

## **ANNEX A**

***Ratifications, accessions, prorogations, etc.,  
concerning treaties and international agreements  
registered  
with the Secretariat of the United Nations***

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## **ANNEXE A**

***Ratifications, adhésions, prorogations, etc.,  
concernant des traités et accords internationaux  
enregistrés  
au Secrétariat de l'Organisation des Nations Unies***

## ANNEX A

No. 814. GENERAL AGREEMENT ON TARIFFS AND TRADE AND AGREEMENTS CONCLUDED UNDER THE AUSPICES OF THE CONTRACTING PARTIES THERETO<sup>1</sup>LXXXIII. AGREEMENT<sup>2</sup> IMPLEMENTATION OF ARTICLE VI OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE.<sup>3</sup> DONE AT GENEVA ON 12 APRIL 1979

*Authentic texts: English, French and Spanish.*

*Registered by the Director-General to the Contracting Parties to the General Agreement on Tariffs and Trade, acting on behalf of the Parties, on 1 July 1980*

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

<sup>1</sup> United Nations, *Treaty Series*, vol. 55, p. 187; for subsequent actions, see references in Cumulative Indexes Nos. 1 to 14, as well as annex A in volumes 905, 930, 945, 948, 954, 959, 972, 974, 997, 1028, 1031, 1050, 1078, 1080, 1129 and 1176.

<sup>2</sup> Came into force on 1 January 1980 in respect of the following States and organization, which had accepted it or acceded to it by that date, in accordance with article 16 (4):

<i>State or organization</i>	<i>Date of definitive signature (s), acceptance by letter (l) or deposit of an instrument of acceptance (A) or of ratification</i>
Canada .....	17 December 1979 s
European Economic Community .....	17 December 1979 s
Norway .....	28 December 1979 A
Sweden .....	20 December 1979
Switzerland .....	17 December 1979 s
United Kingdom of Great Britain and Northern Ireland .....	17 December 1979 l
(In respect of territories for which it has international responsibility except for Antigua, Bermuda, Brunei, Cayman Islands, Montserrat, St. Kitts-Nevis, Sovereign Base Areas Cyprus and Virgin Islands.)	
United States of America .....	17 December 1979 s

Subsequently, the Agreement entered into force in respect of the following States on the thirtieth day following the date on which they had accepted it or acceded to it, in accordance with article 16 (4):

<i>State</i>	<i>Date of definitive signature (s) or deposit of an instrument of acceptance (A) or of ratification</i>
Finland .....	13 March 1980
(With effect from 12 April 1980.)	
Hungary .....	23 April 1980 s
(With effect from 23 May 1980.)	
Japan .....	25 April 1980 A
(With effect from 25 May 1980.)	
Brazil* .....	5 May 1980 A
(With effect from 5 May 1980.)	
Austria .....	28 May 1980
(With effect from 27 June 1980.)	

\* See p. 53 of this volume for the text of the communication made upon acceptance.

<sup>3</sup> United Nations, *Treaty Series*, vol. 55, p. 187; for subsequent actions, see references in Cumulative Indexes Nos. 1, 2, 10, 12 to 14, as well as annex A in volumes 959, 972, 974, 1050 and 1080.

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<sup>1</sup> (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 initiated\* 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 country to another, is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.

2. Throughout this Code the term "like product" (« *produit similaire* ») shall be interpreted to mean a product which is identical, i.e., alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.

3. In the case where products are not imported directly from the country of origin but are exported to the country of importation from an intermediate country, the price at which the products are sold from the country of export to the country of importation shall normally be compared with the comparable price in the country of export. However, comparison may be made with the price in the country of origin, if, for example, the products are merely transshipped through the country of export, or such products are not produced in the country of export, or there is no comparable price for them in the country of export.

4. When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or when, because of the particular market situation, such sales do not permit a proper comparison, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to

\* The 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.

<sup>1</sup> United Nations, *Treaty Series*, vol. 55, p. 187.

any third country which may be the highest such export price but should be a representative price, or with the cost of production in the country of origin plus a reasonable amount for administrative, selling and any other costs and for profits. As a general rule, the addition for profit shall not exceed the profit normally realized on sales of products of the same general category in the domestic market of the country of origin.

5. In cases where there is no export price or where it appears to the authorities\* concerned that the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported products are first resold to an independent buyer, or if the products are not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as the authorities may determine.

6. In order to effect a fair comparison between the export price and the domestic price in the exporting country (or the country of origin) or, if applicable, the price established pursuant to the provisions of Article VI:1(b) of the General Agreement, the two prices shall be compared at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time. Due allowance shall be made in each case, on its merits, for the differences in conditions and terms of sale, for the differences in taxation, and for the other differences affecting price comparability. In the cases referred to in paragraph 5 of Article 2 allowance for costs, including duties and taxes, incurred between importation and resale, and for profits accruing, should also be made.

7. This Article is without prejudice to the second Supplementary Provision to paragraph 1 of Article VI in Annex I of the General Agreement.

#### *Article 3. DETERMINATION OF INJURY\*\**

1. A determination of injury for purposes of Article VI of the General Agreement shall be based on positive evidence and involve an objective examination of both (a) the volume of the dumped imports and their effect on prices in the domestic market for like products, and (b) the consequent impact of these imports on domestic producers of such products.

2. With regard to volume of the dumped imports the investigating authorities shall consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in the importing country. With regard to the effect of the dumped imports on prices, the investigating authorities shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of a like product of the importing country, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. No one or several of these factors can necessarily give decisive guidance.

3. The examination of the impact on the industry concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry such as actual and potential decline in output, sales, market share, profits, productivity, return on investments, or utilization of capacity; factors affecting domestic

\* When in this Code the term "authorities" is used, it shall be interpreted as meaning authorities at an appropriate, senior level.

\*\* Under this Code the term "injury" shall, unless otherwise specified, be taken to mean material injury to a domestic industry, threat of material injury to a domestic industry or material retardation of the establishment of such an industry and shall be interpreted in accordance with the provisions of this Article.

prices; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments. This list is not exhaustive, nor can one or several of these factors necessarily give decisive guidance.

4. It must be demonstrated that the dumped imports are, through the effects\* of dumping, causing injury within the meaning of this Code. There may be other factors\*\* which at the same time are injuring the industry, and the injuries caused by other factors must not be attributed to the dumped imports.

5. The effect of the dumped imports shall be assessed in relation to the domestic production of the like product when available data permit the separate identification of production in terms of such criteria as: the production process, the producers' realizations, profits. When the domestic production of the like product has no separate identity in these terms the effects of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.

6. A determination of threat of injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent.\*\*\*

7. With respect to cases where injury is threatened by dumped imports, the application of anti-dumping measures shall be studied and decided with special care.

