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Tokyo Round plurilateral agreements – provisions and procedures

3.a 1973 Arrangement regarding International Trade in Textiles, relevant provisions

GENERAL AGREEMENT ON
TARIFFS AND TRADE

TEX.NG/1
20 December 1973
General Distribution

ARRANGEMENT REGARDING INTERNATIONAL
TRADE IN TEXTILES

PREAMBLE

Recognizing the great importance of production and trade in textile products of wool, man-made fibres and cotton for the economies of many countries, and their particular importance for the economic and social development of developing countries and for the expansion and diversification of their export earnings, and conscious also of the special importance of trade in textile products of cotton for many developing countries;

Recognizing further the tendency for an unsatisfactory situation to exist in world trade in textile products and that this situation, if not satisfactorily dealt with, could work to the detriment of countries participating in trade in textile products, whether as importers or exporters, or both, adversely affect prospects for international co-operation in the trade field, and have unfortunate repercussions on trade relations generally;

Noting that this unsatisfactory situation is characterized by the proliferation of restrictive measures, including discriminatory measures, that are inconsistent with the principles of the General Agreement on Tariffs and Trade and also that, in some importing countries, situations have arisen which in the view of these countries, cause or threaten to cause disruption of their domestic markets;

Desiring to take co-operative and constructive action, within a multilateral framework, so as to deal with the situation in such a way as to promote on a sound basis the development of production and expansion of trade in textile products and progressively to achieve the reduction of trade barriers and the liberalization of world trade in these products;

Recognizing that, in pursuit of such action, the volatile and continually evolving nature of production and trade in textile products should be constantly borne in mind and the fullest account taken of such serious economic and social problems as exist in this field in both importing and exporting countries, and particularly in the developing countries;

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(...)

2. In recognition of the need for special treatment for exports of textile products from developing countries, the criterion of past performance shall not be applied in the establishment of quotas for their exports of products from those textile sectors in respect of which they are new entrants in the markets concerned and a higher growth rate shall be accorded to such exports, having in mind that this special treatment should not cause undue prejudice to the interests of established suppliers or create serious distortions in existing patterns of trade.

3. Restraints on exports from participating countries whose total volume of textile exports is small in comparison with the total volume of exports of other countries should normally be avoided if the exports from such countries represent a small percentage of the total imports of textiles covered by this Arrangement of the importing country concerned.

4. Where restrictions are applied to trade in cotton textiles in terms of this Arrangement, special consideration will be given to the importance of this trade to the developing countries concerned in determining the size of quotas and the growth element.

5. Participating countries shall not, as far as possible, maintain restraints on trade in textile products originating in other participating countries which are imported under a system of temporary importation for re-export after processing, subject to a satisfactory system of control and certification.

6. Consideration shall be given to special and differential treatment to re-imports into a participating country of textile products which that country has exported to another participating country for processing and subsequent re-importation, in the light of the special nature of such trade without prejudice to the provisions of Article 3.

Article 7

The participating countries shall take steps to ensure, by the exchange of information, including statistics on imports and exports when requested, and by other practical means, the effective operation of this Arrangement.

Article 8

1. The participating countries agree to avoid circumvention of this Arrangement by trans-shipment, re-routing, or action by non-participants. In particular, they agree on the measures provided for in this Article.

2. The participating countries agree to collaborate with a view to taking appropriate administrative action to avoid such circumvention. Should any participating country believe that the Arrangement is being circumvented and that no appropriate administrative measures are being applied to avoid such

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circumvention, that country should consult with the exporting country of origin and with other countries involved in the circumvention with a view to seeking promptly a mutually satisfactory solution. If such a solution is not reached the matter shall be referred to the Textiles Surveillance Body.

3. The participating countries agree that if resort is had to the measures envisaged in Articles 3 and 4, the participating importing country or countries concerned shall take steps to ensure that the participating country's exports against which such measures are taken shall not be restrained more severely than the exports of similar goods of any country not party to this Arrangement which are causing, or actually threatening, market disruption. The participating importing country or countries concerned will give sympathetic consideration to any representations from participating exporting countries to the effect that this principle is not being adhered to or that the operation of this Arrangement is frustrated by trade with countries not party to this Arrangement. If such trade is frustrating the operation of this Arrangement, the participating countries shall consider taking such actions as may be consistent with their law to prevent such frustration.

4. The participating countries concerned shall communicate to the Textiles Surveillance Body full details of any measures or arrangements taken under this Article or any disagreement and, when so requested, the Textiles Surveillance Body shall make reports or recommendations as appropriate.

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Article 9

1. In view of the safeguards provided for in this Arrangement the participating countries shall, as far as possible, refrain from taking additional trade measures which may have the effect of nullifying the objectives of this Arrangement.

2. If a participating country finds that its interests are being seriously affected by any such measure taken by another participating country, that country may request the country applying such measure to consult with a view to remedying the situation.

3. If the consultation fails to achieve a mutually satisfactory solution within a period of sixty days the requesting participating country may refer the matter to the Textiles Surveillance Body which shall promptly discuss such matter, the participating country concerned being free to refer the matter to that body before the expiry of the period of sixty days if it considers that there are justifiable grounds for so doing. The Textiles Surveillance Body shall make such recommendations to the participating countries as it considers appropriate.

Article 10

1. There is established within the framework of GATT a Textiles Committee consisting of representatives of the parties to this Arrangement. The Committee shall carry out the responsibilities ascribed to it under this Arrangement.

3.a 1973 Arrangement regarding International Trade in Textiles, relevant provisions (*continued*)

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2. The Committee shall meet from time to time and at least once a year to discharge its functions and to deal with those matters specifically referred to it by the Textiles Surveillance Body. It shall prepare such studies as the participating countries may decide. It shall undertake an analysis of the current state of world production and trade in textile products, including any measures to facilitate adjustment and it shall present its views regarding means of furthering the expansion and liberalization of trade in textile products. It will collect the statistical and other information necessary for the discharge of its functions and will be empowered to request the participating countries to furnish such information.

3. Any case of divergence of view between the participating countries as to the interpretation or application of this Arrangement may be referred to the Committee for its opinion.

4. The Committee shall once a year review the operation of this Arrangement and report thereon to the GATT Council. To assist in this review, the Committee shall have before it a report from the Textiles Surveillance Body, a copy of which will also be transmitted to the Council. The review during the third year shall be a major review of this Arrangement in the light of its operation in the preceding years.

5. The Committee shall meet not later than one year before the expiry of this Arrangement in order to consider whether the Arrangement should be extended, modified or discontinued.

Article 11

1. The Textiles Committee shall establish a Textiles Surveillance Body to supervise the implementation of this Arrangement. It shall consist of a Chairman and eight members to be appointed by the parties to this Arrangement on a basis to be determined by the Textiles Committee so as to ensure its efficient operation. In order to keep its membership balanced and broadly representative of the parties to this Arrangement provision shall be made for rotation of the members as appropriate.

2. The Textiles Surveillance Body shall be considered as a standing body and shall meet as necessary to carry out the functions required of it under this Arrangement. It shall rely on information to be supplied by the participating countries, supplemented by any necessary details and clarification it may decide to seek from them or from other sources. Further, it may rely for technical assistance on the services of the GATT secretariat and may also hear technical experts proposed by one or more of its members.

3. The Textiles Surveillance Body shall take the action specifically required of it in articles of this Arrangement.

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4. In the absence of any mutually agreed solution in bilateral negotiations or consultations between participating countries provided for in this Arrangement, the Textiles Surveillance Body at the request of either party, and following a thorough and prompt consideration of the matter, shall make recommendations to the parties concerned.
5. The Textiles Surveillance Body shall, at the request of any participating country, review promptly any particular measures or arrangements which that country considers to be detrimental to its interests where consultations between it and the participating countries directly concerned have failed to produce a satisfactory solution. It shall make recommendations as appropriate to the participating country or countries concerned.
6. Before formulating its recommendations on any particular matter referred to it, the Textiles Surveillance Body shall invite participation of such participating countries as may be directly affected by the matter in question.
7. When the Textiles Surveillance Body is called upon to make recommendations or findings it shall do so, except when otherwise provided in this Arrangement, within a period of thirty days whenever practicable. All such recommendations or findings shall be communicated to the Textiles Committee for the information of its members.
8. Participating countries shall endeavour to accept in full the recommendations of the Textiles Surveillance Body. Whenever they consider themselves unable to follow any such recommendations, they shall forthwith inform the Textiles Surveillance Body of the reasons therefor and of the extent, if any, to which they are able to follow the recommendations.
9. If, following recommendations by the Textiles Surveillance Body, problems continue to exist between the parties, these may be brought before the Textiles Committee or before the GATT Council through the normal GATT procedures.
10. Any recommendations and observations of the Textiles Surveillance Body would be taken into account should the matters related to such recommendations and observations subsequently be brought before the CONTRACTING PARTIES to the GATT, particularly under the procedures of Article XXIII of the GATT.
11. The Textiles Surveillance Body shall, within fifteen months of the coming into force of this Arrangement, and at least annually thereafter, review all restrictions on textile products maintained by participating countries at the commencement of this Arrangement, and submit its findings to the Textiles Committee.

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12. The Textiles Surveillance Body shall annually review all restrictions introduced or bilateral agreements entered into by participating countries concerning trade in textile products since the coming into force of this Arrangement, and required to be reported to it under the provisions of this Arrangement, and report annually its findings to the Textiles Committee.

Article 12

1. For the purposes of this Arrangement, the expression "textiles" is limited to tops, yarns, piece-goods, made-up articles, garments and other textile manufactured products (being products which derive their chief characteristics from their textile components) of cotton, wool, man-made fibres, or blends thereof, in which any or all of those fibres in combination represent either the chief value of the fibres or 50 per cent or more by weight (or 17 per cent or more by weight of wool) of the product.
2. Artificial and synthetic staple fibre, tow, waste, simple mono- and multi-filaments, are not covered by paragraph 1 above. However, should conditions of market disruption (as defined in Annex A) be found to exist for such products, the provisions of Article 3 of this Arrangement (and other provisions of this Arrangement directly relevant thereto) and paragraph 1 of Article 2 shall apply.
3. This Arrangement shall not apply to developing country exports of handloom fabrics of the cottage industry, or hand-made cottage industry products made of such handloom fabrics, or to traditional folklore handicraft textiles products, provided that such products are properly certified under arrangements established between the importing and exporting participating countries concerned.
4. Problems of interpretation of the provisions of this Article should be resolved by bilateral consultation between the parties concerned and any difficulties may be referred to the Textiles Surveillance Body.

Article 13

1. This Arrangement shall be deposited with the Director-General to the CONTRACTING PARTIES to the GATT. It shall be open for acceptance, by signature or otherwise, by governments contracting parties to the GATT or having provisionally acceded to the GATT and by the European Economic Community.
2. Any government which is not a contracting party to the GATT, or has not acceded provisionally to the GATT, may accede to this Arrangement on terms to be agreed between that government and the participating countries. These terms would include a provision that any government which is not a contracting party to the GATT must undertake, on acceding to this Arrangement, not to introduce new import restrictions or intensify existing import restrictions, on textile products, in so far as such action would, if that government had been a contracting party to the GATT, be inconsistent with its obligations thereunder.

(...)

