain developed countries, the text incorporated in the Ministers' report calls for the pursuit of the negotiations on tropical products with due regard to: (i) the elimination of duties on unprocessed products; (ii) elimination or substantial reduction of duties on semi-processed and processed products, including the objective of eliminating or reducing tariff escalation; and (iii) the elimination or reduction of all nontariff measures affecting trade in tropical products.

e) GATT Articles

The text approved by the Ministers directs that the work of the Negotiating Group should be pursued vigorously, and urges participants to submit specific proposals as soon as possible. To date, 13 GATT provisions have been raised by participants for review in the Group. Among the most far-reaching issues have been proposals: to reform GATT rules on trade restrictions taken for balance of payments purposes; to clarify and tighten GATT rules governing customs unions and free-trade

1/ MTN.GNG/17.

2/ MTN.GNG/17/Add.1.

3/ MTN.TNC/W/15.

areas; and to clarify GATT provisions concerning state trading enterprises. A considerable amount of discussion has also been devoted to proposals to permit a wider distribution of "negotiating rights" in the GATT.

f) MTN Agreements and Arrangements

The negotiations in this area aim at improving, clarifying, or expanding, as appropriate, the Agreements and Arrangements negotiated in the Tokyo Round of multilateral trade negotiations. These cover such widely divergent and technically unrelated subjects as government procurement, dumping, subsidies, technical barriers to trade, customs valuation, and import licensing. 1/ The text agreed by the Ministers notes that the negotiating group concerned had largely completed the initial phase of clarifying issues and that substantive negotiations were beginning to take place. It also notes that widened membership of the Agreements could contribute to improving the unity and consistency of the GATT system and that the appropriate use of provisions for the special and differential treatment of developing countries could facilitate wider membership of these countries.

g) Subsidies and Countervailing Measures

The section of the Ministers' report dealing with this topic endorses the framework for negotiations developed in Geneva by the negotiating group concerned. It further notes that this framework does not anticipate or prejudge any specific outcome of the negotiations; that it is flexible; and that further issues may be added to it in the course of the negotiations.

h) Trade-Related Investment Measures (TRIMS)

The text agreed by the Ministers stipulates that the negotiating group concerned should continue its examination of the trade-restrictive and -distorting effects of investment measures and should elaborate new provisions, as appropriate, where these effects may not be adequately covered by existing GATT Articles. The group is further instructed to integrate the issue of economic development into the negotiating process.

i) Dispute Settlement

The Ministers' report encompasses a comprehensive overhaul of GATT's dispute settlement rules and procedures. It provides for a number of improvements in such rules and procedures which aim at

1/ Accession to the various Agreements and Arrangements is voluntary.

ensuring the prompt and efficient resolution of disputes to the benefit of all contracting parties. Many of the changes would involve the establishment of time limits (some firm, others retaining a degree of flexibility) for the conclusion of various phases of the dispute settlement process. In particular, whereas former practice did not impose any time limit on the Council for the establishment of a dispute settlement panel, the new procedures would essentially require the Council to establish a panel no later than the Council meeting following the meeting at which the request first appeared on the Council's regular agenda. However, the practice of adopting panel reports by consensus which had been questioned by some countries, would be continued.

j) Functioning of the GATT System (FOGS)

The text agreed by the Ministers includes carefully negotiated wording on the delicate issue of the role of trade policy in global macroeconomic policy coordination. It states, inter alia, that: (i) the significance of trade policymaking in the process of redressing existing external imbalances needs greater political and institutional recognition; (ii) that progress is being made to improve the stability of the international economic environment and to deal with the debt problems of developing countries but that more needs to be done in both fields; (iii) that "difficulties, the origin of which lie outside the trade field, cannot be redressed through measures taken in the trade field alone"; and (iv) that therefore it is important that efforts be made "to improve other elements of global economic policymaking to complement the effective implementation of the improved GATT rules and disciplines to be achieved in the Uruguay Round."

Turning to the areas under the purview of the Negotiating Group on FOGS, the text stresses that the steps to be taken in those areas should be guided by three general principles: (i) "the key contribution that GATT can make, through the Uruguay Round, towards greater coherence in global economic policymaking will be to ensure a further extension and liberalization of trade as well as a strengthened multilateral trading system"; (ii) "institutional relationships between the GATT and other international institutions responsible for monetary and financial matters can be developed so as to promote a dialogue, within the sphere of competence of each institution, to facilitate policies and actions which enhance the complementarities that exist between them in order to improve the coherence of global economic policymaking"; and (iii) "the institutional reinforcement of the GATT would help it to improve its role in contributing towards such greater coherence in global economic policymaking."

Within these broad orientations, Ministers recommend that the CONTRACTING PARTIES establish a Trade Policy Review Mechanism (TPRM) to enable a regular, collective evaluation of the trade policies and practices of individual contracting parties, and their impact on the

multilateral trading system. Although all contracting parties would be subject to such reviews, their frequency would vary from a two-year to a six-year cycle, according to the world trade share of the country in question; allowance might also be made for an even longer review cycle for least-developed countries.

The reviews would be carried out by the GATT Council of Representatives at special meetings and, in consultation with the contracting party under review, the Chairman of the Council might "choose discussants who, in their personal capacity, will introduce the discussions in the review body." The reviews would be based on a report submitted by the contracting party under review as well as on a report drawn up by the GATT secretariat under its own responsibility. These reports (both that submitted by the contracting party under review and that prepared by the Secretariat), together with a summary report of the Council meeting, would be published promptly after the review. No mention is made in the text agreed by the Ministers of the controversial question of possible consultations in capitals between the GATT secretariat and the contracting parties under review.

With respect to Ministerial involvement in GATT activities, Ministers support the convening of Ministerial-level meetings of the CONTRACTING PARTIES at least once every two years. No mention is made of the establishment of a small Ministerial steering group which would meet more frequently. It seems, however, that this matter could be further discussed by the Negotiating Group on FOGS under the broad mandate it has received from Ministers "to continue to explore other means by which to improve the overall effectiveness and decision-making of the GATT."

Finally, the Ministers also propose that "the GATT Director-General approach the heads of the IMF and the World Bank, as a first step, to explore ways to achieve greater coherence in global economic policymaking through strengthening the relationship of GATT with other relevant international organizations."

2. Negotiations on trade in services

The section of the Ministers' report dealing with this item states that negotiations on a multilateral framework of principles and rules for trade in services should proceed expeditiously. It further stipulates that such a framework would be based on the principles of

transparency, national treatment, 1/ and most-favored nation/non-discrimination. It would also allow foreign services to be supplied by the preferred mode of delivery. The negotiations should provide for progressive liberalization of trade in services, including provisions for further negotiations at the end of the Uruguay Round. Due respect should be given to national policy objectives, and specific procedures might be required for the liberalization of particular sectors. The framework should provide for the increasing participation of developing countries in world trade and for the expansion of their service exports. Particular account should be taken of the serious difficulties of developing countries in accepting negotiated commitments.

It was noted that further work would be needed on safeguards (e.g., for balance of payments reasons) and exceptions (e.g., for security purposes). Future work on the definition of trade in services should proceed on the basis that the multilateral framework might include cross-border movement of services, consumers, and factors of production, when such movement was essential to suppliers. However, this would need to be examined in light of such factors as the specificity of purpose, the discreteness of transactions and the limited duration of factor movements.

Finally, Ministers request the GATT secretariat to compile a reference list of sectors by February 1989; invite participants to submit indicative lists of sectors of interest to them by May 1989; and call on the GNS to assemble, by the end of 1989, the necessary elements for a draft which would permit the negotiation of a framework agreement for trade in services and its entry into force by the end of the Uruguay Round.

1/ It was understood that national treatment meant that the service exports and/or exporters of any signatory would be accorded treatment no less favorable than that accorded domestic services or service providers in the same market.

MULTILATERAL TRADE
NEGOTIATIONS
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MTN.TNC/MIN(88)/ST/35
6 December 1988
Special Distribution

Trade Negotiations Committee

Original: English

Meeting at Ministerial Level
Montreal (Canada), December 1988

INTERNATIONAL MONETARY FUND

Statement by Mr. M. Camdessus
Managing Director

Your deliberations here this week are of considerable consequence for the world economy. That they are of fundamental importance for the future strength of the multilateral trading system goes without saying. Their significance, though, does not stop there. The impetus that they can give to comprehensive trade liberalization will also have a crucial bearing on a number of other matters that are of prime concern for the world financial community.

We, in the International Monetary Fund, through our mandate, and from the tasks our governors have defined over the years, have a special responsibility for assisting our members in dealing with matters that are crucial for the prosperity of the world. Such matters as the task of sustaining growth and reducing unemployment in the industrial world; the task of re-energizing activity in the developing world and enabling the indebted countries to grow out of their debt burdens; the task of strengthening the resilience of the world economy generally.

The simple purpose of my address this morning is to tell you how critical your action is for the achievement of such common purposes; to call your attention to a few features of the present economic situation that are particularly relevant to your task; and to explore with you promising avenues for progress.

I. First and fundamentally, what is it that we are all seeking? Durable growth. And the Fund, within its field of responsibilities, is striving to contribute to this end. How? By promoting growth-oriented adjustment universally - in the industrial and developing countries alike; by helping the indebted countries confront their payments problems and grow out of their debt; by contributing to the co-operative efforts of the major countries to achieve exchange market stability. This is well known, but there are three points I would underscore as being particularly relevant to your debate.