#### Article 4. DEFINITION OF INDUSTRY

1. In determining injury the term "domestic industry" shall be interpreted as referring to the domestic producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products, except that

- (i) When producers are related† to the exporters or importers or are themselves importers of the allegedly dumped product, the industry may be interpreted as referring to the rest of the producers;
- (ii) In exceptional circumstances the territory of a Party may, for the production in question, be divided into two or more competitive markets and the producers within each market may be regarded as a separate industry if (a) the producers within such market sell all or almost all of their production of the product in question in that market, and (b) the demand in that market is not to any substantial degree supplied by producers of the product in question located elsewhere in the territory. In such circumstances, injury may be found to exist even where a major portion of the total domestic industry is not injured provided there is a concentration of dumped imports

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\* As set forth in paragraphs 2 and 3 of this Article.

\*\* Such factors include, *inter alia*, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry.

\*\*\* One example, though not an exclusive one, is that there is convincing reason to believe that there will be, in the immediate future, substantially increased importations of the product at dumped prices.

† An understanding among Parties should be developed defining the word "related" as used in this Code.

into such an isolated market and provided further that the dumped imports are causing injury to the producers of all or almost all of the production within such market.

2. When the industry has been interpreted as referring to the producers in a certain area, i.e., a market as defined in paragraph 1(ii), anti-dumping duties shall be levied\* only on the products in question consigned for final consumption to that area. When the constitutional law of the importing country does not permit the levying of anti-dumping duties on such a basis, the importing Party may levy the anti-dumping duties without limitation only if (1) the exporters shall have been given an opportunity to cease exporting at dumped prices to the area concerned or otherwise give assurances pursuant to Article 7 of this Code, and adequate assurances in this regard have not been promptly given, and (2) such duties cannot be levied on specific producers which supply the area in question.

3. Where two or more countries have reached under the provisions of Article XXIV:8(a) of the General Agreement such a level of integration that they have the characteristics of a single, unified market, the industry in the entire area of integration shall be taken to be the industry referred to in paragraph 1 above.

4. The provisions of paragraph 5 of Article 3 shall be applicable to this Article.

#### *Article 5. INITIATION AND SUBSEQUENT INVESTIGATION*

1. An investigation to determine the existence, degree and effect of any alleged dumping shall normally be initiated upon a written request by or on behalf of the industry\*\* affected. The request shall include sufficient evidence [of the existence]<sup>1</sup> of (a) dumping; (b) injury within the meaning of Article VI of the General Agreement as interpreted by this Code and (c) a causal link between the dumped imports and the alleged injury. If in special circumstances the authorities concerned decide to initiate an investigation without having received such a request, they shall proceed only if they have sufficient evidence on all points under (a) to (c) above.

2. Upon initiation of an investigation and thereafter, the evidence of both dumping and injury caused thereby should be considered simultaneously. In any event the evidence of both dumping and injury shall be considered simultaneously (a) in the decision whether or not to initiate an investigation, and (b) thereafter, during the course of the investigation, starting on a date not later than the earliest date on which in accordance with the provisions of this Code provisional measures may be applied, except in the cases provided for in paragraph 3 of Article 10 in which the authorities accept the request of the exporters.

3. An application shall be rejected and an investigation shall be terminated promptly as soon as the authorities concerned are satisfied that there is not sufficient evidence of either dumping or of injury to justify proceeding with the case. There should be immediate termination in cases where the margin of dumping or the volume of dumped imports, actual or potential, or the injury is negligible.

\* As used in this Code "levy" shall mean the definitive or final legal assessment or collection of a duty or tax.

\*\* As defined in Article 4.

<sup>1</sup> The text appearing between brackets reflects a rectification of the English text, effected by a procès-verbal of rectification drawn up by the Director-General to the Contracting Parties to the General Agreement on Tariffs and Trade dated 17 December 1979 in the absence of objections thereto by the Parties — Le texte entre crochets est une rectification du texte anglais, effectuée par procès-verbal de rectification dressé par le Directeur général des Parties contractantes à l'Accord général sur les tarifs douaniers et le commerce en date du 17 décembre 1979, les Parties n'ayant pas formulé d'objections à cette rectification.

4. An anti-dumping proceeding shall not hinder the procedures of customs clearance.

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

#### *Article 6. EVIDENCE*

1. The foreign suppliers and all other interested parties shall be given ample opportunity to present in writing all evidence that they consider useful in respect to the anti-dumping investigation in question. They shall also have the right, on justification, to present evidence orally.

2. The authorities concerned shall provide opportunities for the complainant and the importers and exporters known to be concerned and the governments of the exporting countries, to see all information that is relevant to the presentation of their cases, that is not confidential as defined in paragraph 3 below, and that is used by the authorities in an anti-dumping investigation, and to prepare presentations on the basis of this information.

3. Any information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom he acquired the information) or which is provided on a confidential basis by parties to an anti-dumping investigation shall, upon cause shown, be treated as such by the investigating authorities. Such information shall not be disclosed without specific permission of the party submitting it.\* Parties providing confidential information may be requested to furnish non-confidential summaries thereof. In the event that such parties indicate that such information is not susceptible of summary, a statement of the reasons why summarization is not possible must be provided.

4. However, if the authorities concerned find that a request for confidentiality is not warranted and if the supplier is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, the authorities would be free to disregard such information unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct.\*\*

5. In order to verify information provided or to obtain further details the authorities may carry out investigations in other countries as required, provided they obtain the agreement of the firms concerned and provided they notify the representatives of the government of the country in question and unless the latter object to the investigation.

6. When the competent authorities are satisfied that there is sufficient evidence to justify initiating an anti-dumping investigation pursuant to Article 5, the Party or Parties the products of which are subject to such investigation and the exporters and importers known to the investigating authorities to have an interest therein and the complainants shall be notified and a public notice shall be given.

7. Throughout the anti-dumping investigation all parties shall have a full opportunity for the defence of their interests. To this end, the authorities concerned shall, on request, provide opportunities for all directly interested parties to meet those parties with adverse interests, so that opposing views may be presented and rebuttal arguments offered. Provision of such opportunities must take account of the need to preserve confidentiality and of the convenience to the parties. There shall be no obligation on any party to attend a meeting and failure to do so shall not be prejudicial to that party's case.

\* Parties are aware that in the territory of certain Parties disclosure pursuant to a narrowly drawn protective order may be required.

\*\* Parties agree that requests for confidentiality should not be arbitrarily rejected.

8. In cases in which any interested party refuses access to, or otherwise does not provide, necessary information within a reasonable period or significantly impedes the investigation, preliminary and final findings,\* affirmative or negative, may be made on the basis of the facts available.

9. The provisions of this Article are not intended to prevent the authorities of a Party from proceeding expeditiously with regard to initiating an investigation, reaching preliminary or final findings, whether affirmative or negative, or from applying provisional or final measures, in accordance with the relevant provisions of this Code.