3.b 1979 Agreement on Technical Barriers to Trade, relevant provisions

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AGREEMENT ON TECHNICAL BARRIERS TO TRADE

ACCORD RELATIF AUX OBSTACLES TECHNIQUES AU COMMERCE

ACUERDO SOBRE OBSTÁCULOS TÉCNICOS AL COMERCIO

GENERAL AGREEMENT ON TARIFFS AND TRADE

ACCORD GÉNÉRAL SUR LES TARIFS DOUANIERS
ET LE COMMERCE

ACUERDO GENERAL SOBRE ARANCELES
ADUANEROS Y COMERCIO

12 April 1979
Geneva

3.b 1979 Agreement on Technical Barriers to Trade, relevant provisions (*continued*)

AGREEMENT ON TECHNICAL BARRIERS TO TRADE

PREAMBLE

Having regard to the Multilateral Trade Negotiations, the Parties to the Agreement on Technical Barriers to Trade (hereinafter referred to as "Parties" and "this Agreement");

Desiring to further the objectives of the General Agreement on Tariffs and Trade (hereinafter referred to as "General Agreement" or "GATT");

Recognizing the important contribution that international standards and certification systems can make in this regard by improving efficiency of production and facilitating the conduct of international trade;

Desiring therefore to encourage the development of such international standards and certification systems;

Desiring however to ensure that technical regulations and standards, including packaging, marking and labelling requirements, and methods for certifying conformity with technical regulations and standards do not create unnecessary obstacles to international trade;

Recognizing that no country should be prevented from taking measures necessary to ensure the quality of its exports, or for the protection of human, animal or plant life or health, of the environment, or for the prevention of deceptive practices, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail or a disguised restriction on international trade;

Recognizing that no country should be prevented from taking measures necessary for the protection of its essential security interest;

Recognizing the contribution which international standardization can make to the transfer of technology from developed to developing countries;

Recognizing that developing countries may encounter special difficulties in the formulation and application of technical regulations and standards and methods for certifying conformity with technical regulations and standards, and desiring to assist them in their endeavours in this regard;

Hereby agree as follows:

Article 1 General provisions

1.1 General terms for standardization and certification shall normally have the meaning given to them by definitions adopted within the United Nations system and by international standardizing bodies taking into account their context and in the light of the object and purpose of this Agreement.

(...)

3.b 1979 Agreement on Technical Barriers to Trade, relevant provisions (*continued*)

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(...)

their stage of technological development, may hinder their ability to discharge fully their obligations under this Agreement. Parties, therefore, shall take this fact fully into account. Accordingly, with a view to ensuring that developing countries are able to comply with this Agreement, the Committee is enabled to grant upon request specified, time-limited exceptions in whole or in part from obligations under this Agreement. When considering such requests the Committee shall take into account the special problems, in the field of preparation and application of technical regulations, standards, test methods and certification systems and the special development and trade needs of the developing country, as well as its stage of technological development, which may hinder its ability to discharge fully its obligations under this Agreement. The Committee shall in particular, take into account the special problems of the least-developed countries.

- 12.9 During consultations, developed countries shall bear in mind the special difficulties experienced by developing countries in formulating and implementing standards and technical regulations and methods of ensuring conformity with those standards and technical regulations, and in their desire to assist developing countries with their efforts in this direction, developed countries shall take account of the special needs of the former in regard to financing, trade and development.
- 12.10 The Committee shall examine periodically the special and differential treatment as laid down in this Agreement, granted to developing countries, on national and international levels.

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Institutions, consultation and dispute settlement

Article 13 The Committee on Technical Barriers to Trade

There shall be established under this Agreement:

- 13.1 A Committee on Technical Barriers to Trade composed of representatives from each of the Parties (hereinafter referred to as "the Committee"). The Committee shall elect its own Chairman and shall meet as necessary but no less than once a year for the purpose of affording Parties the opportunity of consulting on any matters relating to the operation of this Agreement or the furtherance of its objectives and shall carry out such responsibilities as assigned to it under this Agreement or by the Parties;
- 13.2 Working parties, technical expert groups, panels or other bodies as may be appropriate, which shall carry out such responsibilities as may be assigned to them by the Committee in accordance with the relevant provisions of this Agreement.
- 13.3 It is understood that unnecessary duplication should be avoided between the work under this Agreement and that of governments in other technical bodies, e.g. the Joint FAO/WHO Codex Alimentarius Commission. The Committee shall examine this problem with a view to minimizing such duplication.

3.b 1979 Agreement on Technical Barriers to Trade, relevant provisions (*continued*)

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Article 14 Consultation and dispute settlement

Consultation

- 14.1 Each Party shall afford sympathetic consideration to and adequate opportunity for prompt consultation regarding representations made by other Parties with respect to any matter affecting the operation of this Agreement.
- 14.2 If any Party considers that any benefit accruing to it, directly or indirectly, under this Agreement is being nullified or impaired, or that the attainment of any objective of this Agreement is being impeded, by another Party or Parties, and that its trade interests are significantly affected, the Party may make written representations or proposals to the other Party or Parties which it considers to be concerned. Any Party shall give sympathetic consideration to the representations or proposals made to it, with a view to reaching a satisfactory resolution of the matter.

Dispute settlement

- 14.3 It is the firm intention of Parties that all disputes under this Agreement shall be promptly and expeditiously settled, particularly in the case of perishable products.
- 14.4 If no solution has been reached after consultations under Article 14, paragraphs 1 and 2, the Committee shall meet at the request of any Party to the dispute within thirty days of receipt of such a request, to investigate the matter with a view to facilitating a mutually satisfactory solution.
- 14.5 In investigating the matter and in selecting, subject, *inter alia*, to the provisions of Article 14, paragraphs 9 and 14, the appropriate procedures the Committee shall take into account whether the issues in dispute relate to commercial policy considerations and/or to questions of a technical nature requiring detailed consideration by experts.
- 14.6 In the case of perishable products the Committee shall, in keeping with Article 14, paragraph 3, consider the matter in the most expeditious manner possible with a view to facilitating a mutually satisfactory solution within three months of the request for the Committee investigation.
- 14.7 It is understood that where disputes arise affecting products with a definite crop cycle of twelve months, every effort would be made by the Committee to deal with these disputes within a period of twelve months.
- 14.8 During any phase of a dispute settlement procedure including the earliest phase, competent bodies and experts in matters under consideration may be consulted and invited to attend the meetings of the Committee; appropriate information and assistance may be requested from such bodies and experts.

3.b 1979 Agreement on Technical Barriers to Trade, relevant provisions (*continued*)

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Technical issues

14.9 If no mutually satisfactory solution has been reached under the procedures of Article 14, paragraph 4 within three months of the request for the Committee investigation, upon the request of any Party to the dispute who considers the issues to relate to questions of a technical nature the Committee shall establish a technical expert group and direct it to:

examine the matter;

consult with the Parties to the dispute and give full opportunity for them to develop a mutually satisfactory solution;

make a statement concerning the facts of the matter; and

make such findings as will assist the Committee in making recommendations or giving rulings on the matter, including *inter alia*, and if appropriate, findings concerning the detailed scientific judgments involved, whether the measure was necessary for the protection of human, animal or plant life or health, and whether a legitimate scientific judgment is involved.

14.10 Technical expert groups shall be governed by the procedures of Annex 2.

14.11 The time required by the technical expert group considering questions of a technical nature will vary with the particular case. The technical expert group should aim to deliver its findings to the Committee within six months from the date the technical issue was referred to it, unless extended by mutual agreement between the Parties to the dispute.

14.12 Reports should set out the rationale behind any findings that they make.

14.13 If no mutually satisfactory solution has been reached after completion of the procedures in this Article, and any Party to the dispute requests a panel, the Committee shall establish a panel which shall operate under the provisions of Article 14, paragraphs 15 to 18.

Panel proceedings

14.14 If no mutually satisfactory solution has been reached under the procedures of Article 14, paragraph 4 within three months of the request for the Committee investigation and the procedures of Article 14, paragraphs 9 to 13 have not been invoked, the Committee shall, upon request of any Party to the dispute, establish a panel.

14.15 When a panel is established, the Committee shall direct it to:

examine the matter;

consult with Parties to the dispute and give full opportunity for them to develop a mutually satisfactory solution;

3.b 1979 Agreement on Technical Barriers to Trade, relevant provisions (*continued*)

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make a statement concerning the facts of the matter as they relate to the application of provisions of this Agreement and make such findings as will assist the Committee in making recommendations or giving rulings on the matter.

- 14.16 Panels shall be governed by the procedures in Annex 3.
- 14.17 Panels shall use the report of any technical expert group established under Article 14 paragraph 9 as the basis for its consideration of issues that involve questions of a technical nature.
- 14.18 The time required by panels will vary with the particular case. They should aim to deliver their findings, and where appropriate, recommendations to the Committee without undue delay, normally within a period of four months from the date that the panel was established.

Enforcement

- 14.19 After the investigation is complete or after the report of a technical expert group, working group, panel or other body is presented to the Committee, the Committee shall give the matter prompt consideration. With respect to panel reports, the Committee shall take appropriate action normally within thirty days of receipt of the report, unless extended by the Committee, including:
- a statement concerning the facts of the matter; or
 - recommendations to one or more Parties; or
 - any other ruling which it deems appropriate.
- 14.20 If a Party to which recommendations are addressed considers itself unable to implement them, it should promptly furnish reasons in writing to the Committee. In that event the Committee shall consider what further action may be appropriate.
- 14.21 If the Committee considers that the circumstances are serious enough to justify such action, it may authorize one or more Parties to suspend, in respect of any other Party, the application of such obligations under this Agreement as it determines to be appropriate in the circumstances. In this respect, the Committee may, *inter alia*, authorize the suspension of the application of obligations, including those in Articles 5 to 9, in order to restore mutual economic advantage and balance of rights and obligations.
- 14.22 The Committee shall keep under surveillance any matter on which it has made recommendations or given rulings.

3.b 1979 Agreement on Technical Barriers to Trade, relevant provisions (*continued*)

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Other provisions relating to dispute settlement

Procedures

14.23 If disputes arise between Parties relating to rights and obligations of this Agreement, Parties should complete the dispute settlement procedures under this Agreement before availing themselves of any rights which they have under the GATT. Parties recognize that, in any case so referred to the CONTRACTING PARTIES, any finding, recommendation or ruling pursuant to Article 14, paragraphs 9 to 18 may be taken into account by the CONTRACTING PARTIES, to the extent they relate to matters involving equivalent rights and obligations under the General Agreement. When Parties resort to GATT Article XXIII, a determination under that Article shall be based on GATT provisions only.

Levels of obligation

14.24 The dispute settlement provisions set out above can be invoked in cases where a Party considers that another Party has not achieved satisfactory results under Articles 3, 4, 6, 8 and 9 and its trade interests are significantly affected. In this respect, such results shall be equivalent to those envisaged in Articles 2, 5 and 7 as if the body in question were a Party.

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Processes and production methods

14.25 The dispute settlement procedures set out above can be invoked in cases where a Party considers that obligations under this Agreement are being circumvented by the drafting of requirements in terms of processes and production methods rather than in terms of characteristics of products.

Retroactivity

14.26 To the extent that a Party considers that technical regulations, standards, methods for assuring conformity with technical regulations or standards, or certification systems which exist at the time of entry into force of this Agreement are not consistent with the provisions of this Agreement, such regulations, standards, methods and systems shall be subject to the provisions in Articles 13 and 14 of this Agreement, in so far as they are applicable.

Final provisions

Article 15 Final provisions

Acceptance and accession

15.1 This Agreement shall be open for acceptance by signature or otherwise, by governments contracting parties to the GATT, and by the European Economic Community.