First, the international financial community is moving to do just that through a number of channels: through a policy co-ordination process that has made important strides; through a process of multilateral surveillance

that is becoming increasingly effective, particularly after the decisions taken in Venice and Tokyo; and through a debt strategy that has to continue to evolve in the light of circumstances.

These efforts, though, will fall short unless there is a comparable effort in the trade field. This is my second point.

Growth in the industrial world is unlikely to be sustained at an adequate pace unless barriers to a more efficient use of available resources are progressively dismantled. Recognizing this, the major industrial countries have been actively freeing domestic financial markets and have embarked on a range of other structural reform policies. But trade barriers are there, in their various and increasingly sophisticated guises, and they serve only to blunt this healthy process. Their reduction is an essential ingredient of a coherent approach to positive adjustment policies.

Efforts by the indebted countries to implement genuinely growth-oriented adjustment policies, meanwhile, will hardly bear fruit unless the rest of the world opens its markets more widely to their goods, not least by reducing barriers to agricultural imports and subsidies of agricultural exports. From our efforts in the Fund to help these countries, I see only too vividly - every day - the difficulties they face, and I can only share their anxieties.

And the quest for making growth everywhere less vulnerable to external shocks will continue to fall short until industrial and developing countries alike forego reliance on protectionist props.

Our common objective and basic tasks are thus clear. And you, the framers of commercial policy, have an essential rôle to play.

II. Now, turning away from the clamour of sectional interests, and looking to the present features of the world economy, let us see what the facts are.

We see, first, much scope for liberalization. Although tariffs in many countries have been reduced to relatively low levels as a result of previous multilateral negotiations, non-tariff barriers have multiplied; distortions to agricultural trade have grown apace; industrial policies in the major countries can work to distort markets and impede structural adjustment; and ominous strains have emerged in the trading system.

We see a growing public awareness of the huge cost to taxpayers and consumers of present trade supports - supports, let us not forget, that also add to the difficulties of the crucial task of reducing budget deficits in various countries. This surely offers the possibility of killing two birds with one stone - enlarging the access of indebted countries to export markets while at the same time reducing budget deficits, promoting adjustment in the industrial world, and bringing downward pressure to bear on interest rates generally.

Third, we see a process of economic policy co-ordination in place among the major industrial countries that has been instrumental in keeping the largest realignment of exchange rates in recent history orderly, that is achieving an improved degree of stability in exchange markets, and that is an ongoing process from which further progress is to be expected.

We see, finally a strengthened outlook for world trade in the immediate future. This provides a window of opportunity for concrete action now and well before the end of the Uruguay Round - a golden opportunity you will not want to miss.

III. How can we advance matters?

The closer drawing together of nations into a world economy by dismantling barriers to trade opens up tremendous possibilities. The manner in which this is achieved, of course, is exceedingly important and will determine whether these possibilities can be translated into positive outcomes. What I have just said about our common strategy suggests the broad thrust of a method for further progress. Our world is interdependent. So are the problems. Durable world growth, monetary stability, more manageable debt, and trade liberalization are interrelated objectives, interrelated imperatives. We have to make progress on all of these fronts. Success on any one of them will be precarious without success on the others. The assurance that all parties will discharge their own particular responsibilities with equal determination can play a crucial rôle in encouraging each of those parties to tackle its own task more decisively.

This leads me to draw your attention to two promising avenues for common action. But first I should mention two possible mistakes that we should avoid. They are equally perverse, albeit in opposite directions.

The first would be to use possible dissatisfaction with one or more aspects of the present world economic environment as a pretext for inaction on trade. No country should go this way. Industrial countries must not shelter behind external deficits or developments in exchange markets as an excuse for delay in rolling back protectionism. Nor must developing countries put off trade liberalization pending the emergence of more favourable global conditions and a less strained external position. There are only losses to be reaped from delay. Thus those in relatively favourable positions should be encouraged to move to unilateral liberalization without waiting for corresponding measures by others. Such moves by major trading nations could contribute significantly to alleviate the debt problem. Anyway, no country is entitled to delay the progress of others in taking reasonable steps against protectionism. We all know that protectionism reduces both an economy's growth potential and its ability to adapt to changed circumstances. Neither, surely, is a risk and responsibility that governments can accept.

The other mistake would - in the opposite way - to have all of us trying to address all sides of these interrelated problems, irrespective of our individual mandates and fields of expertise. This, of course, would only lead to reduced effectiveness. It would be better - and here allow me to refer to Ricardo's principle of comparative advantage - to strengthen each of our institutions and make sure that their co-operation is effective and constant.

These are the two promising avenues. The first one is to strengthen again and again each of our respective strategies. I am glad to tell you that, as far as the IMF is concerned, our governors restated clearly the Fund's mission two months ago in Berlin when they emphasized its rôle in three key areas:

- promoting the international co-ordination of economic policies, and, in this context, attuning its surveillance practices to addressing the need for universal adjustment;
- keeping "the working of the international monetary system under review", and "identifying ways for its improved functioning within a multilateral framework" - a continuing responsibility;
- and discharging its "continued central rôle ... in implementing the debt strategy".

In these three central matters, strategies have been reviewed and strengthened; and they will continue to evolve so as to continue to come to grips with the changing problems of the world economy and to reinforce the basis for sound growth.

As far as trade is concerned, this Round of negotiations affords the opportunity for governments to deal with the most difficult issues; to embrace, in a sense, the earlier spirit of the Havana Charter; to further the cause of the liberal trading system, bring the settlement of trade disputes more systematically within the multilateral framework of the GATT, and to strengthen the multilateral surveillance of trade.

Clearly, this is the proper way for the IMF and the GATT to discharge effectively their responsibilities. But - and this is the second promising avenue - we have to act together and co-operate as closely as possible. Thus co-operation was established as a permanent feature of our relationship.

From the outset, the Fund has shared a number of common objectives and interests with the GATT. One reason why the Fund was brought into being was precisely - let me quote the Fund's Articles - "to facilitate the expansion and balanced growth of international trade". Major moves toward freer trade have been an important feature of Fund-supported adjustment programmes of our member countries. We continue to do all that we can in this area. Now that your actions will, I hope, speed up the process of

trade liberalization, we in the Fund have to stand ready to be as effective as possible in supporting such efforts. In this connection, let me affirm here our pledge to provide financial support to countries implementing trade liberalization programmes and encountering, as a result, a temporary pressing need for foreign exchange. This has traditionally been one of the purposes of our standby arrangements. We intend to use all our instruments, and especially the recently revitalized EFF, as well as the recently created ESAF and CCFE, to support trade liberalization within comprehensive adjustment programmes.

We also have, under the GATT's statutes, a special co-operative relationship with the GATT which we value. And I look forward to working the Director-General of the GATT in his efforts, which I hope you will endorse, to explore ways to achieve greater coherence in global economic policy-making through strengthening the relationship of the GATT with the Bretton Woods institutions. Indeed, the Executive Board of the Fund has been unanimous in encouraging co-operative processes which could complement and reinforce the promotion of an open and non-discriminatory trade and payments system.

Unless we press forward, the risk is that we shall move backward. But, in saying this, I do not, of course underestimate the complexity of the task at hand. Nations' perceptions of their short-term interests do diverge. The bargains to be struck are not straightforward. Balanced solutions rarely come easily. But the long-term interests of countries converge. The process launched at Punta del Este is testimony to this. And it is time to move this process forward. It is thus my earnest wish that this conference will seize an historic opportunity.

MULTILATERAL TRADE
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THE URUGUAY ROUND

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RESTRICTED

MTN.TNC/7(MIN)

9 December 1988

Special Distribution

Trade Negotiations Committee

TRADE NEGOTIATIONS COMMITTEE MEETING
AT MINISTERIAL LEVEL

Montreal, December 1988

The Trade Negotiations Committee meeting at Montreal at Ministerial level decides that:

- the Committee will hold a meeting at the level of high officials in the first week of April 1989;
- the results achieved at its Montreal meeting as reflected in the present document are put "on hold" until that meeting;
- during the period up to April 1989, Mr. Arthur Dunkel, in his capacity as Chairman of the Committee at official level should conduct high level consultations on the four items (Textiles and Clothing; Agriculture; Safeguards; and Trade Related Aspects of Intellectual Property Rights, Including Trade in Counterfeit Goods) which require further consideration;
- the entire package of subjects, the results achieved in Montreal and the other items, should be reviewed at the meeting of the Trade Negotiations Committee in April 1989.

The Committee declares its determination to press forward and complete the negotiations as foreseen in 1990.