#### *Article 7. PRICE UNDERTAKINGS*

1. Proceedings may\*\* be suspended or terminated without the imposition of provisional measures or anti-dumping duties upon receipt of satisfactory voluntary undertakings from any exporter to revise its prices or to cease exports to the area in question at dumped prices so that the authorities are satisfied that the injurious effect of the dumping is eliminated. Price increases under such undertakings shall not be higher than necessary to eliminate the margin of dumping.

2. Price undertakings shall not be sought or accepted from exporters unless the authorities of the importing country have initiated an investigation in accordance with the provisions of Article 5 of this Code. Undertakings offered need not be accepted if the authorities consider their acceptance impractical, for example, if the number of actual or potential exporters is too great, or for other reasons.

3. If the undertakings are accepted, the investigation of injury shall nevertheless be completed if the exporter so desires or the authorities so decide. In such a case, if a determination of no injury or threat thereof is made, the undertaking shall automatically lapse except in cases where a determination of no threat of injury is due in large part to the existence of a price undertaking. In such cases the authorities concerned may require that an undertaking be maintained for a reasonable period consistent with the provisions of this Code.

4. Price undertakings may be suggested by the authorities of the importing country, but no exporter shall be forced to enter into such an undertaking. The fact that exporters do not offer such undertakings, or do not accept an invitation to do so, shall in no way prejudice the consideration of the case. However, the authorities are free to determine that a threat of injury is more likely to be realized if the dumped imports continue.

5. Authorities of an importing country may require any exporter from whom undertakings have been accepted to provide periodically information relevant to the fulfilment of such undertakings, and to permit verification of pertinent data. In case of violation of undertakings, the authorities of the importing country may take, under this Code in conformity with its provisions, expeditious actions which may constitute immediate application of provisional measures using the best information available. In such cases definitive duties may be levied in accordance with this Code on goods entered for consumption not more than ninety days before the application of such provisional measures, except that any such retroactive assessment shall not apply to imports entered before the violation of the undertaking.

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\* Because of different terms used under different systems in various countries the term "finding" is hereinafter used to mean a formal decision or determination.

\*\* The word "may" shall not be interpreted to allow the simultaneous continuation of proceedings with the implementation of price undertakings except as provided in paragraph 3.



6. Undertakings shall not remain in force any longer than anti-dumping duties could remain in force under this Code. The authorities of an importing country shall review the need for the continuation of any price undertaking, where warranted, on their own initiative or if interested exporters or importers of the product in question so request and submit positive information substantiating the need for such review.

7. Whenever an anti-dumping investigation is suspended or terminated pursuant to the provisions of paragraph 1 above and whenever an undertaking is terminated, this fact shall be officially notified and must be published. Such notices shall set forth at least the basic conclusions and a summary of the reasons therefor.

#### *Article 8. IMPOSITION AND COLLECTION OF ANTI-DUMPING DUTIES*

1. The decision whether or not to impose an anti-dumping duty in cases where all requirements for the imposition have been fulfilled and the decision whether the amount of the anti-dumping duty to be imposed shall be the full margin of dumping or less, are decisions to be made by the authorities of the importing country or customs territory. It is desirable that the imposition be permissive in all countries or customs territories Parties to this Agreement, and that the duty be less than the margin, if such lesser duty would be adequate to remove the injury to the domestic industry.

2. When an anti-dumping duty is imposed in respect of any product, such anti-dumping duty shall be collected in the appropriate amounts in each case, on a non-discriminatory basis on imports of such product from all sources found to be dumped and causing injury, except as to imports from those sources, from which price undertakings under the terms of this Code have been accepted. The authorities shall name the supplier or suppliers of the product concerned. If, however, several suppliers from the same country are involved, and it is impracticable to name all these suppliers, the authorities may name the supplying country concerned. If several suppliers from more than one country are involved, the authorities may name either all the suppliers involved, or, if this is impracticable, all the supplying countries involved.

3. The amount of the anti-dumping duty must not exceed the margin of dumping as established under Article 2. Therefore, if subsequent to the application of the anti-dumping duty it is found that the duty so collected exceeds the actual dumping margin, the amount in excess of the margin shall be reimbursed as quickly as possible.

4. Within a basic price system the following rules shall apply, provided that their application is consistent with the other provisions of this Code:

If several suppliers from one or more countries are involved, anti-dumping duties may be imposed on imports of the product in question found to have been dumped and to be causing injury from the country or countries concerned, the duty being equivalent to the amount by which the export price is less than the basic price established for this purpose, not exceeding the lowest normal price in the supplying country or countries where normal conditions of competition are prevailing. It is understood that, for products which are sold below this already established basic price, a new anti-dumping investigation shall be carried out in each particular case, when so demanded by the interested parties and the demand is supported by relevant evidence. In cases where no dumping is found, anti-dumping duties collected shall be reimbursed as quickly as possible. Furthermore, if it can be found that the duty so collected exceeds the actual dumping margin, the amount in excess of the margin shall be reimbursed as quickly as possible.

5. 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 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 findings shall be forwarded to the Party or Parties the products of which are subject to such finding and to the exporters known to have an interest therein.

#### *Article 9. DURATION OF ANTI-DUMPING DUTIES*

1. An anti-dumping duty shall remain in force only as long as, and to the extent necessary to counteract dumping which is causing injury.

2. The investigating authorities shall review the need for the continued imposition of the duty, where warranted, on their own initiative or if any interested party so requests and submits positive information substantiating the need for review.

#### *Article 10. PROVISIONAL MEASURES*

1. Provisional measures may be taken only after a preliminary affirmative finding has been made that there is dumping and that there is sufficient evidence of injury, as provided for in (a) to (c) of paragraph 1 of Article 5. Provisional measures shall not be applied unless the authorities concerned judge that they are necessary to prevent injury being caused during the period of investigation.

2. Provisional measures may take the form of a provisional duty or, preferably, a security—by cash deposit or bond—equal to the amount of the anti-dumping duty provisionally estimated, being not greater than the provisionally estimated margin of dumping. Withholding of appraisement is an appropriate provisional measure, provided that the normal duty and the estimated amount of the anti-dumping duty be indicated and as long as the withholding of appraisement is subject to the same conditions as other provisional measures.

3. The imposition of provisional measures shall be limited to as short a period as possible, not exceeding four months or, on decision of the authorities concerned, upon request by exporters representing a significant percentage of the trade involved to a period not exceeding six months.

4. The relevant provisions of Article 8 shall be followed in the application of provisional measures.

#### *Article 11. RETROACTIVITY*

1. Anti-dumping duties and provisional measures shall only be applied to products which enter for consumption after the time when the decision taken under paragraph 1 of Article 8 and paragraph 1 of Article 10, respectively, enters into force, except that in cases:

- (i) Where a final finding of injury (but not of a threat thereof or of a material retardation of the establishment of an industry) is made or, in the case of a final finding of threat of injury, where the effect of the dumped imports would, in the absence of the provisional measures, have led to a finding of injury, anti-dumping duties may be levied retroactively for the period for which provisional measures, if any, have been applied.