3.c 1979 Agreement on Government Procurement, relevant provisions

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AGREEMENT ON GOVERNMENT PROCUREMENT

ACCORD RELATIF AUX MARCHÉS PUBLICS

ACUERDO SOBRE COMPRAS DEL SECTOR PÚBLICO

GENERAL AGREEMENT ON TARIFFS AND TRADE

**ACCORD GÉNÉRAL SUR LES TARIFS DOUANIERS
ET LE COMMERCE**

**ACUERDO GENERAL SOBRE ARANCELES ADUANEROS
Y COMERCIO**

12 April 1979
Geneva

3.c 1979 Agreement on Government Procurement, relevant provisions (*continued*)

AGREEMENT ON GOVERNMENT PROCUREMENT

PREAMBLE

Parties to this Agreement (hereinafter referred to as "Parties"),

Considering that Ministers agreed in the Tokyo Declaration of 14 September 1973 that comprehensive Multilateral Trade Negotiations in the framework of the General Agreement on Tariffs and Trade (hereinafter referred to as "General Agreement" or "GATT") should aim, inter alia, to reduce or eliminate non-tariff measures or, where this is not appropriate, their trade restricting or distorting effects, and to bring such measures under more effective international discipline;

Considering that Ministers also agreed that negotiations should aim to secure additional benefits for the international trade of developing countries, and recognized the importance of the application of differential measures in ways which will provide special and more favourable treatment for them where this is feasible and appropriate;

Recognizing that in order to achieve their economic and social objectives to implement programmes and policies of economic development aimed at raising the standard of living of their people, taking into account their balance-of-payments position, developing countries may need to adopt agreed differential measures;

Considering that Ministers in the Tokyo Declaration recognized that the particular situation and problems of the least developed among the developing countries shall be given special attention and stressed the need to ensure that these countries receive special treatment in the context of any general or specific measures taken in favour of the developing countries during the negotiations;

Recognizing the need to establish an agreed international framework of rights and obligations with respect to laws, regulations, procedures and practices regarding government procurement with a view to achieving greater liberalization and expansion of world trade and improving the international framework for the conduct of world trade;

Recognizing that laws, regulations, procedures and practices regarding government procurement should not be prepared, adopted or applied to foreign or domestic products and to foreign or domestic suppliers so as to afford protection to domestic products or suppliers and should not discriminate among foreign products or suppliers;

Recognizing that it is desirable to provide transparency of laws, regulations, procedures and practices regarding government procurement;

Recognizing the need to establish international procedures on notification, consultation, surveillance and dispute settlement with a view to ensuring a fair, prompt and effective enforcement of the international provisions on

(...)

3.c 1979 Agreement on Government Procurement, relevant provisions (*continued*)

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(...)

9. The Parties shall collect and provide to the Committee on an annual basis statistics on their purchases. Such reports shall contain the following information with respect to contracts awarded by all procurement entities covered under this Agreement:

- (a) global statistics on estimated value of contracts awarded, both above and below the threshold value;
- (b) statistics on number and total value of contracts awarded above the threshold value, broken down by entities, categories of products and either nationality of the winning tenderer or country of origin of the product, according to a recognized trade or other appropriate classification system;
- (c) statistics on the total number and value of contracts awarded under each of the cases of Article V, paragraph 15.

Article VII

Enforcement of Obligations

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Institutions

1. There shall be established under this Agreement a Committee on Government Procurement (referred to in this Agreement as "the Committee") composed of representatives from each of the Parties. This Committee shall elect its own Chairman and shall meet as necessary but not less than once a year for the purpose of affording Parties the opportunity to consult on any matters relating to the operation of this Agreement or the furtherance of its objectives, and to carry out such other responsibilities as may be assigned to it by the Parties.

2. The Committee may establish ad hoc panels in the manner and for the purposes set out in paragraph 8 of this Article and working parties or other subsidiary bodies which shall carry out such functions as may be given to them by the Committee.

Consultations

3. Each Party shall afford sympathetic consideration to, and shall afford adequate opportunity for consultations regarding, representations made by another Party with respect to any matter affecting the operation of this Agreement.

4. If any Party considers that any benefit accruing to it, directly or indirectly, under this Agreement is being nullified or impaired, or that the achievement of any objective of this Agreement is being impeded, by another Party or Parties, it may, with a view to reaching a mutually satisfactory resolution of the matter, request in writing consultations with the Party or Parties in question. Each Party shall afford sympathetic consideration to any request from another Party for consultations. The Parties concerned shall initiate requested consultations promptly.

3.c 1979 Agreement on Government Procurement, relevant provisions (*continued*)

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5. The Parties engaged in consultations on a particular matter affecting the operation of this Agreement shall provide information concerning the matter subject to the provisions of Article VI, paragraph 8, and attempt to conclude such consultations within a reasonably short period of time.

Dispute settlement

6. If no mutually satisfactory solution has been reached as a result of consultations under paragraph 4 between the Parties concerned, the Committee shall meet at the request of any party to the dispute within thirty days of receipt of such a request to investigate the matter, with a view to facilitating a mutually satisfactory solution.

7. If no mutually satisfactory solution has been reached after detailed examination by the Committee under paragraph 6 within three months, the Committee shall, at the request of any party to the dispute establish a panel to:

- (a) examine the matter;
- (b) consult regularly with the parties to the dispute and give full opportunity for them to develop a mutually satisfactory solution;
- (c) make a statement concerning the facts of the matter as they relate to application of this Agreement and make such findings as will assist the Committee in making recommendations or giving rulings on the matter.

8. In order to facilitate the constitution of panels, the Chairman of the Committee shall maintain an informal indicative list of governmental officials experienced in the field of trade relations. This list may also include persons other than governmental officials. In this connexion, each Party shall be invited to indicate at the beginning of every year to the Chairman of the Committee the name(s) of the one or two persons whom the Parties would be willing to make available for such work. When a panel is established under paragraph 7, the Chairman, within seven days, shall propose to the parties to the dispute the composition of the panel consisting of three or five members and preferably government officials. The parties directly concerned shall react within seven working days to nominations of panel members by the Chairman and shall not oppose nominations except for compelling reasons.

Citizens of countries whose governments are parties to a dispute shall not be eligible for membership of the panel concerned with that dispute. Panel members shall serve in their individual capacities and not as governmental representatives nor as representatives of any organization. Governments or organizations shall therefore not give them instructions with regard to matters before a panel.

3.c 1979 Agreement on Government Procurement, relevant provisions (*continued*)

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9. Each panel shall develop its own procedures. All Parties, having a substantial interest in the matter and having notified this to the Committee, shall have an opportunity to be heard. Each panel may consult with and seek information from any source it deems appropriate. Before a panel seeks such information from a source within the jurisdiction of a Party it shall inform the government of that Party. Any Party shall respond promptly and fully to any request by a panel for such information as the panel considers necessary and appropriate. Confidential information provided to the panel shall not be revealed without formal authorization from the government or person providing the information. Where such information is requested from the panel but release of such information by the panel is not authorized, a non-confidential summary of the information, authorized by the government or person providing the information, will be provided.

Where a mutually satisfactory solution to a dispute cannot be found or where the dispute relates to an interpretation of this Agreement, the panel should first submit the descriptive part of its report to the Parties concerned, and should subsequently submit to the parties to the dispute its conclusions, or an outline thereof, a reasonable period of time before they are circulated to the Committee. Where an interpretation of this Agreement is not involved and where a bilateral settlement of the matter has been found, the report of the panel may be confined to a brief description of the case and to reporting that a solution had been reached.

10. The time required by panels will vary with the particular case. Panels should aim to deliver their findings, and where appropriate, recommendations, to the Committee without undue delay, taking into account the obligation of the Committee to ensure prompt settlement in cases of urgency, normally within a period of four months from the date the panel was established.

Enforcement

11. After the examination is complete or after the report of a panel, working party or other subsidiary body is presented to the Committee, the Committee shall give the matter prompt consideration. With respect to these reports, the Committee shall take appropriate action normally within thirty days of receipt of the report unless extended by the Committee, including:

- (a) a statement concerning the facts of the matter;
- (b) recommendations to one or more Parties; and/or
- (c) any other ruling which it deems appropriate.

Any recommendations by the Committee shall aim at the positive resolution of the matter on the basis of the operative provisions of this Agreement and its objectives set out in the Preamble.

3.c 1979 Agreement on Government Procurement, relevant provisions (*continued*)

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12. If a Party to which recommendations are addressed considers itself unable to implement them, it should promptly furnish reasons in writing to the Committee. In that event, the Committee shall consider what further action may be appropriate.

13. The Committee shall keep under surveillance any matter on which it has made recommendations or given rulings.

Balance of rights and obligations

14. If the Committee's recommendations are not accepted by a party, or parties, to the dispute, and if the Committee considers that the circumstances are serious enough to justify such action, it may authorize a Party or Parties to suspend in whole or in part, and for such time as may be necessary, the application of this Agreement to any other Party or Parties, as is determined to be appropriate in the circumstances.

Article VIII

Exceptions to the Agreement

1. Nothing in this Agreement shall be construed to prevent any Party from taking any action or not disclosing any information which it considers necessary for the protection of its essential security interests relating to the procurement of arms, ammunition or war materials, or to procurement indispensable for national security or for national defence purposes.

2. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent any Party from imposing or enforcing measures necessary to protect public morals, order or safety, human, animal or plant life or health, intellectual property, or relating to the products of handicapped persons, of philanthropic institutions or of prison labour.

Article IX

Final Provisions

1. Acceptance and accession

- (a) This Agreement shall be open for acceptance by signature or otherwise, by governments contracting parties to the GATT and by the European Economic Community whose agreed lists of entities are contained in Annex I.

(...)

3.d 1979 Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade, relevant provisions

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**AGREEMENT ON INTERPRETATION AND APPLICATION OF
ARTICLES VI, XVI AND XXIII OF THE GENERAL AGREEMENT
ON TARIFFS AND TRADE**

**ACCORD RELATIF A L'INTERPRÉTATION ET A L'APPLICATION DES
ARTICLES VI, XVI ET XXIII DE L'ACCORD GÉNÉRAL
SUR LES TARIFS DOUANIERS ET LE COMMERCE**

**ACUERDO RELATIVO A LA INTERPRETACIÓN Y APLICACIÓN DE LOS
ARTÍCULOS VI, XVI Y XXIII DEL ACUERDO GENERAL SOBRE
ARANCELES ADUANEROS Y COMERCIO**

GENERAL AGREEMENT ON TARIFFS AND TRADE
ACCORD GÉNÉRAL SUR LES TARIFS DOUANIERS
ET LE COMMERCE

ACUERDO GENERAL SOBRE ARANCELES
ADUANEROS Y COMERCIO

12 April 1979
Geneva

3.d 1979 Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade, relevant provisions (*continued*)

AGREEMENT ON INTERPRETATION AND APPLICATION OF
ARTICLES VI, XVI AND XXIII OF THE GENERAL AGREEMENT
ON TARIFFS AND TRADE

The signatories¹ to this Agreement,

Noting that Ministers on 12-14 September 1973 agreed that the Multilateral Trade Negotiations should, *inter alia*, reduce or eliminate the trade restricting or distorting effects of non-tariff measures, and bring such measures under more effective international discipline,

Recognizing that subsidies are used by governments to promote important objectives of national policy,

Recognizing also that subsidies may have harmful effects on trade and production,

Recognizing that the emphasis of this Agreement should be on the effects of subsidies and that these effects are to be assessed in giving due account to the internal economic situation of the signatories concerned as well as to the state of international economic and monetary relations,

Desiring to ensure that the use of subsidies does not adversely affect or prejudice the interests of any signatory to this Agreement, and that countervailing measures do not unjustifiably impede international trade, and that relief is made available to producers adversely affected by the use of subsidies within an agreed international framework of rights and obligations,

Taking into account the particular trade, development and financial needs of developing countries,

Desiring to apply fully and to interpret the provisions of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade² (hereinafter referred to as "General Agreement" or "GATT") only with respect to subsidies and countervailing measures and to elaborate rules for their application in order to provide greater uniformity and certainty in their implementation,

Desiring to provide for the speedy, effective and equitable resolution of disputes arising under this Agreement,

¹The term "signatories" is hereinafter used to mean Parties to this Agreement.