PART I

NEGOTIATIONS ON TRADE IN GOODS

SURVEILLANCE OF STANDSTILL AND ROLLBACK

Ministers, noting the political importance of the standstill and rollback undertaking:

- (a) affirm their determination to ensure that the standstill and rollback commitments are met;
- (b) emphasize the need to take appropriate action to ensure withdrawal of all measures contrary to the standstill commitment, taking into account that there are a number of measures which have been ruled GATT-inconsistent by panel reports adopted by the CONTRACTING PARTIES;
- (c) recognize the importance of regular discussions in the Surveillance Body of trade measures, including those not yet in force, which may have an effect on the standstill commitment;
- (d) emphasize the need for timely action on rollback, and prompt response to rollback requests, so as to ensure progressive implementation of the rollback commitment on an equitable basis;
- (e) urge participants, without prejudice to the existing procedures, to indicate to the Surveillance Body how and when they intend to proceed to rollback measures covered by the commitment, taking into account the fact that there are a number of measures which have been ruled GATT-inconsistent by panel reports adopted by the CONTRACTING PARTIES;
- (f) invite participants to examine carefully measures which they maintain, whether or not these have been notified, in order to determine what actions they should take to progressively implement their rollback commitments. Such actions could be self-initiated, could result from requests and consultations, and should be taken on a GATT-consistent basis;
- (g) agree that participants should communicate the conclusions of their consideration to the Surveillance Body promptly; and
- (h) agree that at its meeting in July 1989 the Trade Negotiations Committee should carry out a substantive evaluation of the implementation of the standstill and rollback commitments (including evaluation of avoidance of disruptive effects on the

trade of less-developed contracting parties) and its impact on the process of multilateral trade negotiations and in relation to the interests of individual participants, with a view to taking such procedural or other action as may be appropriate.

SUBJECTS FOR NEGOTIATIONSTARIFFS

1. Ministers agree that substantive negotiations will begin no later than 1 July 1989, and that tariff and trade data will be exchanged accordingly. They instruct their representatives to establish detailed procedures, approaches and methods necessary for the negotiations.

2. Reiterating the importance of reducing and eliminating tariffs and expanding the scope of tariff concessions as agreed in the Punta del Este Declaration and subject to the understanding that the participation of developing countries in the tariff negotiations would be in accordance with the general principles governing the negotiations, including Part I.B, paragraphs (iv)-(vii) of the Declaration, Ministers agree on the following:

- (a) A substantial reduction or, as appropriate, elimination of tariffs by all participants with a view to achieving lower and more uniform rates, including the reduction or elimination of high tariffs, tariff peaks, tariff escalation and low tariffs, with a target amount for overall reductions at least as ambitious as that achieved by the formula participants in the Tokyo Round.
- (b) A substantial increase in the scope of bindings, including bindings at ceiling levels, so as to provide greater security and predictability in international trade.
- (c) The need for an approach to be elaborated to give credit for bindings; it is also recognized that participants will receive appropriate recognition for liberalization measures adopted since 1 June 1986.
- (d) The phasing of tariff reductions over appropriate periods to be negotiated.

3. Individual participants attach importance to assessing progress made in achieving real improvements in conditions of market access.

4. Participants have agreed that in the negotiation of tariff concessions, current nomenclatures should be employed and that the base rates for the negotiations will be the bound m.f.n. rates and, for unbound rates, the normally applicable rates in September 1986.

NON-TARIFF MEASURES

1. Ministers recognize that the reduction or elimination of non-tariff measures by all participants is a central element of a successful outcome of the Uruguay Round. Recognizing the importance of achieving substantially improved market access, Ministers agree that, in order to ensure effective trade liberalization, results from negotiations on non-tariff measures should be substantial.

2. Subject to the understanding that the participation of developing countries in the negotiations on non-tariff measures would be in accordance with the general principles governing the negotiations, including Part I.B, paragraphs (iv) - (vii) of the Declaration, Ministers agree to the following guidelines for the conduct of negotiations on non-tariff measures:

- (a) Various negotiating approaches can be applied to these negotiations, including multilateral, formula and request-offer approaches. However, approaches which ensure the widest participation and broadest possible liberalization are to be preferred.
- (b) These negotiations shall be without prejudice to any action to be taken in fulfilment of the rollback commitments contained in Part I.C of the Ministerial Declaration, which state, inter alia, that there shall be no GATT concessions requested for the elimination of GATT-inconsistent measures.
- (c) Transparency will be ensured in the negotiations whose results are to be applied in accordance with the basic principles of the General Agreement.
- (d) To ensure that concessions to reduce or eliminate non-tariff measures are not subsequently nullified or impaired, participants agree to explore the most appropriate measures to achieve this objective.
- (e) There should be provisions for immediate or staged implementation of results over agreed time-frames.
- (f) Individual participants will attach importance to assessing progress made in achieving real improvements in conditions of market access.
- (g) If elimination of a non-tariff measure is not possible, consideration may be given to transforming it into a tariff.
- (h) Participants will receive appropriate recognition for the liberalization measures which they have adopted.

3. Recognizing the importance of receiving proposals from both developed and developing countries, Ministers agree that the Negotiating Group will:

- (a) with regard to the categories of measures for which multilateral rule-making approaches are proposed, examine relevant provisions in the General Agreement and in other agreements and will consider how to deal with the problems raised;
- (b) examine proposals made for multilateral formula approaches with a view to reaching an understanding on the applicability and, if appropriate, scope and procedures for such negotiations;
- (c) review the secretariat's sorting of indicative lists of non-tariff measures for which request-and-offer approaches are proposed with a view to reaching an understanding on the scope and procedures for such negotiations; and,
- (d) by June 1989, aim to establish a framework for future negotiations, including procedures, taking into account the above principles and guidelines, so as to initiate detailed negotiations.

NATURAL RESOURCE-BASED PRODUCTS

1. Ministers agree that:
 - (a) participants will continue to pursue the objective of fullest liberalization of trade in natural resource-based products, including in their processed and semi-processed forms, as agreed in the negotiating objective and consistent with the overall objectives embodied in the Ministerial Declaration;
 - (b) participants will continue to pursue and give effect to the negotiating plan for natural resource-based products;
 - (c) participants will continue their examination of issues brought forward to date (MTN.GNG/NG3/W/14), without prejudice to additional products and issues participants may yet propose;
 - (d) techniques will be developed to deal with specific issues and problems encompassed by the agreed negotiating objective taking into account negotiating approaches developed in other Groups to determine to what extent particular measures will be needed to ensure achievement of this negotiating objective; and
 - (e) given the interrelationship of issues raised in natural resource-based products and other areas of negotiations in the Uruguay Round, it is necessary to ensure that the progress in negotiations on natural resource-based products is consistent with progress in other related areas.
2. The secretariat will continue to provide essential factual data on all relevant issues.
3. Ministers agree that effective negotiations should begin as soon as possible, it being recognized that the work on the three product areas already studied i.e. fisheries, forestry and non-ferrous metals and minerals is already well advanced.
4. In order to make this practicable, it has been agreed that participants would provide as much relevant trade and barrier data as possible by 31 March 1989.

TEXTILES AND CLOTHING

Proposed recommendations by the Chairman of the Negotiating Group on Textiles and Clothing for consideration and/or decision by Ministers.

[1. Affirmation of the political will to effectively implement the Punta del Este declaration on textiles and clothing by commencing substantive negotiations early in 1989 on "modalities that would permit the eventual integration of this sector into GATT, on the basis of strengthened GATT rules and disciplines, thereby also contributing to the objective of further liberalization of trade".

2. Recognition that negotiations in the area of textiles and clothing is one of the key elements in the Uruguay Round in view of the great importance of this sector for the economies of many countries and its particular importance for the economic and social development of many developing countries and for the expansion of their export earnings.

3. In accordance with Part I.B(vii) of the Punta del Este Declaration, special treatment should be accorded to the least-developed countries.]

Subsequently, the following recommendations have also emerged for consideration and/or decision by Ministers.

- [[(i) Recognition of the [crucial] importance of achieving results in negotiations]
- (ii) Commitment by the participants to [engage in] substantive negotiations early in 1989
- [[(iii) Agreement being reached within the Uruguay Round on the modalities for the integration of the textile sector into GATT, in line with the Punta del Este Declaration [on textiles and clothing negotiations]]
- [[(iv) Agreement that the phase out of MFA restrictions will begin upon the expiry of the present MFA protocol]
- [[(v) Agreement that the process of integration will be gradual and progressive]
- [[(vi) Agreement that the process of integration will be completed within a specified time-frame to be agreed upon during the Uruguay Round]
- [[(vii) Freeze on further restrictions under the MFA.]

- [(viii) Recognition of the need to take full account of progress in other negotiating groups.]

- [(ix) Commitment by all participants to contribute towards liberalization of textiles and clothing trade.]]

AGRICULTURE

Ministers noted that after intensive discussions on trade in agriculture some important differences of position remained outstanding, in particular on the long-term goals of the reform process. They reaffirmed their commitment to the objectives for this sector agreed at Punta del Este and resolved to maintain their efforts to achieve these objectives through the continuing work of the Negotiating Group on Agriculture pursuant to its agreed negotiating plan, and using Part B of the mid-term report written by its Chairman, set out below, as a basis for the Group's further examination and negotiation.

REPORT BY THE CHAIRMAN
OF THE NEGOTIATING GROUP ON AGRICULTURE*

Part B - Points for Decision

The Negotiating Group on Agriculture has made substantial progress in elaborating the elements of the negotiating proposals and submissions under the subsequent negotiating process. The stage has now been reached in this process where the general direction and procedures to be followed in the final phases of the negotiations need to be defined in operational terms so as to provide a framework for liberalizing trade in agriculture and bringing all measures affecting import access and export competition under strengthened and more operationally effective GATT rules and disciplines.