If the anti-dumping duty fixed in the final decision is higher than the provisionally paid duty, the difference shall not be collected. If the duty fixed in the final decision is lower than the provisionally paid duty or the amount estimated for the purpose of the security, the difference shall be reimbursed or the duty recalculated, as the case may be.

(ii) Where for the dumped product in question the authorities determine:

- (a) Either that there is a history of dumping which caused injury or that the importer was, or should have been, aware that the exporter practices dumping and that such dumping would cause injury, and
- (b) That the injury is caused by sporadic dumping (massive dumped imports of a product in a relatively short period) to such an extent that, in order to preclude it recurring, it appears necessary to levy an anti-dumping duty retroactively on those imports,

the duty may be levied on products which were entered for consumption not more than 90 days prior to the date of application of provisional measures.

2. Except as provided in paragraph 1 above where a finding of threat of injury or material retardation is made (but no injury has yet occurred) a definitive anti-dumping duty may be imposed only from the date of the finding of threat of injury or material retardation and any cash deposit made during the period of the application of provisional measures shall be refunded and any bonds released in an expeditious manner.

3. Where a final finding is negative any cash deposit made during the period of the application of provisional measures shall be refunded and any bonds released in an expeditious manner.

#### *Article 12. ANTI-DUMPING ACTION ON BEHALF OF A THIRD COUNTRY*

1. An application for anti-dumping action on behalf of a third country shall be made by the authorities of the third country requesting action.

2. Such an application shall be supported by price information to show that the imports are being dumped and by detailed information to show that the alleged dumping is causing injury to the domestic industry concerned in the third country. The government of the third country shall afford all assistance to the authorities of the importing country to obtain any further information which the latter may require.

3. The authorities of the importing country in considering such an application shall consider the effects of the alleged dumping on the industry concerned as a whole in the third country; that is to say the injury shall not be assessed in relation only to the effect of the alleged dumping on the industry's exports to the importing country or even on the industry's total exports.

4. The decision whether or not to proceed with a case shall rest with the importing country. If the importing country decides that it is prepared to take action, the initiation of the approach to the CONTRACTING PARTIES seeking their approval for such action shall rest with the importing country.

#### *Article 13. DEVELOPING COUNTRIES*

It is recognized 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 this Code. Possibilities of constructive remedies provided for by this Code shall be explored before applying anti-dumping duties where they would affect the essential interests of developing countries.

## 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 15.\* 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.

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.\*\*

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

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\* If 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.

\*\* 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.

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.

### PART III

#### Article 16. FINAL PROVISIONS

1. No specific action against dumping of exports from another Party can be taken except in accordance with the provisions of the General Agreement, as interpreted by this Agreement.\*

##### *Acceptance and accession*

2. (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.

##### *Reservations*

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

\* This is not intended to preclude action under other relevant provisions of the General Agreement, as appropriate.

*Entry into force*

4. This Agreement shall enter into force on 1 January 1980 for the governments\* which have accepted or acceded to it by that date. For each other government it shall enter into force on the thirtieth day following the date of its acceptance or accession to this Agreement.

*Denunciation of the 1967 Agreement*

5. Acceptance of this Agreement shall carry denunciation of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, done at Geneva on 30 June 1967,<sup>1</sup> which entered into force on 1 July 1968, for Parties to the 1967 Agreement. Such denunciation shall take effect for each Party to this Agreement on the date of entry into force of this Agreement for each such Party.

*National legislation*

6. (a) Each government accepting or acceding to this Agreement shall take all necessary steps, of a general or particular character, to ensure, not later than the date of entry into force of this Agreement for it, the conformity of its laws, regulations and administrative procedures with the provisions of this Agreement as they may apply for the Party in question.

(b) Each Party shall inform the Committee of any changes in its laws and regulations relevant to this Agreement and in the administration of such laws and regulations.

*Review*

7. 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 reviews.

*Amendments*

8. The Parties may amend this Agreement having regard, *inter alia*, to the experience gained in its implementation. Such an amendment, once the Parties have concurred in accordance with procedures established by the Committee, shall not come into force for any Party until it has been accepted by such Party.

*Withdrawal*

9. Any Party may withdraw from this Agreement. The withdrawal shall take effect upon the expiration of sixty days from the day on which written notice of withdrawal is received by the Director-General to the CONTRACTING PARTIES to the GATT. Any Party may upon such notification request an immediate meeting of the Committee.

*Non-application of this Agreement between particular Parties*

10. This Agreement shall not apply as between any two Parties if either of the Parties, at the time either accepts or accedes to this Agreement, does not consent to such application.

*Secretariat*

11. This Agreement shall be serviced by the GATT secretariat.

*Deposit*

12. This Agreement shall be deposited with the Director-General to the CONTRACTING PARTIES to the GATT, who shall promptly furnish to each Party and each contracting

\* The term "government" is deemed to include the competent authorities of the European Economic Community.

<sup>1</sup> United Nations, *Treaty Series*, vol. 651, p. 320.

party to the GATT a certified copy thereof and of each amendment thereto pursuant to paragraph 8, and a notification of each acceptance thereof or accession thereto pursuant to paragraph 2, and of each withdrawal therefrom pursuant to paragraph 9 of this Article.

*Registration*

13. This Agreement shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

DONE at Geneva this twelfth day of April nineteen hundred and seventy-nine in a single copy, in the English, French and Spanish languages, each text being authentic.

For the Argentine Republic:	Pour la République argentine :	Por la República Argentina:
For the Commonwealth of Australia:	Pour le Commonwealth d'Australie :	Por el Commonwealth de Australia:
For the Republic of Austria:	Pour la République d'Autriche : [R. WILLENPART 17 December 1979 Subject to ratification — Sous réserve de ratification]	Por la República de Austria:
For the People's Republic of Bangladesh:	Pour la République populaire du Bangladesh :	Por la República Popular de Bangladesh:
For Barbados:	Pour la Barbade :	Por Barbados:
For the Kingdom of Belgium:	Pour le Royaume de Belgique :	Por el Reino de Bélgica:
For the People's Republic of Benin:	Pour la République populaire du Bénin :	Por la República Popular de Benin:
For the Federative Republic of Brazil:	Pour la République fédérative du Brésil : [A. GURGEL DE ALENCAR 28 December 1979] <sup>1</sup>	Por la República Federativa del Brasil:
For the Socialist Republic of the Union of Burma:	Pour la République socialiste de l'Union birmane :	Por la República Socialista de la Unión Birmana:

<sup>1</sup> See p. 53 of this volume for the text of the declaration made upon signature — Voir p. 53 du présent volume pour le texte de la déclaration faite lors de la signature.