²Wherever in this Agreement there is reference to "the terms of this Agreement" or the "articles" or "provisions of this Agreement" it shall be taken to mean, as the context requires, the provisions of the General Agreement as interpreted and applied by this Agreement.

(...)

3.d 1979 Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade, relevant provisions (*continued*)

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(...)

11. In cases where products are not imported directly from the country of origin but are exported to the country of importation from an intermediate country, the provisions of this Agreement shall be fully applicable and the transaction or transactions shall, for the purposes of this Agreement, be regarded as having taken place between the country of origin and the country of importation.

12. An investigation shall be terminated when the investigating authorities are satisfied either that no subsidy exists or that the effect of the alleged subsidy on the industry is not such as to cause injury.

13. An investigation shall not hinder the procedures of customs clearance.

14. Investigations shall, except in special circumstances, be concluded within one year after their initiation.

15. Public notice shall be given of any preliminary or final finding whether affirmative or negative and of the revocation of a finding. In the case of an affirmative finding each such notice shall set forth the findings and conclusions reached on all issues of fact and law considered material by the investigating authorities, and the reasons and basis therefor. In the case of a negative finding each notice shall set forth at least the basic conclusions and a summary of the reasons therefor. All notices of finding shall be forwarded to the signatory or signatories the products of which are subject to such finding and to the exporters known to have an interest therein.

16. Signatories shall report without delay to the Committee all preliminary or final actions taken with respect to countervailing duties. Such reports will be available in the GATT secretariat for inspection by government representatives. The signatories shall also submit, on a semi-annual basis, reports on any countervailing duty actions taken within the preceding six months.

Article 3 - Consultations

1. As soon as possible after a request for initiation of an investigation is accepted, and in any event before the initiation of any investigation, signatories the products of which may be subject to such investigation shall be afforded a reasonable opportunity for consultations with the aim of clarifying the situation as to the matters referred to in Article 2, paragraph 1 above and arriving at a mutually agreed solution.

2. Furthermore, throughout the period of investigation, signatories the products of which are the subject of the investigation shall be afforded a

3.d 1979 Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade, relevant provisions (*continued*)

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reasonable opportunity to continue consultations, with a view to clarifying the factual situation and to arriving at a mutually agreed solution.¹³

3. Without prejudice to the obligation to afford reasonable opportunity for consultation, these provisions regarding consultations are not intended to prevent the authorities of a signatory from proceeding expeditiously with regard to initiating the investigation, reaching preliminary or final findings, whether affirmative or negative, or from applying provisional or final measures, in accordance with the provisions of this Agreement.

4. The signatory which intends to initiate any investigation or is conducting such an investigation shall permit, upon request, the signatory or signatories the products of which are subject to such investigation access to non-confidential evidence including the non-confidential summary of confidential data being used for initiating or conducting the investigation.

Article 4 - Imposition of countervailing duties

1. The decision whether or not to impose a countervailing duty in cases where all requirements for the imposition have been fulfilled and the decision whether the amount of the countervailing duty to be imposed shall be the full amount of the subsidy or less are decisions to be made by the authorities of the importing signatory. It is desirable that the imposition be permissive in the territory of all signatories and that the duty be less than the total amount of the subsidy if such lesser duty would be adequate to remove the injury to the domestic industry.

2. No countervailing duty shall be levied¹⁴ on any imported product in excess of the amount of the subsidy found to exist, calculated in terms of subsidization per unit of the subsidized and exported product.¹⁵

(...)

¹³It is particularly important, in accordance with the provisions of this paragraph, that no affirmative finding whether preliminary or final be made without reasonable opportunity for consultations having been given. Such consultations may establish the basis for proceeding under the provisions of Part VI of this Agreement.

¹⁴As used in this Agreement "levy" shall mean the definitive or final legal assessment or collection of a duty on tax.

¹⁵An understanding among signatories should be developed setting out the criteria for the calculation of the amount of the subsidy.

3.d 1979 Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade, relevant provisions (*continued*)

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(...)

Signatories recognize, nevertheless, that the enumeration of forms of subsidies set out above should be reviewed periodically and that this should be done, through consultations, in conformity with the spirit of Article XVI:5 of the General Agreement.

4. Signatories recognize further that, without prejudice to their rights under this Agreement, nothing in paragraphs 1-3 above and in particular the enumeration of forms of subsidies creates, in itself, any basis for action under the General Agreement, as interpreted by this Agreement.

Article 12 - Consultations

1. Whenever a signatory has reason to believe that an export subsidy is being granted or maintained by another signatory in a manner inconsistent with the provisions of this Agreement, such signatory may request consultations with such other signatory.

2. A request for consultations under paragraph 1 above shall include a statement of available evidence with regard to the existence and nature of the subsidy in question.

3. Whenever a signatory has reason to believe that any subsidy is being granted or maintained by another signatory and that such subsidy either causes injury to its domestic industry, nullification or impairment of benefits accruing to it under the General Agreement, or serious prejudice to its interests, such signatory may request consultations with such other signatory.

4. A request for consultations under paragraph 3 above shall include a statement of available evidence with regard to (a) the existence and nature of the subsidy in question and (b) the injury caused to the domestic industry or, in the case of nullification or impairment, or serious prejudice, the adverse effects caused to the interests of the signatory requesting consultations.

5. Upon request for consultations under paragraph 1 or paragraph 3 above, the signatory believed to be granting or maintaining the subsidy practice in question shall enter into such consultations as quickly as possible. The purpose of the consultations shall be to clarify the facts of the situation and to arrive at a mutually acceptable solution.

Article 13 - Conciliation, dispute settlement and authorized countermeasures

1. If, in the case of consultations under paragraph 1 of Article 12, a mutually acceptable solution has not been reached within thirty days³⁰ of the

³⁰Any time periods mentioned in this Article and in Article 18 may be extended by mutual agreement.

3.d 1979 Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade, relevant provisions (*continued*)

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request for consultations, any signatory party to such consultations may refer the matter to the Committee for conciliation in accordance with the provisions of Part VI.

2. If, in the case of consultations under paragraph 3 of Article 12, a mutually acceptable solution has not been reached within sixty days of the request for consultations, any signatory party to such consultations may refer the matter to the Committee for conciliation in accordance with the provisions of Part VI.

3. If any dispute arising under this Agreement is not resolved as a result of consultations or conciliations, the Committee shall, upon request, review the matter in accordance with the dispute settlement procedures of Part IV.

4. If, as a result of its review, the Committee concludes that an export subsidy is being granted in a manner inconsistent with the provisions of this Agreement or that a subsidy is being granted or maintained in such a manner as to cause injury, nullification or impairment, or serious prejudice, it shall make such recommendations³¹ to the parties as may be appropriate to resolve the issue and, in the event the recommendations are not followed, it may authorize such countermeasures as may be appropriate, taking into account the degree and nature of the adverse effects found to exist, in accordance with the relevant provisions of Part VI.

(...)

³¹In making such recommendations, the Committee shall take into account the trade, development and financial needs of developing country signatories.

3.d 1979 Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade, relevant provisions *(continued)*

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(...)

PART V

Article 16 - Committee on Subsidies and Countervailing Measures

1. There shall be established under this Agreement a Committee on Subsidies and Countervailing Measures composed of representatives from each of the signatories to this Agreement. The Committee shall elect its own Chairman and shall meet not less than twice a year and otherwise as envisaged by relevant provisions of this Agreement at the request of any signatory. The Committee shall carry out responsibilities as assigned to it under this Agreement or by the signatories and it shall afford signatories the opportunity of consulting on any matters relating to the operation of the Agreement or the furtherance of its objectives. The GATT secretariat shall act as the secretariat to the Committee.

2. The Committee may set up subsidiary bodies as appropriate.

3. In carrying out their functions, the Committee and any subsidiary bodies may consult with and seek information from any source they deem appropriate. However, before the Committee or a subsidiary body seeks such information from a source within the jurisdiction of a signatory, it shall inform the signatory involved.

3.d 1979 Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade, relevant provisions (*continued*)

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PART VI

Article 17 - Conciliation

1. In cases where matters are referred to the Committee for conciliation failing a mutually agreed solution in consultations under any provision of this Agreement, the Committee shall immediately review the facts involved and, through its good offices, shall encourage the signatories involved to develop a mutually acceptable solution.³⁴

2. Signatories shall make their best efforts to reach a mutually satisfactory solution throughout the period of conciliation.

3. Should the matter remain unresolved, notwithstanding efforts at conciliation made under paragraph 2 above, any signatory involved may, thirty days after the request for conciliation, request that a panel be established by the Committee in accordance with the provisions of Article 18 below.

Article 18 - Dispute settlement

1. The Committee shall establish a panel upon request pursuant to paragraph 3 of Article 17.³⁵ A panel so established shall review the facts of the matter and, in light of such facts, shall present to the Committee its findings concerning the rights and obligations of the signatories party to the dispute under the relevant provisions of the General Agreement as interpreted and applied by this Agreement.

2. A panel should be established within thirty days of a request therefor³⁶ and a panel so established should deliver its findings to the Committee within sixty days after its establishment.

3. When a panel is to be established, the Chairman of the Committee, after securing the agreement of the signatories concerned, should propose the composition of the panel. Panels shall be composed of three or five members,

³⁴In this connexion, the Committee may draw signatories' attention to those cases in which, in its view, there is no reasonable basis supporting the allegations made.

³⁵This does not preclude, however, the more rapid establishment of a panel when the Committee so decides, taking into account the urgency of the situation.

³⁶The parties to the dispute would respond within a short period of time, i.e. seven working days, to nominations of panel members by the Chairman of the Committee and would not oppose nominations except for compelling reasons.

3.d 1979 Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade, relevant provisions (*continued*)

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preferably governmental, and the composition of panels should not give rise to delays in their establishment. It is understood that citizens of countries whose governments³⁷ are parties to the dispute would not be members of the panel concerned with that dispute.

4. In order to facilitate the constitution of panels, the Chairman of the Committee should maintain an informal indicative list of governmental and non-governmental persons qualified in the fields of trade relations, economic development, and other matters covered by the General Agreement and this Agreement, who could be available for serving on panels. For this purpose, each signatory would be invited to indicate at the beginning of every year to the Chairman of the Committee the name of one or two persons who would be available for such work.

5. Panel members would serve in their individual capacities and not as government representatives, nor as representatives of any organization. Governments would therefore not give them instructions with regard to matters before a panel. Panel members should be selected with a view to ensuring the independence of the members, a sufficiently diverse background and a wide spectrum of experience.

6. To encourage development of mutually satisfactory solutions between the parties to a dispute and with a view to obtaining their comments, each panel should first submit the descriptive part of its report to the parties concerned, and should subsequently submit to the parties to the dispute its conclusions, or an outline thereof, a reasonable period of time before they are circulated to the Committee.

7. If a mutually satisfactory solution is developed by the parties to a dispute before a panel, any signatory with an interest in the matter has a right to enquire about and be given appropriate information about that solution and a notice outlining the solution that has been reached shall be presented by the panel to the Committee.