There is a broad measure of consensus that agricultural policies should be more responsive to international market signals in order to meet the objective of liberalization of international trade and that support and protection should be progressively reduced and provided in a less trade distorting manner.

Ministers should accordingly be invited to endorse a framework approach comprising the following interrelated long- and short-term elements and arrangements on sanitary and phytosanitary regulations,

A. Long-term elements

Ministers should be invited to agree that the long-term objective of the agricultural negotiations is to establish the basis of a fair and market-oriented agricultural trading system and that a reform process should be initiated through the negotiation of commitments on support and protection and through the establishment of a strengthened GATT régime.

* Originally issued as MTN.GNG/16

Basic options

(a) Ministers should be invited to decide:

- whether the ultimate goal should be the elimination or the substantial reduction of trade-distortive support and protection;

- whether this reduction or elimination should be realized through negotiations on specific policies and measures or through the negotiation of commitments on an aggregate measurement of support, the terms of which would have to be negotiated - or through a combination of these approaches.

Guidelines for reform

(b) Subject to such decisions as may be made under (a) above, Ministers should establish guidelines for a reform programme of concerted and progressive reduction/elimination in agricultural support and guidelines for a strengthened GATT régime for agriculture based on new and amended rules and disciplines:

(i) this reform programme should result in progressive reduction in all direct and indirect subsidies and import barriers which directly or indirectly affect trade in all agricultural products. This programme should be subject to surveillance and other procedures necessary to ensure full compliance with commitments and should be completed by a date to be negotiated and agreed before the end of the Round;

(ii) the strengthened GATT régime should encompass the incorporation under clear and enforceable reinforced GATT rules and disciplines of all measures affecting directly or indirectly import access and export competition:

Import access

- all measures maintained under waivers, protocols of accession or other derogations and exceptions should be eliminated or brought under the strengthened GATT régime;

- conditions should be established governing the maintenance, elimination or removal in favour of tariffs, of quantitative or other non-tariff access restrictions and of measures not explicitly provided for in the General Agreement, including specification of access levels.

Export competition

- conditions should be established under which direct budgetary assistance to exports and deficiency payments on products exported and other forms of export assistance should be progressively reduced or eliminated.

Internal support

- conditions should be established under which price and income support measures should be subject to disciplines in order to make such policies more responsive to international market signals.

(iii) non-economic factors shall be taken into account in the negotiations on the GATT rules and disciplines and related commitments.

(c) Negotiations under (i), (ii) and (iii) above shall begin in February 1989.

(d) Ministers recognize that:

- special and differential treatment to developing countries is an integral element of the negotiations in accordance with governing principles of negotiations as elaborated in section B of Part 1 of the Punta del Este Declaration, in particular parts IV-VII;

- government measures to encourage agricultural and rural development are an integral part of the development programmes of developing countries. Such measures may involve direct or indirect government support.

B. Short-term elements

(a) Ministers are invited to agree that during the next two years:

- participants undertake to implement a freeze on overall support and protection provided to their agricultural sectors at the levels prevailing in [] and to refrain from initiating new programmes that would undermine this commitment;

- to realize the long-term objective, as a first step, to reduce overall support and protection by (x) per cent by 1990;

- special attention should be given to the possible negative effects of short-term measures on net food-importing developing countries;
- an agreement on the terms and conditions of the freeze and reduction must be reached not later than 31 March 1989, including an agreement on measures coverage, commodity coverage, reference price.

(b) Basic options

Ministers should be invited to decide:

- whether a freeze and reduction should be expressed in terms of an aggregate measurement of support or in terms of specific policies and measures or a combination thereof;
- whether developing countries should be exempted from the short-term measures.

C. Sanitary and Phytosanitary Regulations

Ministers should be invited to endorse harmonization of national regulations as a long-term goal and a work programme embodying the following objectives:

- (1) strengthen Article XX so that measures taken to protect human, animal or plant life or health are based on sound scientific evidence and recognize the principle of equivalency;
- (2) review existing notification and counter-notification procedures to ensure the existence of an effective notification process for national regulations;
- (3) develop a consultative process which allows opportunity for the bilateral resolution of disputes;
- (4) establish an effective, multilateral dispute settlement process within the GATT which provides the necessary input of scientific expertise and judgement, relying inter alia on the Codex Alimentarius Commission, the International Office of Epizootics, and the International Plant Protection Convention;
- (5) assess the possible effects on developing countries of the GATT rules and disciplines for sanitary and phytosanitary* measures, and evaluate the need for technical assistance.

* See also the communication from the delegation of Jamaica issued as document MTN.GNG/W/16.

TROPICAL PRODUCTS

1. Ministers take note of the results obtained thus far in negotiations and note that these will be implemented by January 1989 except as otherwise indicated*. These results will form an integral part of the overall achievement of the Uruguay Round.

2. In pursuance of their commitment to the objective of achieving the fullest liberalization of trade in tropical products, including in their processed and semi-processed forms as contained in the Declaration of Punta del Este, Ministers agree to pursue negotiations on the seven product groups as identified in Section II, paragraph 46 of document MTN.GNG/13** with due regard, inter alia, to the following elements:

- (a) Elimination of duties on unprocessed products.
- (b) Elimination or substantial reduction of duties on semi-processed and processed products. These actions would include the objective of eliminating or reducing tariff escalation.
- (c) Elimination or reduction of all non-tariff measures affecting trade in these products.

3. All participants agree to engage in such negotiations and make appropriate contributions towards achieving the above objective in accordance with the relevant provisions of the Punta del Este Ministerial Declaration including those contained in its Part I.B.

4. The Negotiating Group on Tropical Products at its next meeting is invited to make appropriate arrangements for continuation of negotiations on the basis of the above understandings.

5. The Negotiating Group shall, before the formal completion of negotiations, conduct an evaluation of the results attained therein in terms of the objectives of the negotiations.

*Document MTN.GNG/17 and Add.1. Autonomous unilateral contributions have also been tabled in the Negotiating Group on Tropical Products by Hungary (MTN.GNG/NG6/LT/39), South Africa (MTN.GNG/NG6/LT/45 and Add.1) and Czechoslovakia (MTN.GNG/NG6/LT/47).

**Tropical beverages; spices, flowers and plaiting products; certain oilseeds, vegetable oils and oilcakes; tobacco, rice and tropical roots; tropical fruits and nuts; natural rubber and tropical wood; jute and hard fibres. It was understood that this would not constitute a definition of tropical products nor an exhaustive listing and that other products might be included as negotiations proceed.

GATT ARTICLES

1. Ministers recognize the importance for the GATT system of reaching common views on the large number of issues under consideration in the Negotiating Group on GATT Articles, whose work should be directed towards clarifying the Articles, provisions and disciplines of the General Agreement and improving them as appropriate. This work should also take into account the close relationships between particular issues under discussion in the Group and between these and a number of subjects under negotiation in other Groups.

2. Ministers direct that the work of the Negotiating Group be vigorously pursued. To this end, they urge the Group to define the issues for negotiation with precision and clarity. Any specific proposals should be brought forward as soon as possible, and preferably not later than 31 December 1989.

MTN AGREEMENTS AND ARRANGEMENTS

1. Ministers note that the Group has largely completed the initial phase of clarifying issues and substantive negotiations are beginning to take place since some of the proposals already tabled are being analysed and reviewed and specific texts have been or will be tabled. The work of this Group is important in that:

- (a) the MTN Agreements which in some cases clarify and elaborate provisions of the General Agreement deal with very important issues in international trading relations;
- (b) the effective implementation of these Agreements, as well as further improvements, where appropriate, could by strengthening the GATT system have considerable bearing on the stability and predictability of trading conditions; and
- (c) widened membership of the Agreements by more countries could contribute to improving further the unity and consistency of the GATT system; in this connection, the appropriate and effective use of provisions for special and differential treatment, inter alia, could facilitate membership of developing countries.

2. In the light of the above and the progress made so far in the negotiations, Ministers urge the Group to pursue negotiations in this area vigorously, in accordance with the mandate of the Group and the negotiating plan. Early submission of specific texts from participants is encouraged, to expedite the process of negotiation.

SAFEGUARDS

1. Ministers, stressing the importance of concluding a comprehensive agreement on safeguards, which is vital to the strengthening of the GATT system and to progress in the Multilateral Trade Negotiations:

- (a) take note of the in-depth examination of the specific elements which has contributed to a better understanding of the whole issue;
- (b) recognize that, because of the interrelationships between the elements, substantive agreement cannot be reached on individual elements in isolation;
- (c) confirm the decision of the Negotiating Group to authorize its Chairman, with the assistance of the secretariat and in consultation with delegations, to draw up elements for inclusion in a draft text of a comprehensive agreement as a basis for negotiation, without prejudice to the right of participants to put forward their own texts and proposals;
- (d) confirm the decision of the Negotiating Group to pursue work on a draft text of a comprehensive agreement detailing the elements as expeditiously as possible. In this regard, participants should put forward proposals, if any, urgently, preferably before the meeting of the Negotiating Group in March 1989; and
- (e) also confirm the decision of the Negotiating Group to begin negotiations on the basis of the Chairman's text by June 1989 at the latest.

[2. Ministers, taking note of the report of the Chairman of the Negotiating Group on Safeguards, agree that the following key principles should govern the comprehensive safeguards understanding:

- (a) safeguard measures should be of limited duration;
- (b) they should be non-discriminatory; and
- (c) grey-area measures which result in selective application should be proscribed.]