For the Republic  
of Burundi:

Pour la République  
du Burundi :

Por la República  
de Burundi:

For the United Republic  
of Cameroon:

Pour la République-Unie  
du Cameroun :

Por la República  
Unida del Camerún:

For Canada:

Pour le Canada :  
[McPHAIL  
17 December 1979]

Por el Canadá:

For the Central African  
Empire :

Pour l'Empire  
centrafricain :

Por el Imperio  
Centroafricano:

For the Republic  
of Chad:

Pour la République  
du Tchad :

Por la República  
del Chad:

For the Republic of Chile:

Pour la République  
du Chili :

Por la República de Chile

For the Republic  
of Colombia:

Pour la République  
de Colombie :

Por la República  
de Colombia:

For the People's Republic  
of the Congo:

Pour la République  
populaire du Congo :

Por la República Popular  
del Congo:

For the Republic of Cuba:

Pour la République  
de Cuba :

Por la República de Cuba:

For the Republic  
of Cyprus:

Pour la République  
de Chypre :

Por la República  
de Chipre:

For the Czechoslovak Socialist Republic:	Pour la République socialiste tchécoslovaque :	Por la República Socialista Checoslovaca:
For the Kingdom of Denmark:	Pour le Royaume du Danemark :	Por el Reino de Dinamarca:
For the Dominican Republic:	Pour la République dominicaine :	Por la República Dominicana:
For the Arab Republic of Egypt:	Pour la République arabe d'Egypte :	Por la República Árabe de Egipto:
For the Republic of Finland:	Pour la République de Finlande : [PAAVO KAARLEHTO 17 December 1979 Subject to ratification — Sous réserve de ratification]	Por la República de Finlandia:
For the French Republic:	Pour la République française :	Por la República Francesa:
For the Gabonese Republic:	Pour la République gabonaise :	Por la República Gabonesa:
For the Republic of the Gambia:	Pour la République de Gambie :	Por la República de Gambia:
For the Federal Republic of Germany:	Pour la République fédérale d'Allemagne :	Por la República Federal de Alemania:
For the Republic of Ghana:	Pour la République du Ghana :	Por la República de Ghana:

For the Hellenic  
Republic:

Pour la République  
hellénique :

Por la República  
Helénica:

For the Republic  
of Guyana:

Pour la République  
du Guyana :

Por la República  
de Guyana:

For the Republic  
of Haiti:

Pour la République  
d'Haïti :

Por la República  
de Haití:

For the Hungarian  
People's Republic:

Pour la République  
populaire hongroise :  
[JÁNOS NYERGES  
23 April 1980]

Por la República  
Popular Húngara:

For the Republic  
of Iceland:

Pour la République  
d'Islande :

Por la República  
de Islandia:

For the Republic  
of India:

Pour la République  
de l'Inde :

Por la República  
de la India:

For the Republic  
of Indonesia:

Pour la République  
d'Indonésie :

Por la República  
de Indonesia:

For Ireland:

Pour l'Irlande :

Por Irlanda:

For the State of Israel:

Pour l'Etat d'Israël :

Por el Estado de Israel:

For the Italian  
Republic:

Pour la République  
italienne :

Por la República  
Italiana:

For the Republic  
of the Ivory Coast:

Pour la République  
de Côte d'Ivoire :

Por la República  
de Costa de Marfil:

For Jamaica:

Pour la Jamaïque :

Por Jamaica:

For Japan:

Pour le Japon :

Por el Japón:

[MASAO SAWAKI  
17 December 1979

Subject to completion of constitutional procedures —  
Sous réserve de l'accomplissement des procédures constitutionnelles]

For the Republic  
of Kenya:

Pour la République  
du Kenya :

Por la República  
de Kenya:

For the Republic  
of Korea:

Pour la République  
de Corée :

Por la República  
de Corea:

For the State  
of Kuwait:

Pour l'Etat  
du Koweït :

Por el Estado  
de Kuwait:

For the Grand Duchy  
of Luxembourg:

Pour le Grand-Duché  
de Luxembourg :

Por el Gran Ducado  
de Luxemburgo:

For the Democratic  
Republic  
of Madagascar:

Pour la République  
démocratique  
de Madagascar :

Por la República  
Democrática  
de Madagascar:

For the Republic  
of Malawi:

Pour la République  
du Malawi :

Por la República  
de Malawi:

For Malaysia:

Pour la Malaisie :

Por Malasia:

For the Republic  
of Malta:

Pour la République  
de Malte :

Por la República  
de Malta:

For the Islamic Republic  
of Mauritania:

Pour la République  
islamique de Mauritanie :

Por la República Islámica  
de Mauritania:

For Mauritius:

Pour Maurice :

Por Mauricio:

For the United Mexican  
States:

Pour les Etats-Unis  
de Mexique :

Por los Estados Unidos  
Mexicanos:

For the Kingdom  
of the Netherlands:

Pour le Royaume  
des Pays-Bas :

Por el Reino  
de los Países Bajos:

For New Zealand:

Pour la Nouvelle-Zélande :

Por Nueva Zelandia:

For the Republic  
of Nicaragua:

Pour la République  
du Nicaragua :

Por la República  
de Nicaragua:

For the Republic  
of Niger:

Pour la République  
du Niger :

Por la República  
del Níger:

For the Federal Republic  
of Nigeria:

Pour la République  
fédérale du Nigéria :

Por la República Federal  
de Nigeria:

For the Kingdom  
of Norway:

Pour le Royaume  
de Norvège :

Por el Reino  
de Noruega:

[JOHAN CAPPELEN  
17 December 1979

Subject to acceptance — Sous réserve de l'acceptation]

For the Islamic Republic  
of Pakistan:

Pour la République  
islamique du Pakistan :

Por la República Islámica  
del Pakistán:

For the Republic  
of Peru:

Pour la République  
du Pérou :

Por la República  
del Perú:

For the Republic  
of the Philippines:

Pour la République  
des Philippines :

Por la República  
de Filipinas:

For the Polish People's  
Republic:

Pour la République  
populaire de Pologne :

Por la República Popular  
Polaca:

For the Portuguese  
Republic:

Pour la République  
portugaise :

Por la República  
Portuguesa:

For Rhodesia:

Pour la Rhodésie :

Por Rhodesia:

For the Socialist Republic  
of Romania:

Pour la République  
socialiste de Roumanie :

Por la República Socialista  
de Rumania:

For the Rwandese  
Republic:

Pour la République  
rwandaise :

Por la República  
Rwandesa:

For the Republic  
of Senegal:

Pour la République  
du Sénégal :

Por la República  
del Senegal:

For the Republic  
of Sierra Leone:

Pour la République  
de Sierra Leone :

Por la República  
de Sierra Leona:

For the Republic  
of Singapore:

Pour la République  
de Singapour :

Por la República  
de Singapur:

For the Republic of  
South Africa:

Pour la République  
sud-africaine :

Por la República  
de Sudáfrica:

For the Spanish State:

Pour l'Etat espagnol :

Por el Estado Español:

[A. HIDALGO DE QUINTANA

9 May 1980

Subject to ratification — Sous réserve de ratification]