8. In cases where the parties to a dispute have failed to come to a satisfactory solution, the panels shall submit a written report to the Committee which should set forth the findings of the panel as to the questions of fact and the application of the relevant provisions of the General Agreement as interpreted and applied by this Agreement and the reasons and bases therefor.

³⁷The term "governments" is understood to mean governments of all member countries in cases of customs unions.

3.d 1979 Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade, relevant provisions *(continued)*

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9. The Committee shall consider the panel report as soon as possible and, taking into account the findings contained therein, may make recommendations to the parties with a view to resolving the dispute. If the Committee's recommendations are not followed within a reasonable period, the Committee may authorize appropriate countermeasures (including withdrawal of GATT concessions or obligations) taking into account the nature and degree of the adverse effect found to exist. Committee recommendations should be presented to the parties within thirty days of the receipt of the panel report.

(...)

3.e 1979 Arrangement regarding Bovine Meat, relevant provisions

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ARRANGEMENT REGARDING BOVINE MEAT

ARRANGEMENT RELATIF A LA VIANDE BOVINE

ACUERDO DE LA CARNE DE BOVINO

GENERAL AGREEMENT ON TARIFFS AND TRADE
ACCORD GÉNÉRAL SUR LES TARIFS DOUANIERS
ET LE COMMERCE

ACUERDO GENERAL SOBRE ARANCELES
ADUANEROS Y COMERCIO

12 April 1979
Geneva

3.e 1979 Arrangement regarding Bovine Meat, relevant provisions (*continued*)

ARRANGEMENT REGARDING BOVINE MEAT

PREAMBLE

Convinced that increased international co-operation should be carried out in such a way as to contribute to the achievement of greater liberalization, stability and expansion in international trade in meat and live animals;

Taking into account the need to avoid serious disturbances in international trade in bovine meat and live animals;

Recognizing the importance of production and trade in bovine meat and live animals for the economies of many countries, especially for certain developed and developing countries;

Mindful of their obligations to the principles and objectives of the General Agreement on Tariffs and Trade (hereinafter referred to as "General Agreement" or "GATT")¹;

Determined, in carrying out the aims of this Arrangement to implement the principles and objectives agreed upon in the Tokyo Declaration of Ministers, dated 14 September 1973 concerning the Multilateral Trade Negotiations, in particular as concerns special and more favourable treatment for developing countries;

The participants in the present Arrangement have, through their representatives, agreed as follows:

PART ONE

GENERAL PROVISIONS

Article I - Objectives

The objectives of this Arrangement shall be:

- (1) to promote the expansion, ever greater liberalization and stability of the international meat and livestock market by facilitating the progressive dismantling of obstacles and restrictions to world trade in bovine meat and live animals, including those which compartmentalize this trade, and by improving the international framework of world trade to the benefit of both consumer and producer, importer and exporter;

(...)

¹This provision applies only among GATT contracting parties.

3.e 1979 Arrangement regarding Bovine Meat, relevant provisions (*continued*)

- 3 -

(...)

2. Participating developing countries shall furnish the information available to them. In order that these countries may improve their data collection mechanisms, developed participants, and any developing participants able to do so, shall consider sympathetically any request to them for technical assistance.

3. The information that the participants undertake to provide pursuant to paragraph 1 of this Article, according to the modalities that the Council shall establish, shall include data on past performance and current situation and an assessment of the outlook regarding production (including the evolution of the composition of herds), consumption, prices, stocks of and trade in the products referred to in Article II, and any other information deemed necessary by the Council, in particular on competing products. Participants shall also provide information on their domestic policies and trade measures including bilateral and plurilateral commitments in the bovine sector, and shall notify as early as possible any changes in such policies and measures that are likely to affect international trade in live bovine animals and meat. The provisions of this paragraph shall not require any participant to disclose confidential information which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.

4. The secretariat of the Arrangement shall monitor variations in market data, in particular herd sizes, stocks, slaughterings and domestic and international prices, so as to permit early detection of the symptoms of any serious imbalance in the supply and demand situation. The secretariat shall keep the Council apprized of significant developments on world markets, as well as prospects for production, consumption, exports and imports.

Note: It is understood that under the provisions of this Article, the Council instructs the secretariat to draw up, and keep up to date, an inventory of all measures affecting trade in bovine meat and live animals, including commitments resulting from bilateral, plurilateral and multilateral negotiations.

Article IV - Functions of the International
Meat Council and Co-operation between the
Participants to this Arrangement

1. The Council shall meet in order to:
 - (a) evaluate the world supply and demand situation and outlook on the basis of an interpretative analysis of the present situation and of probable developments drawn up by the secretariat of the Arrangement, on the basis of documentation provided in conformity with Article III of the present Arrangement, including that relating to the operation of domestic and trade policies and of any other information available to the secretariat;

3.e 1979 Arrangement regarding Bovine Meat, relevant provisions (*continued*)

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- (b) proceed to a comprehensive examination of the functioning of the present Arrangement;
- (c) provide an opportunity for regular consultation on all matters affecting international trade in bovine meat.

2. If after evaluation of the world supply and demand situation referred to in paragraph 1(a) of this Article, or after examination of all relevant information pursuant to paragraph 3 of Article III, the Council finds evidence of a serious imbalance or a threat thereof in the international meat market, the Council will proceed by consensus, taking into particular account the situation in developing countries, to identify, for consideration by governments, possible solutions to remedy the situation consistent with the principles and rules of GATT.

3. Depending on whether the Council considers that the situation defined in paragraph 2 of this Article is temporary or more durable, the measures referred to in paragraph 2 of this Article could include short-, medium-, or long-term measures taken by importers as well as exporters to contribute to improve the overall situation of the world market consistent with the objectives and aims of the Arrangement, in particular the expansion, ever greater liberalization, and stability of the international meat and livestock markets.

4. When considering the suggested measures pursuant to paragraphs 2 and 3 of this Article, due consideration shall be given to special and more favourable treatment to developing countries, where this is feasible and appropriate.

5. The participants undertake to contribute to the fullest possible extent to the implementation of the objectives of this Arrangement set forth in Article I. To this end, and consistent with the principles and rules of the General Agreement, participants shall, on a regular basis, enter into the discussions provided in Article IV:1(c) with a view to exploring the possibilities of achieving the objectives of the present Arrangement, in particular the further dismantling of obstacles to world trade in bovine meat and live animals. Such discussions should prepare the way for subsequent consideration of possible solutions of trade problems consistent with the rules and principles of the GATT, which could be jointly accepted by all the parties concerned, in a balanced context of mutual advantages.

6. Any participant may raise before the Council any matter² affecting this Arrangement, *inter alia*, for the same purposes provided for in paragraph 2 of this Article. The Council shall, at the request of a participant, meet within a period of not more than fifteen days to consider any matter² affecting the present Arrangement.

²Note: It is confirmed that the term "matter" in this paragraph includes any matter which is covered by multilateral agreements negotiated within the framework of the Multilateral Trade Negotiations, in particular those bearing on export and import measures. It is further confirmed that the provisions of Article IV, paragraph 6, and this footnote are without prejudice to the rights and obligations of the parties to such agreements.

3.e 1979 Arrangement regarding Bovine Meat, relevant provisions (*continued*)

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PART TWO

Article V - Administration of the Arrangement

1. International Meat Council

An International Meat Council shall be established within the framework of the GATT. The Council shall comprise representatives of all participants to the Arrangement and shall carry out all the functions which are necessary to implement the provisions of the Arrangement. The Council shall be serviced by the GATT secretariat. The Council shall establish its own rules of procedure, in particular the modalities for consultations provided for in Article IV.

2. Regular and special meetings

The Council shall normally meet at least twice each year. However, the Chairman may call a special meeting of the Council either on his own initiative, or at the request of a participant to this Arrangement.

3. Decisions

The Council shall reach its decisions by consensus. The Council shall be deemed to have decided on a matter submitted for its consideration if no member of the Council formally objects to the acceptance of a proposal.

4. Co-operation with other organizations

The Council shall make whatever arrangements are appropriate for consultation or co-operation with intergovernmental and non-governmental organizations.

5. Admission of observers

- (a) The Council may invite any non-participating country to be represented at any of its meetings as an observer.
- (b) The Council may also invite any of the organizations referred to in paragraph 4 of this Article to attend any of its meetings as an observer.

(...)

3.f 1979 International Dairy Arrangement, relevant provisions

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INTERNATIONAL DAIRY ARRANGEMENT

ARRANGEMENT INTERNATIONAL RELATIF AU SECTEUR LAITIER

ACUERDO INTERNACIONAL DE LOS PRODUCTOS LÁCTEOS

GENERAL AGREEMENT ON TARIFFS AND TRADE

**ACCORD GÉNÉRAL SUR LES TARIFS DOUANIERS
ET LE COMMERCE**

**ACUERDO GENERAL SOBRE ARANCELES ADUANEROS
Y COMERCIO**

12 April 1979
Geneva

3.f 1979 International Dairy Arrangement, relevant provisions (*continued*)

INTERNATIONAL DAIRY ARRANGEMENT

PREAMBLE

- Recognizing the importance¹ of milk and dairy products to the economy of many countries in terms of production, trade and consumption;
- Recognizing the need, in the mutual interests of producers and consumers, and of exporters and importers, to avoid surpluses and shortages, and to maintain prices at an equitable level;
- Noting the diversity and interdependence of dairy products;
- Noting the situation in the dairy products market, which is characterized by very wide fluctuations and the proliferation of export and import measures;
- Considering that improved co-operation in the dairy products sector contributes to the attainment of the objectives of expansion and liberalization of world trade, and the implementation of the principles and objectives concerning developing countries agreed upon in the Tokyo Declaration of Ministers dated 14 September 1973 concerning the Multilateral Trade Negotiations;
- Determined to respect the principles and objectives of the General Agreement on Tariffs and Trade (hereinafter referred to as "General Agreement" or "GATT")² and, in carrying out the aims of this Arrangement, effectively to implement the principles and objectives agreed upon in the said Tokyo Declaration;

The participants to the present Arrangement have, through their representatives, agreed as follows:

(...)

¹In this Arrangement and in the Protocols annexed thereto, the term "country" is deemed to include the European Economic Community.

²This preambular provision applies only among participants that are contracting parties to the GATT.

3.f 1979 International Dairy Arrangement, relevant provisions (*continued*)

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(...)

2. Participating developing countries shall furnish the information available to them. In order that these participants may improve their data collection mechanisms, developed participants, and any developing participants able to do so, shall consider sympathetically any request to them for technical assistance.

3. The information that the participants undertake to provide pursuant to paragraph 1 of this Article, according to the modalities that the Council shall establish, shall include data on past performance, current situation and outlook regarding production, consumption, prices, stocks and trade, including transactions other than normal commercial transactions, in respect of the products referred to in Article II of this Arrangement, and any other information deemed necessary by the Council. Participants shall also provide information on their domestic policies and trade measures, and on their bilateral, plurilateral or multilateral commitments, in the dairy sector and shall make known, as early as possible, any changes in such policies and measures that are likely to affect international trade in dairy products. The provisions of this paragraph shall not require any participant to disclose confidential information which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.

Note: It is understood that under the provisions of this Article, the Council instructs the secretariat to draw up, and keep up to date, an inventory of all measures affecting trade in dairy products, including commitments resulting from bilateral, plurilateral and multilateral negotiations.