* This recommendation was not approved by the Negotiating Group on Safeguards for reasons set out at the end of paragraph 64 of Section II of document MTN.GNG/13.

SUBSIDIES AND COUNTERVAILING MEASURES

Ministers note that the framework outlined below has been developed from the discussions in the Group. It is intended to guide in a balanced way the conduct of negotiations in the Group with the objective of improving GATT disciplines relating to all subsidies and countervailing measures that affect international trade. The framework does not anticipate or prejudge any specific outcome of the negotiations and cannot prejudice the detailed negotiating positions of any participant on any issue. It is flexible and further issues may be added to it in the course of the negotiations. Further progress in the negotiations will depend on the submission of specific drafting proposals, as provided for in the negotiating plan.

Framework for Negotiations

1. Prohibited Subsidies

1.1 Identification

1.1.1 Normative criteria (e.g. export subsidies - illustrative list)

1.1.2 Other criteria (e.g. quantitative)

1.2 Remedies (countermeasures, compensation, conditions of application, multilateral surveillance)

2. Non-Prohibited but Countervailable or Otherwise Actionable Subsidies

2.1 Conditions for countervailability or actionability

2.1.1 Definition (examples of issues to be considered: charge on the public account, preferentiality, specificity, so-called new practices) and calculation of the amount of a subsidy

- 2.1.2 Trade effects
 - 2.1.2.1 In the market of the importing country (examples of issues to be considered: determination of injury including the question of cumulation and of minimum market share, causal link, definition of industry)
 - 2.1.2.2 In the market of the subsidizing country (examples of issues to be considered: nullification or impairment, other aspects of import substitution)
 - 2.1.2.3 In the third country market (examples of issues to be considered: displacement, serious prejudice)
- 2.2 Remedies
 - 2.2.1 Countervailing duties (examples of issues to be considered: standing of petitioners, initiation and conduct of investigation, imposition and duration of countervailing measures, undertakings, sunset clause, amount of duty, circumvention)
 - 2.2.2 Countermeasures and/or compensation (nature, conditions of application, multilateral mechanism)
- 3. Non-Countervailable, Non-Actionable Subsidies
 - 3.1 Conditions for non-countervailability, non-actionability
 - 3.1.1 Definition (examples of issues to be considered: general availability, non-preferentiality, no trade effects)

- 3.1.2 Other conditions (e.g. specific purpose, strict time-limits)

- 3.2 "Special safeguard" procedures

- 4. Special and Differential Treatment for Developing Countries
- 5. Notifications and Surveillance
- 6. Dispute Settlement

TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS,
INCLUDING TRADE IN COUNTERFEIT GOODS

The following elements put forward by the Chairman of the Negotiating Group are considered by a number of participants as a basis for further negotiation and are transmitted for consideration and/or decision by Ministers.

[1. In order to help resolve problems deriving from the trade-related aspects of intellectual property rights, appropriate and effective multilateral rules and disciplines should be sought, pursuant to the Negotiating Objective agreed at Punta del Este, on the content and limits of international rights and obligations regarding the trade aspects of the protection and enforcement of intellectual property rights.

2. Such rules and disciplines shall have as their objective the reduction of distortions and impediments to international trade. Their elaboration, which will take into account the need to promote effective and adequate protection of intellectual property rights and will be guided by the clarification of GATT provisions and the need to ensure that measures and procedures to protect and enforce intellectual property rights do not themselves become barriers to legitimate trade, requires detailed work on:

- (a) the application of basic GATT principles, such as national treatment, non-discrimination and transparency;
- (b) commitments to provide effective and appropriate means for the enforcement of intellectual property rights;
- (c) the specification of reference points regarding the availability, scope and use of intellectual property rights, in the light of the need to reduce trade problems arising from excessive, discriminatory or inadequate protection of intellectual property;
- (d) effective multilateral procedures for the settlement of disputes between participants, including commitments to bring the use of national trade policy instruments in this connection under multilateral discipline.

3. The negotiations shall also comprise the development of a multilateral framework of principles, rules and disciplines dealing with international trade in counterfeit goods, taking into account work already undertaken in the GATT.

4. The negotiations shall aim at mutual advantage and increased benefits to all participants and should facilitate the flow of technology.

5. Transitional arrangements and technical co-operation in favour of developing countries shall be examined.

6. The negotiations shall be without prejudice to other complementary initiatives that may be taken in the World Intellectual Property Organization and elsewhere to deal with these matters.]

Subsequently, the following have been put forward by some participants also as a basis for further negotiation and are transmitted for consideration and/or decision by Ministers.

[A.1 Participants recognize that international organizations, such as WIPO, Unesco and UNCTAD, deal with the substantive matters relating to intellectual property rights. The negotiations in the TRIPs Group shall not affect in any way the competence of these organizations for establishing standards and norms in their respective spheres.

A.2 The Group should, according to its mandate, continue its work on trade-related aspects of intellectual property rights as distinct from all substantive issues related to IPR protection including establishment of norms and standards.

A.3 In order to ensure that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade, the work of the Group on clarification of GATT provisions should be carried forward so as to determine the nature and contents of any rules and disciplines which may be elaborated as appropriate.

A.4 The negotiations to develop a multilateral framework of principles, rules and disciplines dealing with international trade in counterfeit goods should be concluded expeditiously.]

[B.1 Ministers recognize the importance of the successful conclusion of negotiations on trade-related aspects of intellectual property in the Uruguay Round, and have agreed to complete an agreement that includes obligations to adopt and implement:

- (a) adequate substantive standards for protection of intellectual property, drawing such standards from international conventions where adequate, and from national laws where the provisions of such conventions are inadequate or do not exist;
- (b) effective border and internal enforcement measures;
- (c) a dispute settlement mechanism, taking into account existing GATT procedures and negotiations and adapting them to intellectual property; and
- (d) provisions drawn from other GATT principles, such as national treatment and transparency, and adapted to intellectual property.

B.2 These obligations should be undertaken with a view to protecting the free flow of legitimate trade.

B.3 Ministers agree that the remainder of the negotiations will be used to put the details into that agreement.

B.4 Ministers also agree that participants should first agree on the substance, and then decide on the form of the agreement.]

[C.1 Ministers agree:

that problems deriving from the trade-related aspects of intellectual property rights are a threat to the multilateral trading system. To help resolve these problems, appropriate and effective multilateral rules and disciplines should be sought within GATT;

C.2 that such GATT rules and disciplines shall have as their objective the reduction of distortions and impediments to international trade. Their elaboration, which will take into account the need to promote effective and adequate protection of intellectual property rights and will ensure that measures and procedures to protect and enforce intellectual property rights do not themselves become barriers to legitimate trade, requires negotiations on:

- (a) the application of basic GATT principles and mechanisms: national treatment, non-discrimination, transparency and MFN;
- (b) GATT commitments to provide effective and appropriate means for the protection and enforcement, internally and at the border, of intellectual property rights;
- (c) the normative specification of these commitments in the form of references to existing or new norms and standards and of the elaboration within GATT of norms and standards, principles and indicative lists. This normative specification would cover availability, scope and use of intellectual property rights;
- (d) effective multilateral procedures for the settlement of disputes between participants, including commitments to bring the use of national trade policy instruments in this connection under multilateral discipline;

C.3 that transitional arrangements should be agreed upon for the implementation and the compliance of national legislations with the result of the negotiations; and

C.4 that the negotiations shall be without prejudice to other complementary initiatives that may be taken in the World Intellectual Property Organization and elsewhere to deal with these matters.]

TRADE-RELATED INVESTMENT MEASURES

1. Ministers agree that, drawing on the work of the Group so far, and on the basis of existing and future submissions and proposals by participants, further work of the Negotiating Group shall, with the view of fulfilling the Punta del Este mandate, integrate the following elements into the negotiating process, not necessarily in the order given:

- (a) Further identification of the trade restrictive and distorting effects of investment measures that are or may be covered by existing GATT Articles, specifying those Articles.
- (b) Identification of other trade restrictive and distorting effects of investment measures that may not be covered adequately by existing GATT Articles but are relevant to the mandate of the Group given by the Punta del Este Ministerial Declaration.
- (c) Development aspects that would require consideration.
- (d) Means of avoiding the identified adverse trade effects of trade-related investment measures including, as appropriate, new provisions to be elaborated where existing GATT Articles may not cover them adequately.
- (e) Other relevant issues, such as the modalities of implementation.

2. In order to facilitate the negotiating process, participants are encouraged to make detailed written submissions, as early as possible in 1989, which provide, inter alia, a description of the trade restrictive and distorting effects of investment measures and of the operation and coverage of related GATT Articles.

DISPUTE SETTLEMENT

1. Ministers recommend approval by the CONTRACTING PARTIES of the improvements of the GATT dispute settlement rules and procedures set out below and their application on a trial basis from 1 January 1989 to the end of the Uruguay Round.

2. Ministers decide that the Negotiating Group on Dispute Settlement shall continue its work for the full achievement of the negotiating objective, taking into account proposals which have been presented and without prejudice to positions taken by participants. Such work would include, inter alia, further examination of improved and strengthened procedures concerning the implementation of recommendations or rulings of the CONTRACTING PARTIES, as well as of the definition, determination and modalities of compensation, and the issues raised in paragraphs A.2 and G.3 of the Dispute Settlement text in Section III of MTN.GNG/13.