For the Democratic  
Socialist Republic  
of Sri Lanka:

Pour la République  
socialiste démocratique  
de Sri Lanka :

Por la República  
Socialista Democrática  
de Sri Lanka:

For the Republic  
of Suriname:

Pour la République  
du Suriname :

Por la República  
de Suriname:

For the Kingdom  
of Sweden:

Pour le Royaume  
de Suède :

Por el Reino  
de Suecia:

[M. LEMMEL

17 December 1979

Subject to ratification — Sous réserve de ratification]

For the Swiss  
Confederation:

Pour la Confédération  
suisse :

Por la Confederación  
Suiza:

[A. DUNKEL

17 December 1979]

For the United Republic  
of Tanzania:

Pour la République-Unie  
de Tanzanie :

Por la República Unida  
de Tanzania:

For the Togolese  
Republic:

Pour la République  
togolaise :

Por la República  
Togolesa:

For the Republic  
of Trinidad and Tobago:

Pour la République  
de Trinité-et-Tobago :

Por la República  
de Trinidad y Tabago:

For the Republic  
of Tunisia:

Pour la République  
tunisienne :

Por la República  
de Túnez:

For the Republic  
of Turkey:

Pour la République  
turque :

Por la República  
de Turquía:

For the Republic  
of Uganda:

Pour la République  
de l'Ouganda :

Por la República  
de Uganda:

For the United Kingdom  
of Great Britain  
and Northern Ireland:

Pour le Royaume-Uni  
de Grande-Bretagne  
et d'Irlande du Nord :

Por el Reino Unido  
de Gran Bretaña  
e Irlanda del Norte:

For the United States  
of America:

Pour les Etats-Unis  
d'Amérique :  
[MICHAEL B. SMITH  
17 December 1979]

Por los Estados Unidos  
de América:

For the Republic  
of Upper Volta:

Pour la République  
de Haute-Volta :

Por la República  
del Alto Volta:

For the Eastern Republic  
of Uruguay:

Pour la République  
orientale de l'Uruguay :

Por la República Oriental  
del Uruguay:

For the Socialist  
Federal Republic  
of Yugoslavia:

Pour la République  
fédérative socialiste  
de Yougoslavie :

Por la República  
Federativa Socialista  
de Yugoslavia:



For the Republic  
of Zaire:

Pour la République  
du Zaïre :

Por la República  
del Zaire:

For the European  
Economic  
Community:

Pour la Communauté  
économique  
européenne :

Por la Comunidad  
Económica  
Europea:

[P. LUYTEN  
17 December 1979]

DECLARATION MADE UPON  
SIGNATURE*BRAZIL*

“The Government of Brazil accepts the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade on the condition that, through the appropriate decision, the Parties to that Agreement formally grant to the statements reproduced in documents MTN/NTM/W/232/Rev.1/Add.1 and MTN/NTM/W/232/Rev.1/Add.2 the same legal status as that of the Agreement itself. As soon as the above-mentioned condition is met, the acceptance by Brazil of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, including those two statements, shall become effective.”

COMMUNICATION MADE UPON  
ACCEPTANCE*BRAZIL*

“in the light of the Decision taken by the Committee on Anti-Dumping Practices today, under item 2 of its Agenda, the Brazilian Government fully accepts the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, as of 5 May 1980.”

DÉCLARATION FAITE LORS  
DE LA SIGNATURE*BRÉSIL*

[TRADUCTION — TRANSLATION]

Le Gouvernement du Brésil accepte l'Accord relatif à la mise en œuvre de l'article VI de l'Accord général sur les tarifs douaniers et le commerce à condition que, au moyen d'une décision appropriée, les Parties à l'Accord accordent, en bonne et due forme, aux déclarations reproduites dans les documents MTN/NTM/W/232/Rev.1/Add.1 et MTN/NTM/W/232/Rev.1/Add.2, la même valeur juridique que celui accordé à l'Accord lui-même. Dès que la condition susmentionnée est remplie l'acceptation par le Brésil de l'Accord relatif à la mise en œuvre de l'article VI de l'Accord général sur les tarifs douaniers et le commerce, y compris ces deux déclarations, prendra effet.

COMMUNICATION FAITE LORS  
DE L'ACCEPTATION*BRÉSIL*

[TRADUCTION — TRANSLATION]

... Vu la décision prise aujourd'hui par le Comité des pratiques antidumping, concernant le point 2 de son ordre du jour, le Gouvernement du Brésil accepte pleinement l'Accord sur la mise en œuvre de l'article VI de l'Accord général sur les tarifs douaniers et de commerce, à dater du 5 mai 1980.

LXXXIV. INTERNATIONAL DAIRY ARRANGEMENT<sup>1</sup> (WITH 'ANNEXES AND APPENDIX).  
DONE AT GENEVA ON 12 APRIL 1979

*Authentic texts: English, French and Spanish.*

*Registered by the Director-General to the Contracting Parties to the General Agreement on Tariffs and Trade, acting on behalf of the Parties, on 1 July 1980.*

PREAMBLE

Recognizing the importance 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<sup>2</sup> (hereinafter referred to as "General Agreement" or "GATT")\*\* and, in carrying out the aims of this Arrangement, effectively to implement the principles and objectives agreed upon in the said Tokyo Declaration;

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

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

<sup>1</sup> Came into force on 1 January 1980 in respect of the following States and organization, which had accepted it by that date, in accordance with article VIII (3) (a):

<i>State or organization</i>	<i>Date of definitive signature (s) or deposit of an instrument of ratification or acceptance (A)</i>
Bulgaria .....	26 December 1979 s
European Economic Community .....	17 December 1979 s
Hungary .....	17 December 1979 s
Japan .....	17 December 1979 s
New Zealand .....	17 December 1979 s
Norway .....	28 December 1979 A
South Africa .....	18 December 1979 s
Sweden .....	20 December 1979
Switzerland .....	17 December 1979 s
United States of America .....	17 December 1979 s

Subsequently, acceptances were effected with the Director-General to the Contracting Parties to the General Agreement on Tariffs and Trade, by deposit of instruments of acceptance (A) or ratification, as follows:

<i>State</i>	<i>Date of deposit of an instrument of ratification or acceptance (A)</i>
Australia .....	1 February 1980 A
(With effect from 1 February 1980.)	
Finland .....	13 March 1980
(With effect from 13 March 1980.)	
Austria .....	28 May 1980
(With effect from 28 May 1980.)	

<sup>2</sup> United Nations, *Treaty Series*, vol. 55 p. 187.

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

## PART ONE. GENERAL PROVISIONS

### *Article I. OBJECTIVES*

The objectives of this Arrangement shall be, in accordance with the principles and objectives agreed upon in the Tokyo Declaration of Ministers dated 14 September 1973 concerning the Multilateral Trade Negotiations,

- To achieve the expansion and ever greater liberalization of world trade in dairy products under market conditions as stable as possible, on the basis of mutual benefit to exporting and importing countries;
- To further the economic and social development of developing countries.