Article IV - Functions of the International Dairy
Products Council and Co-operation between the
Participants to this Arrangement

1. The Council shall meet in order to:

- (a) make an evaluation of the situation in and outlook for the world market for dairy products, on the basis of a status report prepared by the secretariat with the documentation furnished by participants in accordance with Article III of this Arrangement, information arising from the operation of the Protocols covered by Article VI of this Arrangement, and any other information available to it;
- (b) review the functioning of this Arrangement.

2. If after an evaluation of the world market situation and outlook, referred to in paragraph 1(a) of this Article, the Council finds that a serious market disequilibrium, or threat of such a disequilibrium, which affects or may affect international trade, is developing for dairy products in general or for one or more products, the Council will proceed to identify, taking particular account of the situation of developing countries, possible solutions for consideration by governments.

3.f 1979 International Dairy Arrangement, relevant provisions (*continued*)

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3. Depending on whether the Council considers that the situation defined in paragraph 2 of this Article is temporary or more durable, the measures referred to in paragraph 2 of this Article could include short-, medium- or long-term measures to contribute to improve the overall situation of the world market.

4. When considering measures that could be taken pursuant to paragraphs 2 and 3 of this Article, due account shall be taken of the special and more favourable treatment, to be provided for developing countries, where this is feasible and appropriate.

5. Any participant may raise before the Council any matter³ affecting this Arrangement, *inter alia*, for the same purposes provided for in paragraph 2 of this Article. Each participant shall promptly afford adequate opportunity for consultation regarding such matter³ affecting this Arrangement.

6. If the matter affects the application of the specific provisions of the Protocols annexed to this Arrangement, any participant which considers that its trade interests are being seriously threatened and which is unable to reach a mutually satisfactory solution with the other participant or participants concerned, may request the Chairman of the Committee for the relevant Protocol established under Article VII:2(a) of this Arrangement, to convene a special meeting of the Committee on an urgent basis so as to determine as rapidly as possible, and within four working days if requested, any measures which may be required to meet the situation. If a satisfactory solution cannot be reached, the Council shall, at the request of the Chairman of the Committee for the relevant Protocol, meet within a period of not more than fifteen days to consider the matter with a view to facilitating a satisfactory solution.

Article V - Food Aid and Transactions other than
Normal Commercial Transactions

1. The participants agree:

(a) In co-operation with FAO and other interested organizations, to foster recognition of the value of dairy products in improving nutritional levels and of ways and means through which they may be made available for the benefit of developing countries.

(...)

³It is confirmed that the term "matter" in this paragraph includes any matter which is covered by multilateral agreements negotiated within the framework of the Multilateral Trade Negotiations, in particular those bearing on export and import measures. It is further confirmed that the provisions of Article IV:5 and this footnote are without prejudice to the rights and obligations of the parties to such agreements.

3.f 1979 International Dairy Arrangement, relevant provisions (*continued*)

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(...)

PART THREE

Article VII - Administration of the Arrangement

1. International Dairy Products Council

- (a) An International Dairy Products Council shall be established within the framework of the GATT. The Council shall comprise representatives of all participants to the Arrangement and shall carry out all the functions which are necessary to implement the provisions of the Arrangement. The Council shall be serviced by the GATT secretariat. The Council shall establish its own rules of procedure.

(b) Regular and special meetings

The Council shall normally meet at least twice each year. However, the Chairman may call a special meeting of the Council either on his own initiative, at the request of the Committees established under paragraph 2(a) of this Article, or at the request of a participant to this Arrangement.

(c) Decisions

The Council shall reach its decisions by consensus. The Council shall be deemed to have decided on a matter submitted for its consideration if no member of the Council formally objects to the acceptance of a proposal.

(d) Co-operation with other organizations

The Council shall make whatever arrangements are appropriate for consultation or co-operation with intergovernmental and non-governmental organizations.

(e) Admission of observers

(i) The Council may invite any non-participating country to be represented at any meeting as an observer.

(ii) The Council may also invite any of the organizations referred to in paragraph 1(d) of this Article to attend any meeting as an observer.

2. Committees

- (a) The Council shall establish a Committee to carry out all the functions which are necessary to implement the provisions of the Protocol Regarding Certain Milk Powders, a Committee to carry out all the functions which are necessary to implement the provisions of the Protocol Regarding Milk Fat and a Committee to carry out all the

3.f 1979 International Dairy Arrangement, relevant provisions (*continued*)

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functions which are necessary to implement the provisions of the Protocol Regarding Certain Cheeses. Each of these Committees shall comprise representatives of all participants to the relevant Protocol. The Committees shall be serviced by the GATT secretariat. They shall report to the Council on the exercise of their functions.

(b) Examination of the market situation

The Council shall make the necessary arrangements, determining the modalities for the information to be furnished under Article III of this Arrangement, so that

- the Committee of the Protocol Regarding Certain Milk Powders may keep under constant review the situation in and the evolution of the international market for the products covered by this Protocol, and the conditions under which the provisions of this Protocol are applied by participants, taking into account the evolution of prices in international trade in each of the other dairy products having implications for the trade in products covered by this Protocol;

- the Committee of the Protocol Regarding Milk Fat may keep under constant review the situation in and the evolution of the international market for the products covered by this Protocol, and the conditions under which the provisions of this Protocol are applied by participants, taking into account the evolution of prices in international trade in each of the other dairy products having implications for the trade in products covered by this Protocol;

- the Committee of the Protocol Regarding Certain Cheeses may keep under constant review the situation in and the evolution of the international market for the products covered by this Protocol, and the conditions under which the provisions of this Protocol are applied by participants, taking into account the evolution of prices in international trade in each of the other dairy products having implications for the trade in products covered by this Protocol.

(c) Regular and special meetings

Each Committee shall normally meet at least once each quarter. However, the Chairman of each Committee may call a special meeting of the Committee on his own initiative or at the request of any participant.

(d) Decisions

Each Committee shall reach its decisions by consensus. A committee shall be deemed to have decided on a matter submitted for its consideration if no member of the Committee formally objects to the acceptance of a proposal.

(...)

3.g 1979 Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, relevant provisions

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**AGREEMENT ON IMPLEMENTATION OF ARTICLE VII
OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE
AND PROTOCOL**

**ACCORD RELATIF À LA MISE EN OEUVRE DE L'ARTICLE VII
DE L'ACCORD GÉNÉRAL
SUR LES TARIFS DOUANIERS ET LE COMMERCE
ET PROTOCOLE**

**ACUERDO RELATIVO A LA APLICACIÓN DEL ARTÍCULO VII DEL
ACUERDO GENERAL SOBRE ARANCELES ADUANEROS Y COMERCIO
Y PROTOCOLO**

GENERAL AGREEMENT ON TARIFFS AND TRADE
ACCORD GÉNÉRAL SUR LES TARIFS DOUANIERS
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ACUERDO GENERAL SOBRE ARANCELES
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12 April/1 November 1979

Geneva

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3.g 1979 Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, relevant provisions (*continued*)

AGREEMENT ON IMPLEMENTATION OF ARTICLE VII
OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE

ACCORD RELATIF A LA MISE EN OEUVRE DE L'ARTICLE VII
DE L'ACCORD GENERAL SUR LES TARIFFS DOUANIERS
ET LE COMMERCE

ACUERDO RELATIVO A LA APLICACION DEL ARTICULO VII DEL
ACUERDO GENERAL SOBRE ARANCELES ADUANEROS Y COMERCIO

GENERAL AGREEMENT ON TARIFFS AND TRADE

ACCORD GENERAL SUR LES TARIFFS DOUANIERS
ET LE COMMERCE

ACUERDO GENERAL SOBRE ARANCELES ADUANEROS
Y COMERCIO

12 April 1979
Geneva

(...)

3.g 1979 Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, relevant provisions (*continued*)

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(...)

PART II - ADMINISTRATION, CONSULTATION AND DISPUTE SETTLEMENT

Institutions

Article 18

There shall be established under this Agreement:

1. A Committee on Customs Valuation (hereinafter referred to as the Committee) composed of representatives from each of the Parties. The Committee shall elect its own Chairman and shall normally meet once a year, or as is otherwise envisaged by the relevant provisions of this Agreement, for the purpose of affording Parties the opportunity to consult on matters relating to the administration of the customs valuation system by any Party as it might affect the operation of this Agreement or the furtherance of its objectives and carrying out such other responsibilities as may be assigned to it by the Parties. The GATT secretariat shall act as the secretariat to the Committee.

2. A Technical Committee on Customs Valuation (hereinafter referred to as the Technical Committee) under the auspices of the Customs Cooperation Council, which shall carry out the responsibilities described in Annex II to this Agreement and shall operate in accordance with the rules of procedure contained therein.

Consultation

Article 19

1. If any Party considers that any benefit accruing to it, directly or indirectly, under this Agreement is being nullified or impaired, or that the achievement of any objective of this Agreement is being impeded, as a result of the actions of another Party or of other Parties, it may, with a view to reaching a mutually satisfactory solution of the matter, request consultations with the Party or Parties in question. Each Party shall afford sympathetic consideration to any request from another Party for consultations.

2. The Parties concerned shall initiate requested consultations promptly.

3. Parties engaged in consultations on a particular matter affecting the operation of this Agreement shall attempt to conclude such consultations within a reasonably short period of time. The Technical Committee shall provide, upon request, advice and assistance to Parties engaged in consultations.

Dispute settlement

Article 20

1. If no mutually satisfactory solution has been reached between the Parties concerned in consultations under Article 19 above, the Committee shall meet at the request of any party to the dispute, within thirty days of receipt of

3.g 1979 Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, relevant provisions (*continued*)

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such a request, to investigate the matter, with a view to facilitating a mutually satisfactory solution.

2. In investigating the matter and in selecting its procedures, the Committee shall take into account whether the issues in dispute relate to commercial policy considerations or to questions requiring detailed technical consideration. The Committee may request on its own initiative that the Technical Committee carry out an examination, as provided in paragraph 4 below, of any question requiring technical consideration. Upon the request of any party to the dispute that considers the issues to relate to questions of a technical nature, the Committee shall request the Technical Committee to carry out such an examination.

3. During any phase of a dispute settlement procedure, competent bodies and experts in matters under consideration may be consulted; appropriate information and assistance may be requested from such bodies and experts. The Committee shall take into consideration the results of any work of the Technical Committee that pertain to the matter in dispute.

Technical issues

4. When the Technical Committee is requested under the provisions of paragraph 2 above, it shall examine the matter and report to the Committee no later than three months from the date the technical issue was referred to it, unless the period is extended by mutual agreement between the parties to the dispute.

Panel proceedings

5. In cases where the matter is not referred to the Technical Committee, the Committee shall establish a panel upon the request of any party to the dispute if no mutually satisfactory solution has been reached within three months from the date of the request to the Committee to investigate the matter. Where the matter is referred to the Technical Committee, the Committee shall establish a panel upon the request of any party to the dispute if no mutually satisfactory solution has been reached within one month from the date when the Technical Committee presents its report to the Committee.

6. (a) When a panel is established, it shall be governed by the procedures as set forth in Annex III.

(b) If the Technical Committee has made a report on the technical aspects of the matter in dispute, the panel shall use this report as the basis for its consideration of the technical aspects of the matter in dispute.

Enforcement

7. After the investigation is completed or after the report of the Technical Committee or panel is presented to the Committee, the Committee shall give the matter prompt consideration. With respect to panel reports, the

3.g 1979 Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, relevant provisions *(continued)*

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Committee shall take appropriate action normally within thirty days of receipt of the report. Such action shall include:

- (i) a statement concerning the facts of the matter; and
- (ii) recommendations to one or more Parties or any other ruling which it deems appropriate.