Improvements to the GATT Dispute Settlement Rules and Procedures

A. General Provisions

1. Contracting parties recognize that the dispute settlement system of GATT serves to preserve the rights and obligations of contracting parties under the General Agreement and to clarify the existing provisions of the General Agreement. It is a central element in providing security and predictability to the multilateral trading system.

2. Contracting parties agree that all solutions to matters formally raised under the GATT dispute settlement system under Articles XXII, XXIII and arbitration awards shall be consistent with the General Agreement and shall not nullify or impair benefits accruing to any contracting party under the General Agreement, nor impede the attainment of any objective of the General Agreement.

3. Contracting parties agree that the existing rules and procedures of the GATT in the field of dispute settlement shall continue. It is further agreed that the improvements set out below, which aim to ensure prompt and effective resolution of disputes to the benefit of all contracting parties, shall be applied on a trial basis from 1 January 1989 to the end of the Uruguay Round in respect of complaints brought during that period under Article XXII or XXIII; it is also agreed to keep the application of these improvements under review during the remainder of the Round and to decide on their adoption before the end of the Round; to continue negotiations with the aim of further improving and strengthening the GATT dispute settlement system taking into account the experience gained in the application of these improvements.

4. All the points set out in this document shall be applied without prejudice to any provision on special and differential treatment for developing contracting parties in the existing instruments on dispute settlement including the CONTRACTING PARTIES' Decision of 5 April 1966.

B. Notification

Mutually agreed solutions to matters formally raised under GATT Articles XXII and XXIII, as well as arbitration awards within GATT, must be notified to the Council where any contracting party may raise any point relating thereto.

C. Consultations

1. If a request is made under Article XXII:1 or XXIII:1, the contracting party to which the request is made shall, unless otherwise mutually agreed, reply to the request within ten days after its receipt and shall enter into consultations in good faith within a period of no more than thirty days from the date of the request, with a view to reaching a mutually satisfactory solution. If the contracting party does not respond within ten days, or does not enter into consultations within a period of no more than thirty days, or a period otherwise mutually agreed, from the date of the request, then the contracting party that requested the holding of consultations may proceed directly to request the establishment of a panel or a working party.

2. If the consultations under Article XXII:1 or XXIII:1 fail to settle a dispute within sixty days after the request for consultations, the complaining party may request the establishment of a panel or a working party under Article XXIII:2. The complaining party may request a panel or a working party during the sixty day period if the parties jointly consider that consultations have failed to settle the dispute.

3. Requests for consultations under Article XXII:1 or XXIII:1 shall be notified to the GATT Council by the party which requests consultations. Any request for consultations shall be submitted in writing and shall give the reasons for the request.

4. In cases of urgency, including those which concern perishable goods en route, parties shall enter into consultations within a period of no more than ten days from the date of the request. If the consultations have failed to settle the dispute within a period of thirty days after the request, the complaining party may request the establishment of a panel or a working party.

D. Good Offices, Conciliation, Mediation

1. Good offices, conciliation and mediation are procedures that are undertaken voluntarily if the parties to the dispute so agree. They may be requested at any time by any party to a dispute. They may begin at any time and be terminated at any time. Once terminated, the complaining party can then proceed with a request for the establishment of a panel or a working party under Article XXIII:2. When good offices, conciliation or mediation are entered into within sixty days of a request for consultations, the complaining party must allow a period of sixty days from the date of the request for consultations before requesting the establishment of a panel or working party. The complaining party may request a panel or a working party during the sixty days if the parties to the dispute jointly consider that the good offices, conciliation or mediation process has failed to settle the dispute.

2. If the parties to a dispute agree, procedures for good offices, conciliation or mediation may continue while the panel or working party process proceeds.

3. The Director-General may, acting in an ex officio capacity, offer his good offices, conciliation or mediation with the view to assisting contracting parties to settle a dispute.

E. Arbitration

1. Expeditious arbitration within GATT as an alternative means of dispute settlement can facilitate the solution of certain disputes that concern issues that are clearly defined by both parties.

2. Resort to arbitration shall be subject to mutual agreement of the parties which shall agree on the procedures to be followed. Agreements to resort to arbitration shall be notified to all GATT contracting parties sufficiently in advance of the actual commencement of the arbitration process.

3. Other contracting parties may become party to an arbitration proceeding upon the agreement of the parties which have agreed to have recourse to arbitration. The parties to the proceeding shall agree to abide by the arbitration award.

F. Panel and Working Party Procedures

(a) Establishment of a Panel or a Working Party

The request for a panel or a working party shall be made in writing. It shall indicate whether consultations were held, and provide a brief summary of the factual and legal basis of the complaint sufficient to present the problem clearly. In case the applicant requests the establishment of a panel or a working party

with other than standard terms of reference, the written request shall include the proposed text of special terms of reference. If the complaining party so requests, a decision to establish a panel or working party shall be taken at the latest at the Council meeting following that at which the request first appeared as an item on the Council's regular agenda, unless at that meeting the Council decides otherwise.*

(b) Standard Terms of Reference

1. Panels shall have the following terms of reference unless the parties to the dispute agree otherwise within twenty days from the establishment of the panel:

"To examine, in the light of the relevant GATT provisions, the matter referred to the CONTRACTING PARTIES by (name of contracting party) in document L/... and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided for in Article XXIII:2".

2. In establishing a panel, the Council may authorize its Chairman to draw up the terms of reference of the panel in consultation with the parties subject to the provisions of the preceding paragraph. The terms of reference thus drawn up shall be circulated to all contracting parties. If other than standard terms of reference are agreed upon, any contracting party may raise any point relating thereto in the Council.

(c) Composition of Panels

1. Contracting parties shall undertake, as a general rule, to permit their representatives to serve as panel members.

2. Panels shall be composed of well-qualified governmental and/or non-governmental individuals.

3. The roster of non-governmental panelists shall be expanded and improved. To this end, contracting parties may nominate individuals to serve on panels and shall provide relevant information on their nominee's knowledge of international trade and of the GATT.

*References to the Council, made in this paragraph as well as in the following paragraphs, are without prejudice to the competence of the CONTRACTING PARTIES, for which the Council is empowered to act in accordance with normal GATT practice (BISD 26S/215).

4. Panels shall be composed of three members unless the parties to the dispute agree, within ten days from the establishment of the panel, to a panel composed of five members.

5. If there is no agreement on the members within twenty days from the establishment of a panel, at the request of either party, the Director-General, in consultation with the Chairman of the Council, shall form the panel by appointing the panelists whom he considers most appropriate, after consulting both parties. The Director-General shall inform the contracting parties of the composition of the panel thus formed no later than ten days from the date he receives such a request.

(d) Procedures for Multiple Complainants

1. Where more than one contracting party requests the establishment of a panel related to the same matter, a single panel may be established to examine these complaints taking into account the rights of all parties concerned. A single panel should be established to examine such complaints whenever feasible.

2. The single panel will organize its examination and present its findings to the Council so that the rights which the parties to the dispute would have enjoyed had separate panels examined the complaints are in no way impaired. If one of the parties to the dispute so requests, the panel will submit separate reports on the dispute concerned. The written submissions by each of the complainants will be made available to the other complainants, and each complainant will have the right to be present when one of the other complainants presents its view to the panel.

3. If more than one panel is established to examine the complaints related to the same matter, to the greatest extent possible the same persons shall serve as panelists on each of the separate panels and the timetable for the panel process in such disputes shall be harmonized.

(e) Third Contracting Parties

1. The interests of the parties to a dispute and those of other contracting parties shall be fully taken into account during the panel process.

2. Any third contracting party having a substantial interest in a matter before a panel, and having notified this to the Council, shall have an opportunity to be heard by the panel and to make written submissions to the panel. These submissions shall also be given to the parties to the dispute and shall be reflected in the panel report.

3. At the request of the third contracting party, the panel may grant the third contracting party access to the written submissions to

the panel by those parties to the dispute which have agreed to the disclosure of their respective submission to the third contracting party.

(f) Time Devoted to Various Phases of a Panel

1. Panel procedures should provide sufficient flexibility so as to ensure high-quality panel reports, while not unduly delaying the panel process.

2. Panels shall follow the Suggested Working Procedures found in the July 1985 note of the Office of Legal Affairs unless the members of the panel agree otherwise after consulting the parties to the dispute. After consulting the parties, the panel members shall, as soon as practicable and whenever possible within one week after the composition and terms of reference of the panel have been agreed upon, fix the timetable for the panel process at least until its first substantive meeting.

3. In determining the timetable for the panel process, the panel shall provide sufficient time for the parties to the dispute to prepare their submissions.

4. Each party to the dispute shall deposit its written submissions with the secretariat for immediate transmission to the panel and to the other party or parties to the dispute. The complaining party shall submit its first submission in advance of the responding party's first submission unless the panel decides, in fixing the timetable referred to in the second paragraph of this section and after consultations with the parties to the dispute, that the parties should submit their first submissions simultaneously. When there are sequential arrangements for the deposit of first submissions, the panel shall establish a firm time period for receipt of the responding party's submission. Any subsequent written submissions shall be submitted simultaneously.