### *Article II. PRODUCT COVERAGE*

1. This Arrangement applies to the dairy products sector. For the purpose of this Arrangement, the term "dairy products" is deemed to include the following products, as defined in the Customs Co-operation Council Nomenclature:

	<i>CCCN</i>
(a) Milk and cream, fresh, not concentrated or sweetened .....	04.01
(b) Milk and cream, preserved, concentrated or sweetened .....	04.02
(c) Butter .....	04.03
(d) Cheese and curd .....	04.04
(e) Casein .....	ex 35.01

2. The International Dairy Products Council established in terms of Article VII:1(a) of this Arrangement (hereinafter referred to as the Council) may decide that the Arrangement is to apply to other products in which dairy products referred to in paragraph 1 of this Article have been incorporated if it deems their inclusion necessary for the implementation of the objectives and provisions of this Arrangement.

### *Article III. INFORMATION*

1. The participants agree to provide regularly and promptly to the Council the information required to permit it to monitor and assess the overall situation of the world market for dairy products and the world market situation for each individual dairy product.

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, plu-

ilateral 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. 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 matter\* 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 matter 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

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\* 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:5 and this footnote are without prejudice to the rights and obligations of the parties to such agreements.

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.

(b) In accordance with the objectives of this Arrangement, to furnish, within the limits of their possibilities, dairy products to developing countries by way of food aid. Participants should notify the Council in advance each year, as far as practicable, of the scale, quantities and destinations of their proposed contributions of such food aid. Participants should also give, if possible, prior notification to the Council of any proposed amendments to the notified programme. It would be understood that contributions could be made bilaterally or through joint projects or through multilateral programmes, particularly the World Food Programme.

(c) Recognizing the desirability of harmonizing their efforts in this field, as well as the need to avoid harmful interference with normal patterns of production, consumption and international trade, to exchange views in the Council on their arrangements for the supply and requirements of dairy products as food aid or on concessional terms.

2. Donated exports to developing countries, exports destined for relief purposes or welfare purposes in developing countries, and other transactions which are not normal commercial transactions shall be effected in accordance with the FAO "Principles of Surplus Disposal and Consultative Obligations". Consequently, the Council shall co-operate closely with the Consultative Sub-Committee on Surplus Disposal.

3. The Council shall, in accordance with conditions and modalities that it will establish, upon request, discuss, and consult on, all transactions other than normal commercial transactions and other than those covered by the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade.<sup>1</sup>

PART TWO. SPECIFIC PROVISIONS

*Article VI. PROTOCOLS*

1. Without prejudice to the provisions of Articles I to V of this Arrangement, the products listed below shall be subject to the provisions of the Protocols annexed to this Arrangement:

—Annex I. Protocol Regarding Certain Milk Powders: milk powder and cream powder, excluding whey powder

<sup>1</sup> See p. 204 of this volume.

—Annex II. Protocol Regarding Milk Fat: milk fat

—Annex III. Protocol Regarding Certain Cheeses: certain cheeses

### 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 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.

#### PART FOUR

#### *Article VIII.* FINAL PROVISIONS

##### 1. *Acceptance\**

(a) This Arrangement is open for acceptance, by signature or otherwise, by government members of the United Nations, or of one of its specialized agencies and by the European Economic Community.

(b) Any government\*\* accepting this Arrangement may at the time of acceptance make a reservation with regard to its acceptance of any of the Protocols annexed to the Arrangement. This reservation is subject to the approval of the participants.

(c) This Arrangement shall be deposited with the Director-General to the CONTRACTING PARTIES to the GATT who shall promptly furnish a certified copy thereof and a notification of each acceptance thereof to each participant. The texts of this Arrangement in the English, French and Spanish languages shall all be equally authentic.

(d) Acceptance of this Arrangement shall carry denunciation of the Arrangement Concerning Certain Dairy Products, done at Geneva on 12 January 1970<sup>1</sup> which entered into force on 14 May 1970, for participants having accepted that Arrangement and denunciation of the Protocol Relating to Milk Fat, done at Geneva on 2 April 1973<sup>2</sup> which entered into force on 14 May 1973, for participants having accepted that Protocol. Such denunciation shall take effect on the date of entry into force of this Arrangement.

##### 2. *Provisional application*

Any government may deposit with the Director-General to the CONTRACTING PARTIES to the GATT a declaration of provisional application of this Arrangement. Any government depositing such a declaration shall provisionally apply this Arrangement and be provisionally regarded as participating in this Arrangement.

\* The terms "acceptance" or "accepted" as used in this Article include the completion of any domestic procedures necessary to implement the provisions of this Arrangement.

\*\* For the purpose of this Arrangement, the term "government" is deemed to include the competent authorities of the European Economic Community.

<sup>1</sup> United Nations, *Treaty Series*, vol. 738, p. 322.

<sup>2</sup> *Ibid.*, vol. 884, p. 94.



### 3. *Entry into force*

(a) This Arrangement shall enter into force, for those participants having accepted it, on 1 January 1980. For participants accepting this Arrangement after that date, it shall be effective from the date of their acceptance.

(b) The validity of contracts entered into before the date of entry into force of this Arrangement is not affected by this Arrangement.

### 4. *Validity*

This Arrangement shall remain in force for three years. The duration of this Arrangement shall be extended for further periods of three years at a time, unless the Council, at least eighty days prior to each date of expiry, decides otherwise.

### 5. *Amendment*

Except where provision for modification is made elsewhere in this Arrangement the Council may recommend an amendment to the provisions of this Arrangement. The proposed amendment shall enter into force upon acceptance by the governments of all participants.

### 6. *Relationship between the Arrangement and the Annexes*

The following shall be deemed to be an integral part of this Arrangement, subject to the provisions of paragraph 1(b) of this Article:

—The Protocols mentioned in Article VI of this Arrangement and contained in its Annexes I, II and III;

—The lists of reference points mentioned in Article 2 of the Protocol Regarding Certain Milk Powders, Article 2 of the Protocol Regarding Milk Fat, and Article 2 of the Protocol Regarding Certain Cheeses, contained in Annexes Ia, IIa and IIIa respectively;

—The schedules of price differentials according to milk fat content mentioned in Article 3:4, note 3 of the Protocol Regarding Certain Milk Powders and Article 3:4, note 1 of the Protocol Regarding Milk Fat, contained in Annexes Ib, and IIb respectively;

—The register of processes and control measures referred to in Article 3:5 of the Protocol Regarding Certain Milk Powders, contained in Annex Ic.

### 7. *Relationship between the Arrangement and the GATT*

Nothing in this Arrangement shall affect the rights and obligations of participants under the GATT.\*

### 8. *Withdrawal*

(a) Any participant may withdraw from this Arrangement. Such withdrawal shall take effect upon the expiration of sixty days from the day on which written notice of withdrawal is received by the Director-General to the CONTRACTING PARTIES to the GATT.