8. If a Party to which recommendations are addressed considers itself unable to implement them, it should promptly furnish reasons in writing to the Committee. In that event, the Committee shall consider what further action may be appropriate.

9. If the Committee considers that the circumstances are serious enough to justify such action, it may authorize one or more Parties to suspend the application to any other Party or Parties of such obligations under this Agreement as it determines to be appropriate in the circumstances.

10. The Committee shall keep under surveillance any matter on which it has made recommendations or given rulings.

11. If a dispute arises between Parties relating to rights and obligations under this Agreement, Parties should complete the dispute settlement procedures under this Agreement before availing themselves of any rights which they have under the GATT, including invoking Article XXIII thereof.

(...)

3.g 1979 Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, relevant provisions (*continued*)

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(...)

ANNEX III

Ad hoc panels

1. Ad hoc panels established by the Committee under this Agreement shall have the following responsibilities:

- (a) to examine the matter referred to it by the Committee;
- (b) to consult with the parties to the dispute and give full opportunity for them to develop a mutually satisfactory solution; and
- (c) to make a statement concerning the facts of the matter as they relate to the application of the provisions of this Agreement and, make such findings as will assist the Committee in making recommendations or giving rulings on the matter.

2. In order to facilitate the constitution of panels, the Chairman of the Committee shall maintain an informal indicative list of government officials knowledgeable in the area of customs valuation and experienced in the field of trade relations and economic development. This list may also include persons other than government officials. In this connection, each Party shall be invited to indicate at the beginning of every year to the Chairman of the Committee the name(s) of the one or two governmental experts whom the Parties would be willing to make available for such work. When a panel is established, the Chairman, after consultation with the Parties concerned, shall, within seven days of such establishment propose the composition of the panel consisting of three or five members and preferably government officials. The Parties directly concerned shall react within seven working days to nominations of panel members by the Chairman and shall not oppose nominations except for compelling reasons.

Citizens of countries whose governments are parties to a dispute shall not be eligible for membership of the panel concerned with that dispute. Panel members shall serve in their individual capacities and not as government representatives, nor as representatives of any organization. Governments or organizations shall therefore not give them instructions with regard to matters before a panel.

3. Each panel shall develop its own working procedures. All Parties having a substantial interest in the matter and having notified this to the Committee shall have an opportunity to be heard. Each panel may consult and seek information and technical advice from any source it deems appropriate. Before a panel seeks such information or technical advice from a source within the jurisdiction of a Party, it shall inform the government of that Party. Any Party shall respond promptly and fully to any request by a panel for such information as the panel considers necessary and appropriate. Confidential information provided to the panel shall not be disclosed without the specific permission of the person or government providing such information. Where such information is requested from the panel but release of such

3.g 1979 Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, relevant provisions (*continued*)

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information by the panel is not authorized, a non-confidential summary of the information, authorized by the person or government providing the information, will be provided.

4. Where the parties to the dispute have failed to reach a satisfactory solution, the panel shall submit its findings in writing. The report of a panel should normally set out the rationale behind its findings. Where a settlement of the matter is reached between the parties, the report of the panel may be confined to a brief description of the dispute and to a statement that a solution has been reached.

5. Panels shall use such report of the Technical Committee as may have been issued under Article 20.4 of this Agreement as the basis for their consideration of issues that involve questions of a technical nature.

6. The time required by panels will vary with the particular case. They should aim to deliver their findings, and where appropriate, recommendations, to the Committee without undue delay, normally within a period of three months from the date that the panel was established.

7. To encourage development of mutually satisfactory solutions between the parties to a dispute and with a view to obtaining their comments, each panel should first submit the descriptive part of its report to the Parties concerned, and should subsequently submit to the parties to the dispute its conclusions, or an outline thereof, a reasonable period of time before they are circulated to the Parties.

(...)

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3.h 1979 Agreement on Import Licensing Procedures, relevant provisions

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**AGREEMENT ON IMPORT LICENSING
PROCEDURES**

**ACCORD RELATIF AUX PROCÉDURES EN MATIÈRE DE
LICENCES D'IMPORTATION**

**ACUERDO SOBRE PROCEDIMIENTOS PARA EL TRÁMITE
DE LICENCIAS DE IMPORTACIÓN**

GENERAL AGREEMENT ON TARIFFS AND TRADE
ACCORD GÉNÉRAL SUR LES TARIFS DOUANIERS
ET LE COMMERCE

ACUERDO GENERAL SOBRE ARANCELES
ADUANEROS Y COMERCIO

12 April 1979
Geneva

3.h 1979 Agreement on Import Licensing Procedures, relevant provisions (*continued*)

AGREEMENT ON IMPORT LICENSING PROCEDURES

PREAMBLE

Having regard to the Multilateral Trade Negotiations, the Parties to this Agreement on Import Licensing Procedures (hereinafter referred to as "Parties" and "this Agreement");

Desiring to further the objectives of the General Agreement on Tariffs and Trade (hereinafter referred to as "General Agreement" or "GATT");

Taking into account the particular trade, development and financial needs of developing countries;

Recognizing the usefulness of automatic import licensing for certain purposes and that such licensing should not be used to restrict trade;

Recognizing that import licensing may be employed to administer measures such as those adopted pursuant to the relevant provisions of the GATT;

Recognizing also that the inappropriate use of import licensing procedures may impede the flow of international trade;

Desiring to simplify, and bring transparency to, the administrative procedures and practices used in international trade, and to ensure the fair and equitable application and administration of such procedures and practices;

Desiring to provide for a consultative mechanism and the speedy, effective and equitable resolution of disputes arising under this Agreement;

Hereby agree as follows:

Article 1. General provisions

1. For the purpose of this Agreement, import licensing is defined as administrative procedures¹ used for the operation of import licensing regimes requiring the submission of an application or other documentation (other than that required for customs purposes) to the relevant administrative body as a prior condition for importation into the customs territory of the importing country.

(...)

¹Those procedures referred to as "licensing" as well as other similar administrative procedures.

3.h 1979 Agreement on Import Licensing Procedures, relevant provisions (*continued*)

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(...)

allocated among supplying countries, the licence shall clearly stipulate the country or countries;

- (n) In applying paragraph 8 of Article 1 above, compensating adjustments may be made in future licence allocations where imports exceeded a previous licence level.

Article 4. Institutions, consultation and dispute settlement

1. There shall be established under this Agreement a Committee on Import Licensing composed of representatives from each of the Parties (referred to in this Agreement as "the Committee"). The Committee shall elect its own Chairman and shall meet as necessary for the purpose of affording Parties the opportunity of consulting on any matters relating to the operation of this Agreement or the furtherance of its objectives.

2. Consultations and the settlement of disputes with respect to any matter affecting the operation of this Agreement, shall be subject to the procedures of Articles XXII and XXIII of the GATT.

Article 5. Final provisions

1. Acceptance and accession

- (a) This Agreement shall be open for acceptance by signature or otherwise, by governments contracting parties to the GATT and by the European Economic Community.
- (b) This Agreement shall be open for acceptance by signature or otherwise by governments having provisionally acceded to the GATT, on terms related to the effective application of rights and obligations under this Agreement, which take into account rights and obligations in the instruments providing for their provisional accession.
- (c) This Agreement shall be open to accession by any other government on terms, related to the effective application of rights and obligations under this Agreement, to be agreed between that government and the Parties, by the deposit with the Director-General to the CONTRACTING PARTIES to the GATT of an instrument of accession which states the terms so agreed.
- (d) In regard to acceptance, the provisions of Article XXVI:5(a) and (b) of the General Agreement would be applicable.

2. Reservations

Reservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other Parties.

(...)

3.i 1979 Agreement on Trade in Civil Aircraft, relevant provisions

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AGREEMENT ON TRADE IN CIVIL AIRCRAFT

ACCORD RELATIF AU COMMERCE DES AÉRONEFS CIVILS

GENERAL AGREEMENT ON TARIFFS AND TRADE

**ACCORD GÉNÉRAL SUR LES TARIFS DOUANIERS
ET LE COMMERCE**

12 April 1979
Geneva

3.i 1979 Agreement on Trade in Civil Aircraft, relevant provisions (*continued*)

AGREEMENT ON TRADE IN CIVIL AIRCRAFT

PREAMBLE

Signatories¹ to the Agreement on Trade in Civil Aircraft, hereinafter referred to as "this Agreement";

Noting that Ministers on 12-14 September 1973 agreed the Tokyo Round of Multilateral Trade Negotiations should achieve the expansion and ever-greater liberalization of world trade through, inter alia, the progressive dismantling of obstacles to trade and the improvement of the international framework for the conduct of world trade;

Desiring to achieve maximum freedom of world trade in civil aircraft, parts and related equipment, including elimination of duties, and to the fullest extent possible, the reduction or elimination of trade restricting or distorting effects;

Desiring to encourage the continued technological development of the aeronautical industry on a world-wide basis;

Desiring to provide fair and equal competitive opportunities for their civil aircraft activities and for their producers to participate in the expansion of the world civil aircraft market;

Being mindful of the importance in the civil aircraft sector of their overall mutual economic and trade interests;

Recognizing that many Signatories view the aircraft sector as a particularly important component of economic and industrial policy;

Seeking to eliminate adverse effects on trade in civil aircraft resulting from governmental support in civil aircraft development, production, and marketing while recognizing that such governmental support, of itself, would not be deemed a distortion of trade;

Desiring that their civil aircraft activities operate on a commercially competitive basis, and recognizing that government-industry relationships differ widely among them;

Recognizing their obligations and rights under the General Agreement on Tariffs and Trade, hereinafter referred to as "the GATT", and under other multilateral agreements negotiated under the auspices of the GATT;

(...)

¹The term "Signatories" is hereinafter used to mean Parties to this Agreement.

3.i 1979 Agreement on Trade in Civil Aircraft, relevant provisions (*continued*)

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(...)

Article 8 Surveillance, Review, Consultation, and Dispute Settlement

- 8.1 There shall be established a Committee on Trade in Civil Aircraft (hereinafter referred to as "the Committee") composed of representatives of all Signatories. The Committee shall elect its own Chairman. It shall meet as necessary, but not less than once a year, for the purpose of affording Signatories the opportunity to consult on any matters relating to the operation of this Agreement, including developments in the civil aircraft industry, to determine whether amendments are required to ensure continuance of free and undistorted trade, to examine any matter for which it has not been possible to find a satisfactory solution through bilateral consultations, and to carry out such responsibilities as are assigned to it under this Agreement, or by the Signatories.
- 8.2 The Committee shall review annually the implementation and operation of this Agreement taking into account the objectives thereof. The Committee shall annually inform the CONTRACTING PARTIES to the GATT of developments during the period covered by such review.
- 8.3 Not later than the end of the third year from the entry into force of this Agreement and periodically thereafter, Signatories shall undertake further negotiations, with a view to broadening and improving this Agreement on the basis of mutual reciprocity.
- 8.4 The Committee may establish such subsidiary bodies as may be appropriate to keep under regular review the application of this Agreement to ensure a continuing balance of mutual advantages. In particular, it shall establish an appropriate subsidiary body in order to ensure a continuing balance of mutual advantages, reciprocity and equivalent results with regard to the implementation of the provisions of Article 2 above related to product coverage, the end-use systems, customs duties and other charges.
- 8.5 Each Signatory shall afford sympathetic consideration to and adequate opportunity for prompt consultation regarding representations made by another Signatory with respect to any matter affecting the operation of this Agreement.
- 8.6 Signatories recognize the desirability of consultations with other Signatories in the Committee in order to seek a mutually acceptable solution prior to the initiation of an investigation to determine the existence, degree and effect of any alleged subsidy. In those exceptional circumstances in which no consultations occur before such domestic procedures are initiated, Signatories shall notify the Committee immediately of initiation of such procedures and enter into simultaneous consultations to seek a mutually agreed solution that would obviate the need for counter-vailing measures.
- 8.7 Should a Signatory consider that its trade interests in civil aircraft manufacture, repair, maintenance, rebuilding, modification or conversion have been or are likely to be adversely affected by any action by

3.i 1979 Agreement on Trade in Civil Aircraft, relevant provisions (*continued*)

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another Signatory, it may request review of the matter by the Committee. Upon such a request, the Committee shall convene within thirty days and shall review the matter as quickly as possible with a view to resolving the issues involved as promptly as possible and in particular prior to final resolution of these issues elsewhere. In this connexion the Committee may issue such rulings or recommendations as may be appropriate. Such review shall be without prejudice to the rights of Signatories under the GATT or under instruments multilaterally negotiated under the auspices of the GATT, as they affect trade in civil aircraft. For the purposes of aiding consideration of the issues involved, under the GATT and such instruments, the Committee may provide such technical assistance as may be appropriate.