5. In order to make the procedures more efficient, the period in which the panel shall conduct its examination, from the time the composition and terms of reference of the panel have been agreed upon to the time when the final report is provided to the parties to the dispute, shall, as a general rule, not exceed six months. In cases of urgency, including those relating to perishable goods, the panel shall aim to provide its report to the parties within three months.

6. When the panel considers that it cannot provide its report within six months, or within three months in cases of urgency, it shall inform the Council in writing of the reasons for the delay together with an estimate of the period within which it will submit its report. In no case should the period from the establishment of the panel to the submission of the report to the contracting parties exceed nine months.

7. In the context of consultations involving a measure taken by a developing contracting party, the parties may agree to extend the periods established in paragraphs 2 and 4 of Section C. If, after the relevant period has elapsed, the parties cannot agree that the consultations have concluded, the Chairman of the Council shall decide, after consultation with the parties, whether to extend the relevant period and, if so, for how long. In addition, in examining a complaint against a developing contracting party, the panel shall accord sufficient time for the developing contracting party to prepare and present its argumentation. The provisions of paragraph 4 of Section G are not affected by any action pursuant to this paragraph.

G. Adoption of Panel Reports

1. In order to provide sufficient time for the members of the Council to consider panel reports, the reports shall not be considered for adoption by the Council until thirty days after they have been issued to the contracting parties.

2. Contracting parties having objections to panel reports shall give written reasons to explain their objections for circulation at least ten days prior to the Council meeting at which the panel report will be considered.

3. The parties to a dispute shall have the right to participate fully in the consideration of the panel report by the Council, and their views shall be fully recorded. The practice of adopting panel reports by consensus shall be continued, without prejudice to the GATT provisions on decision-making which remain applicable. However, the delaying of the process of dispute settlement shall be avoided.

4. The period from the request under Article XXII:1 or Article XXIII:1 until the Council takes a decision on the panel report shall not, unless agreed to by the parties, exceed fifteen months. The provisions of this paragraph shall not affect the provisions of paragraph 6 of Section F(f).

H. Technical Assistance

1. While the secretariat assists contracting parties in respect of dispute settlement at their request, there may also be a need to provide additional legal advice and assistance in respect of dispute settlement to developing contracting parties. To this end, the secretariat shall make available a qualified legal expert within the Technical Co-operation Division to any developing contracting party which so requests. This expert shall assist the developing contracting party in a manner ensuring the continued impartiality of the secretariat.

2. The secretariat shall conduct special training courses for interested contracting parties concerning GATT dispute settlement procedures and practices so as to enable contracting parties' experts to be better informed in this regard.

I. Surveillance of Implementation of Recommendations and Rulings

1. Prompt compliance with recommendations or rulings of the CONTRACTING PARTIES under Article XXIII is essential in order to ensure effective resolution of disputes to the benefit of all contracting parties.

2. The contracting parties concerned shall inform the Council of its intentions in respect of implementation of the recommendations or rulings. If it is impracticable to comply immediately with the recommendations or rulings, the contracting party concerned shall have a reasonable period of time in which to do so.

3. The Council shall monitor the implementation of recommendations or rulings adopted under Article XXIII:2. The issue of implementation of the recommendations or rulings may be raised at the Council by any contracting party at any time following their adoption. Unless the Council decides otherwise, the issue of implementation of the recommendations or rulings shall be on the agenda of the Council meeting after six months following their adoption and shall remain on the Council's agenda until the issue is resolved. At least ten days prior to each such Council meeting, the contracting party concerned shall provide the Council with a status report in writing of its progress in the implementation of the panel recommendations or rulings.

4. In cases brought by developing contracting parties, the Council shall consider what further action it might take which would be appropriate to the circumstances, in conformity with paragraphs 21 and 23 of the 1979 Understanding on Dispute Settlement.

FUNCTIONING OF THE GATT SYSTEM

1. Ministers agree that:

- (a) The decision to launch the Uruguay Round of multilateral trade negotiations was taken against a background of large external imbalances in the major industrial economies, instability in the international monetary system, growing protectionist pressures, and acute debt servicing difficulties in a number of countries, particularly developing countries. In the process of redressing these imbalances, the significance of trade policy making, capable of contributing towards growth and development, needs greater political and institutional recognition.
- (b) A solution to problems affecting the functioning of the world economy will require continuing and concerted efforts to improve the stability of the international economic environment and the flow of resources to developing countries. Efforts have been under way for some time and are continuing in international fora to improve the stability of the international economic environment and to deal with the debt problems of developing countries. Progress is being made but more needs to be done.
- (c) Difficulties the origins of which lie outside the trade field cannot be redressed through measures taken in the trade field alone. Hence, the importance of efforts to improve other elements of global economic policy making to complement the effective implementation of the improved GATT rules and disciplines to be achieved in the Uruguay Round.

2. The following represent first steps in the three closely linked areas that constitute the particular responsibility of the Negotiating Group on Functioning of the GATT System. They are guided by three general orientations:

- (a) First, the key contribution that GATT can make, through the Uruguay Round, towards greater coherence in global economic policy making will be to ensure a further expansion and liberalization of trade as well as a strengthened multilateral trading system which are of vital importance to all contracting parties and which are essential for the promotion of growth and development.
- (b) Second, institutional relationships between the GATT and other international institutions responsible for monetary and financial matters can be developed so as to promote a dialogue, within the sphere of competence of each institution, to facilitate policies and actions which enhance the complementarities that exist between them in order to improve the coherence of global economic policy making.

- (c) Third, the institutional reinforcement of the GATT would help it to improve its rôle in contributing towards such greater coherence in global economic policy making.

3. The package of decisions set out below covering surveillance of trade policies of contracting parties, greater involvement of Ministers in GATT affairs, and cooperation with the international monetary and financial institutions will help to maintain the rôle of GATT in global economic policy making, and provide a basis for further work by the Negotiating Group in the second half of the Uruguay Round.

Trade Policy Review Mechanism

4. Ministers recommend that the CONTRACTING PARTIES establish a trade policy review mechanism, as follows:

A. Objectives

- (i) The purpose of the mechanism is to contribute to improved adherence by all contracting parties to GATT rules, disciplines and commitments, and hence to the smoother functioning of the multilateral trading system, by achieving greater transparency in, and understanding of, the trade policies and practices of contracting parties. Accordingly, the review mechanism will enable the regular collective appreciation and evaluation by the CONTRACTING PARTIES of the full range of individual contracting parties' trade policies and practices and their impact on the functioning of the multilateral trading system. It is not, however, intended to serve as a basis for the enforcement of specific GATT obligations or for dispute settlement procedures, or to impose new policy commitments on contracting parties.
- (ii) The assessment to be carried out under the review mechanism will, to the extent relevant, take place against the background of the wider economic and developmental needs, policies and objectives of the contracting party concerned, as well as of its external environment. However, the function of the review mechanism is to examine the impact of a contracting party's trade policies and practices on the multilateral trading system.

B. Reporting

- (i) In order to achieve the fullest possible degree of transparency, each contracting party shall report regularly to the CONTRACTING PARTIES. Initial full reports shall be submitted in the year when the contracting party is first subject to review: however, in no case shall the initial report be submitted later than four years after the introduction of the mechanism. Subsequently, full reports shall be provided in years when the contracting party is due for review. Full reports will describe the trade

policies and practices pursued by the contracting party or parties concerned, based on an agreed format to be decided upon by the Council. This format may be revised by the Council in the light of experience. Between reviews, contracting parties will provide brief reports when there are any significant changes in their trade policies; an annual update of statistical information will be provided according to the agreed format. Particular account will be taken of difficulties presented to least-developed contracting parties in compiling their reports. The secretariat shall make available technical assistance on request to less-developed contracting parties, and in particular to the least-developed contracting parties. Information contained in country reports should to the greatest extent possible be coordinated with notifications made under GATT provisions.

C. Frequency of Review

- (i) The trade policies and practices of all contracting parties will be subject to periodic review. Their impact on the functioning of the multilateral trading system, defined in terms of share of world trade in a recent representative period, will be the determining factor in deciding on the frequency of reviews. The first four trading entities so identified (counting the European Communities as one) will be subject to review every two years. The next sixteen will be reviewed every four years. Other contracting parties will be reviewed every six years, except that a longer period may be fixed for least-developed countries. It is understood that the review of entities having a common external policy covering more than one contracting party shall cover all components of policy affecting trade including relevant policies and practices of the individual contracting parties. Exceptionally, in the event of changes in a contracting party's trade policies or practices which may have a significant impact on its trading partners, the contracting party concerned may be requested by the Council after consultation to bring forward its next review.
- (ii) Contracting parties recognize the need to minimize the burden for governments also subject to full consultations under the GATT balance-of-payments provisions. To this end, the Chairman of the Council shall, in consultation with the contracting party or parties concerned, and with the Chairman of the Committee on Balance-of-Payments Restrictions, devise administrative arrangements which would harmonize the normal rhythm of the trade policy reviews with the time-table for balance-of-payments consultations but would not postpone the trade policy review by more than 12 months.

D. Review Body

- (i) Trade policy reviews will be carried out by the GATT Council at periodic special meetings.
- (ii) In the light of the objectives set out in A above, discussions in the meetings of the Council will, to the extent relevant, take place against the background of the wider economic and developmental needs, policies and objectives of the contracting party concerned, as well as of its external environment. The focus of these discussions will be on the contracting party's trade policies and practices which are the subject of the assessment under the review mechanism.
- (iii) The Council will establish a basic plan for the conduct of the reviews. It may also discuss and take note of update reports from contracting parties. The Council will establish a programme of reviews for each year in consultation with the contracting parties directly concerned. In consultation with the contracting party or parties under review, the Chairman may choose discussants who, in their personal capacity, will introduce the discussions in the review body.
- (iv) The Council will base its work on the following documentation:
 - (a) The full report, referred to in paragraph B(i) above, supplied by the contracting party or parties under review.
 - (b) A report, to be drawn up by the secretariat on its own responsibility, based on the information available to it and that provided by the contracting party or parties concerned. The secretariat should seek clarification from the contracting party or parties concerned of their trade policies and practices.
- (v) The reports by the contracting party under review and by the secretariat, together with the summary record of the respective meeting of the Council, will be published promptly after the review.
- (vi) These documents will be forwarded to the next regular Session of the CONTRACTING PARTIES, which will take note of them.

E. Implementation and Reappraisal of the Mechanism

The trade policy review mechanism will be implemented on a provisional basis from the date of the adoption of this Decision by the CONTRACTING PARTIES. In the light of the experience gained from its operation, the CONTRACTING PARTIES will review, and if necessary modify, these arrangements at the end of the Uruguay Round.

F. Overview of Developments in the International Trading Environment

Enhanced surveillance requires, in addition, an overview of developments in the international trading environment which are having an impact on the multilateral trading system. Such an overview should also be undertaken by the Council. It should be assisted by an annual report by the Director-General setting out major GATT activities and highlighting significant policy issues affecting the trading system. The enhanced surveillance thus provided would also strengthen the existing "early warning" aspect of the special meetings of the Council. It is understood that this overview by the Council, together with the trade policy review mechanism, would replace the existing reviews in special Council meetings established under paragraph 24 of the 1979 Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance.

Greater Ministerial Involvement in the GATT

5. Ministers recommend that the CONTRACTING PARTIES decide to meet at Ministerial level at least once every two years, in order, inter alia:

- (a) to make a fuller contribution to the direction and content of GATT work;
- (b) to reinforce the commitment of governments to the GATT system;
- (c) to give greater prominence to GATT in domestic political arenas;
- (d) to assess trends in international trade and place these trends in their wider economic and political context;
- (e) to enable the CONTRACTING PARTIES to contribute effectively to international discussion at the policy level of the international adjustment process; and by these means
- (f) to increase the contribution of the GATT to greater coherence in global economic policy making.

Increasing the Contribution of the GATT to Achieving Greater Coherence in Global Economic Policy Making

6. Ministers recommend that the CONTRACTING PARTIES:

- (a) invite the Director-General to approach the heads of the IMF and the World Bank, as a first step, to explore ways to achieve greater coherence in global economic policy making through strengthening the relationship of GATT with other relevant international organizations; and

- (b) request him to report back by 1 September 1989, and, in his report, to take into account the views, issues and proposals raised in the context of the Negotiating Group.

Further Work on Improvement of the Functioning of the GATT System

7. Ministers agree that:

- (a) the Group should continue to explore other means by which to improve the overall effectiveness and decision making of the GATT;
- (b) the Group should also continue work on its third negotiating objective of increasing the contribution of GATT to achieving greater coherence in global economic policy making, including the examination of the other substantive questions which have been raised to date; and
- (c) the Group should complete by 31 March 1989 its work on the draft format for country reports under the trade policy review mechanism (see annex to the text on the Functioning of the GATT System in Section II of the report of the GNG).

PART II

NEGOTIATIONS ON TRADE IN SERVICES

1. Ministers reaffirm the objectives for negotiations on trade in services agreed at Punta del Este. Ministers agree that substantial progress has been achieved in pursuit of these objectives.
2. Ministers take note of the report of the GNS to the TNC contained in MTN.GNS/21 which they consider an important basis for further work directed towards the achievement of these negotiating objectives. This work should proceed in a parallel and interrelated fashion.
3. Ministers note the understanding reached on statistics and on existing international arrangements and disciplines as set out in paragraphs 7 and 8 of the GNS report.
4. Work on definition should proceed on the basis that the multilateral framework may include trade in services involving cross-border movement of services, cross-border movement of consumers, and cross-border movement of factors of production where such movement is essential to suppliers. However, this should be examined further in the light of, inter alia, the following:
 - (a) Cross-border movement of service and payment.
 - (b) Specificity of purpose.
 - (c) Discreteness of transactions.
 - (d) Limited duration.
5. Ministers agree that work should proceed, without excluding any sector of trade in services on an a priori basis, with a view to reaching agreement on the sectoral coverage under the multilateral framework in accordance, inter alia, with the considerations that coverage should permit a balance of interests for all participants, that sectors of export interest to developing countries should be included, that certain sectors could be excluded in whole or in part for certain overriding considerations, and that the framework should provide for the broadest possible coverage of sectors of interest to participants.
6. Ministers agree that, before the concepts, principles and rules which comprise a multilateral framework for trade in services are finally agreed, these concepts, principles and rules will have to be examined with regard to their applicability and the implications of their application to individual sectors and the types of transactions to be covered by the multilateral framework.
7. Ministers agree that negotiations on the elaboration of a multilateral framework of principles and rules for trade in services should proceed expeditiously. To this end, the following concepts, principles and rules are considered relevant:

(a) Transparency

Provisions should ensure information with respect to all laws, regulations and administrative guidelines as well as international agreements relating to services trade to which the signatories are parties through adequate provisions regarding their availability. Agreement should be reached with respect to any outstanding issues in this regard.

(b) Progressive Liberalization

The negotiations should establish rules, modalities and procedures in the multilateral framework agreement that provide for progressive liberalization of trade in services with due respect for national policy objectives including provisions that allow for the application of principles to sectors and measures. Provisions should also be established for further negotiations after the Uruguay Round. Specific procedures may be required for the liberalization of particular sectors.

The aim of these rules, modalities and procedures should be to achieve, in this round and future negotiations, a progressively higher level of liberalization taking due account of the level of development of individual signatories. To this end the adverse effects of all laws, regulations and administrative guidelines should be reduced as part of the process to provide effective market access, including national treatment.

The rules, modalities and procedures for progressive liberalization should provide appropriate flexibility for individual developing countries for opening fewer sectors or liberalizing fewer types of transactions or in progressively extending market access in line with their development situation.

(c) National Treatment

When accorded in conformity with other provisions of the multilateral framework, it is understood that national treatment means that the services exports and/or exporters of any signatory are accorded in the market of any other signatory, in respect of all laws, regulations and administrative practices, treatment "no less favourable" than that accorded domestic services or services providers in the same market.

(d) Most-Favoured-Nation/Non-Discrimination

The multilateral framework shall contain a provision on m.f.n./non-discrimination.

(e) Market Access

When market access is made available to signatories it should be on the basis that consistent with the other provisions of the multilateral framework and in accordance with the definition of trade in services, foreign services may be supplied according to the preferred mode of delivery.

(f) Increasing Participation of Developing Countries

The framework should provide for the increasing participation of developing countries in world trade and for the expansion of their service exports, including inter alia through the strengthening of their domestic services capacity and its efficiency and competitiveness.

Provisions should facilitate effective market access for services exports of developing countries through, inter alia, improved access to distribution channels and information networks. These provisions should facilitate liberalization of market access in sectors of export interest to developing countries.

Autonomous liberalization of market access in favour of services exports of developing countries should be allowed.

Particular account shall be taken of the serious difficulty of the least-developed countries in accepting negotiated commitments in view of their special economic situation and their development, trade and financial needs.

(g) Safeguards and Exceptions

Further negotiations will be necessary on provisions for safeguards, e.g. for balance-of-payments reasons, and exceptions, e.g. based on security and cultural policy objectives.

(h) Regulatory Situation

It is recognized that governments regulate services sectors, e.g. by granting exclusive rights in certain sectors, by attaching conditions to the operations of enterprises within their markets for consumer protection purposes and in pursuance of macro-economic policies. Asymmetries exist with respect to the degree of development of services regulations in different countries. Consequently, the right of countries, in particular of developing countries, to introduce new regulations is recognized. This should be consistent with commitments under the framework.

8. Other elements mentioned in MTN.GNS/21, as well as new ideas and concepts participants may wish to put forward, will also be considered.

9. It is understood that the acceptability of the multilateral framework will be dependent on the initial level of negotiated commitments of signatories.

Future Work

10. Future work should provide for:

- (a) The compilation by the secretariat of a reference list of sectors by February 1989. This process could be assisted by submissions by participants.
- (b) Invitation to participants to submit indicative lists of sectors of interest to them with a target date of May 1989.
- (c) The process of examining the implications and applicability of concepts, principles and rules for particular sectors and specific transactions should begin as lists become available.
- (d) Further work as necessary on the role of international disciplines and arrangements and on the question of definition and statistics.

11. The GNS should endeavour, by the end of 1989, to assemble the necessary elements for a draft which would permit negotiations to take place for the completion of all parts of the multilateral framework and its entry into force by the end of the Uruguay Round.