- 8.8 Signatories agree that, with respect to any dispute related to a matter covered by this Agreement, but not covered by other instruments multilaterally negotiated under the auspices of the GATT, the provisions of Articles XXII and XXIII of the General Agreement and the provisions of the Understanding related to Notification, Consultation, Dispute Settlement and Surveillance shall be applied, *mutatis mutandis*, by the Signatories and the Committee for the purposes of seeking settlement of such dispute. These procedures shall also be applied for the settlement of any dispute related to a matter covered by this Agreement and by another instrument multilaterally negotiated under the auspices of the GATT, should the parties to the dispute so agree.

Article 9 Final Provisions9.1 Acceptance and Accession

- 9.1.1 This Agreement shall be open for acceptance by signature or otherwise by governments contracting parties to the GATT and by the European Economic Community.
- 9.1.2 This Agreement shall be open for acceptance by signature or otherwise by governments having provisionally acceded to the GATT, on terms related to the effective application of rights and obligations under this Agreement, which take into account rights and obligations in the instruments providing for their provisional accession.
- 9.1.3 This Agreement shall be open to accession by any other government on terms, related to the effective application of rights and obligations under this Agreement, to be agreed between that government and the Signatories, by the deposit with the Director-General to the CONTRACTING PARTIES to the GATT of an instrument of accession which states the terms so agreed.
- 9.1.4 In regard to acceptance, the provisions of Article XXVI:5(a) and (b) of the General Agreement would be applicable.

(...)

3.j 1979 Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, relevant provisions

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**AGREEMENT ON IMPLEMENTATION OF ARTICLE VI
OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE**

**ACCORD RELATIF À LA MISE EN ŒUVRE DE L'ARTICLE VI
DE L'ACCORD GÉNÉRAL SUR LES TARIFS DOUANIERS ET LE COMMERCE**

**ACUERDO RELATIVO A LA APLICACIÓN DEL ARTÍCULO VI
DEL ACUERDO GENERAL SOBRE ARANCELES ADUANEROS Y COMERCIO**

GENERAL AGREEMENT ON TARIFFS AND TRADE

ACCORD GÉNÉRAL SUR LES TARIFS DOUANIERS
ET LE COMMERCE

ACUERDO GENERAL SOBRE ARANCELES ADUANEROS
Y COMERCIO

12 April 1979
Geneva

3.j 1979 Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, relevant provisions (*continued*)

AGREEMENT ON IMPLEMENTATION OF ARTICLE VI
OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE

The Parties to this Agreement (hereinafter referred to as "Parties"),

Recognizing that anti-dumping practices should not constitute an unjustifiable impediment to international trade and that anti-dumping duties may be applied against dumping only if such dumping causes or threatens material injury to an established industry or materially retards the establishment of an industry;

Considering that it is desirable to provide for equitable and open procedures as the basis for a full examination of dumping cases;

Taking into account the particular trade, development and financial needs of developing countries;

Desiring to interpret the provisions of Article VI of the General Agreement on Tariffs and Trade (hereinafter referred to as "General Agreement" or "GATT") and to elaborate rules for their application in order to provide greater uniformity and certainty in their implementation; and

Desiring to provide for the speedy, effective and equitable settlement of disputes arising under this Agreement;

Hereby agree as follows:

PART I - ANTI-DUMPING CODE

Article 1

Principles

The imposition of an anti-dumping duty is a measure to be taken only under the circumstances provided for in Article VI of the General Agreement and pursuant to investigations initiated¹ and conducted in accordance with the provisions of this Code. The following provisions govern the application of Article VI of the General Agreement in so far as action is taken under anti-dumping legislation or regulations.

Article 2

Determination of Dumping

1. For the purpose of this Code a product is to be considered as being dumped, i.e. introduced into the commerce of another country at less than its normal value, if the export price of the product exported from one

¹The term "initiated" as used hereinafter means the procedural action by which a Party formally commences an investigation as provided in paragraph 6 of Article 6.

(...)

3.j 1979 Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, relevant provisions (*continued*)

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(...)

PART II

Article 14

Committee on Anti-Dumping Practices

1. There shall be established under this Agreement a Committee on Anti-Dumping Practices (hereinafter referred to as the "Committee") composed of representatives from each of the Parties. The Committee shall elect its own Chairman and shall meet not less than twice a year and otherwise as envisaged by relevant provisions of this Agreement at the request of any Party. The Committee shall carry out responsibilities as assigned to it under this Agreement or by the Parties and it shall afford Parties the opportunity of consulting on any matters relating to the operation of the Agreement or the furtherance of its objectives. The GATT secretariat shall act as the secretariat to the Committee.
2. The Committee may set up subsidiary bodies as appropriate.
3. In carrying out their functions, the Committee and any subsidiary bodies may consult with and seek information from any source they deem appropriate. However, before the Committee or a subsidiary body seeks such information from a source within the jurisdiction of a Party, it shall inform the Party involved. It shall obtain the consent of the Party and any firm to be consulted.
4. Parties shall report without delay to the Committee all preliminary or final anti-dumping actions taken. Such reports will be available in the GATT secretariat for inspection by government representatives. The Parties shall also submit, on a semi-annual basis, reports of any anti-dumping actions taken within the preceding six months.

Article 15¹⁴

Consultation, Conciliation and Dispute Settlement

1. Each Party shall afford sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, representations made by another Party with respect to any matter affecting the operation of this Agreement.
2. If any Party considers that any benefit accruing to it, directly or indirectly, under this Agreement is being nullified or impaired, or that the achievement of any objective of the Agreement is being impeded, by another Party or Parties, it may, with a view to reaching a mutually satisfactory resolution of the matter, request in writing consultations with the Party or Parties in question. Each Party shall afford sympathetic consideration to any request from another Party for consultation. The Parties concerned shall initiate consultation promptly.

¹⁴If disputes arise between Parties relating to rights and obligations under this Agreement, Parties should complete the dispute settlement procedures under this Agreement before availing themselves of any rights which they have under the GATT.

3.j 1979 Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, relevant provisions (*continued*)

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3. If any Party considers that the consultation pursuant to paragraph 2 has failed to achieve a mutually agreed solution and final action has been taken by the administering authorities of the importing country to levy definitive anti-dumping duties or to accept price undertakings, it may refer the matter to the Committee for conciliation. When a provisional measure has a significant impact and the Party considers the measure was taken contrary to the provisions of paragraph 1 of Article 10 of this Agreement, a Party may also refer such matter to the Committee for conciliation. In cases where matters are referred to the Committee for conciliation the Committee shall meet within thirty days to review the matter, and, through its good offices, shall encourage the Parties involved to develop a mutually acceptable solution.¹⁵

4. Parties shall make their best efforts to reach a mutually satisfactory solution throughout the period of conciliation.

5. If no mutually agreed solution has been reached after detailed examination by the Committee under paragraph 3 within three months, the Committee shall, at the request of any party to the dispute, establish a panel to examine the matter, based upon:

- (a) a written statement of the Party making the request indicating how a benefit accruing to it, directly or indirectly, under this Agreement has been nullified or impaired, or that the achieving of the objectives of the Agreement is being impeded, and
- (b) the facts made available in conformity with appropriate domestic procedures to the authorities of the importing country.

6. Confidential information provided to the panel shall not be revealed without formal authorization from the person or authority providing the information. Where such information is requested from the panel but release of such information by the panel is not authorized, a non-confidential summary of the information, authorized by the authority or person providing the information, will be provided.

7. Further to paragraphs 1-6 the settlement of disputes shall mutatis mutandis be governed by the provisions of the Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance. Panel members shall have relevant experience and be selected from Parties not parties to the dispute.

¹⁵ In this connection the Committee may draw Parties' attention to those cases in which, in its view, there are no reasonable bases supporting the allegations made.

(...)

3.j 1979 Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, relevant provisions (*continued*)

GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED

ADP/2

12 May 1980

Special Distribution

Committee on Anti-Dumping Practices

DECISIONS BY THE COMMITTEE ON ANTI-DUMPING PRACTICES
TAKEN ON 5 MAY 1980

1. The Committee, cognizant of the commitment in Article 13 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade that special regard must be given by developed countries to the special situation of developing countries when considering the application of anti-dumping measures under the Agreement, takes the following decision concerning the application and interpretation of the Agreement in relation to developing countries:

- (i) In developing countries, governments play a large rôle in promoting economic growth and development in accordance with their national priorities, and their economic régimes for the export sector can be different from those relating to their domestic sectors resulting inter alia in different cost structures. This Agreement is not intended to prevent developing countries from adopting measures in this context, including measures in the export sector, as long as they are used in a manner which is consistent with the provisions of the General Agreement on Tariffs and Trade, as applicable to these countries.
- (ii) In the case of imports from a developing country, the fact that the export price may be lower than the comparable price for the like product when destined for domestic consumption in the exporting country does not per se justify an investigation or the determination of dumping unless the other factors mentioned in Article 5:1 are also present. Due consideration should be given to all cases where, because special economic conditions affect prices in the home market, these prices do not provide a commercially realistic basis for dumping calculations. In such cases the normal value for the purposes of ascertaining whether the goods are being dumped shall be determined by methods such as a comparison of the export price with the comparable price of the like product when exported to any third country or with the cost of production of the exported goods in the country of origin plus a reasonable amount for administrative, selling and any other costs and for profits.

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3.j 1979 Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, relevant provisions (*continued*)

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(iii) It is recognized that developing countries may face special problems initially in adapting their legislation to the requirements of the Code, including administrative and infrastructural problems, in carrying out anti-dumping investigations initiated by them. Accordingly, the Committee on Anti-Dumping Practices may grant, upon specific request and on conditions to be negotiated on a case-by-case basis, time-limited exceptions in whole or in part from obligations which relate to investigations undertaken by a developing country under this Agreement.

(iv) Developed countries Parties to this Agreement shall endeavour to furnish, upon request and on terms to be agreed, technical assistance to developing countries Parties to this Agreement, with regard to the implementation of this Agreement; including training of personnel, and the supplying of information on methods, techniques and other aspects of conducting investigations on dumping practices.

2. The Committee further decides that paragraph 7 of Article 15 of the Agreement is to be interpreted to mean that the measures which may be authorized by the Committee on Anti-Dumping Practices for the purpose of the Agreement may include all such measures as can be authorized under Articles XXII and XXIII of the General Agreement.