(b) Subject to such conditions as may be agreed upon by the participants, any participant may withdraw from any of the Protocols annexed to this Arrangement. Such withdrawal shall take effect upon the expiration of sixty days from the day on which written notice of withdrawal is received by the Director-General to the CONTRACTING PARTIES to the GATT.

DONE at Geneva this twelfth day of April nineteen hundred and seventy-nine.

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\* This provision applies only among participants that are contracting parties to the GATT.

## ANNEX I

## PROTOCOL REGARDING CERTAIN MILK POWDERS

## PART ONE

*Article 1. PRODUCT COVERAGE*

1. This Protocol applies to milk powder and cream powder falling under CCCN heading No. 04.02, excluding whey powder.

## PART TWO

*Article 2. PILOT PRODUCTS*

1. For the purpose of this Protocol, minimum export prices shall be established for the pilot products of the following description:

(a) *Designation: Skimmed milk powder*

—Milk fat content: less than or equal to 1.5 per cent by weight

—Water content: less than or equal to 5 per cent by weight

(b) *Designation: Whole milk powder*

—Milk fat content: 26 per cent by weight

—Water content: less than or equal to 5 per cent by weight

(c) *Designation: Buttermilk powder\**

—Milk fat content: less than or equal to 11 per cent by weight

—Water content: less than or equal to 5 per cent by weight

*Packaging.* In packages normally used in the trade, of a net content by weight of not less than 25 kgs., or 50 lbs., as appropriate

*Terms of sale.* F.o.b. ocean-going vessels from the exporting country or free-at-frontier exporting country.

By derogation from this provision, reference points are designated for the countries listed in Annex Ia. The Committee established in pursuance of Article VII:2(a) of the Arrangement (hereinafter referred to as the Committee) may amend the contents of that Annex.

Prompt payment against documents.

*Article 3. MINIMUM PRICES**Level and observance of minimum prices*

1. Participants undertake to take the steps necessary to ensure that the export prices of the products defined in Article 2 of this Protocol shall not be less than the minimum prices applicable under the present Protocol. If the products are exported in the form of goods in which they have been incorporated, participants shall take the steps necessary to avoid the circumvention of the price provisions of this Protocol.

2. (a) The minimum price levels set out in the present Article take account, in particular, of the current market situation, dairy prices in producing participants, the need to ensure an appropriate relationship between the minimum prices established in the Protocols to the present Arrangement, the need to ensure equitable prices to consumers,

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\* Derived from the manufacture of butter and anhydrous milk fat.

and the desirability of maintaining a minimum return to the most efficient producers in order to ensure stability of supply over the longer term.

(b) The minimum prices provided for in paragraph 1 of the present Article applicable at the date of entry into force of this Protocol are fixed at:

- (i) US\$425 per metric ton for the skimmed milk powder defined in Article 2 of this Protocol;
- (ii) US\$725 per metric ton for the whole milk powder defined in Article 2 of this Protocol;
- (iii) US\$425 per metric ton for the buttermilk powder defined in Article 2 of this Protocol.

3. (a) The levels of the minimum prices specified in the present Article can be modified by the Committee, taking into account, on the one hand, the results of the operation of the Protocol and, on the other hand, the evolution of the situation of the international market.

(b) The levels of the minimum prices specified in the present Article shall be subject to review at least once a year by the Committee. The Committee shall meet in September of each year for this purpose. In undertaking this review the Committee shall take account in particular, to the extent relevant and necessary, of costs faced by producers, other relevant economic factors of the world market, the need to maintain a long-term minimum return to the most economic producers, the need to maintain stability of supply and to ensure acceptable prices to consumers, and the current market situation and shall have regard to the desirability of improving the relationship between the levels of the minimum prices set out in paragraph 2(b) of the present Article and the dairy support levels in the major producing participants.

#### *Adjustment of minimum prices*

4. If the products actually exported differ from the pilot products in respect of the fat content, packaging or terms of sale, the minimum prices shall be adjusted so as to protect the minimum prices established in this Protocol for the products specified in Article 2 of this Protocol according to the following provisions:

*Milk fat content.* If the milk fat content of the milk powders described in Article 1 of the present Protocol excluding buttermilk powder\* differs from the milk fat content of the pilot products as defined in Article 2:1(a) and (b) of the present Protocol, then for each full percentage point of milk fat as from 2 per cent, there shall be an upward adjustment of the minimum price in proportion to the difference between the minimum prices established for the pilot products defined in Article 2:1(a) and (b) of the present Protocol.\*\*

*Packaging.* If the products are offered otherwise than in packages normally used in the trade, of a net content by weight of not less than 25 kgs. or 50 lbs., as appropriate, the minimum prices shall be adjusted so as to reflect the difference in the cost of packaging from the type of package specified above.

*Terms of sale.* If sold on terms other than f.o.b. from the exporting country or free-at-frontier exporting country,\*\* the minimum prices shall be calculated on the basis of the minimum f.o.b. prices specified in paragraph 2(b) of this Article, plus the real and justified costs of the services provided; if the terms of the sale include credit, this shall be charged for at the prevailing commercial rates in the country concerned.

\* As defined in Article 2:1(c) of this Protocol.

\*\* See Annex I(b), "Schedule of price differentials according to milk fat content".

\*\*\* See Article 2.

*Exports and imports of skimmed milk powder and buttermilk powder for purposes of animal feed*

5. By derogation from the provisions of paragraphs 1 to 4 of this Article participants may, under the conditions defined below, export or import, as the case may be, skimmed milk powder and buttermilk powder for purposes of animal feed at prices below the minimum prices provided for in this Protocol for these products. Participants may make use of this possibility only to the extent that they subject the products exported or imported to the processes and control measures which will be applied in the country of export or destination so as to ensure that the skimmed milk powder and buttermilk powder thus exported or imported are used exclusively for animal feed. These processes and control measures shall have been approved by the Committee and recorded in a register established by it.\* Participants wishing to make use of the provisions of this paragraph shall give advance notification of their intention to do so to the Committee which shall meet, at the request of a participant, to examine the market situation. The participants shall furnish the necessary information concerning their transactions in respect of skimmed milk powder and buttermilk powder for purposes of animal feed, so that the Committee may follow developments in this sector and periodically make forecasts concerning the evolution of this trade.

*Special conditions of sales*

6. Participants undertake within the limit of their institutional possibilities to ensure that practices such as those referred to in Article 4 of this Protocol do not have the effect of directly or indirectly bringing the export prices of the products subject to the minimum price provisions below the agreed minimum prices.

*Field of application*

7. For each participant, this Protocol is applicable to exports of the products specified in Article 1 of this Protocol manufactured or repacked inside its own customs territory.

*Transactions other than normal commercial transactions*

8. The provisions of paragraphs 1 to 7 of this Article shall not be regarded as applying to donated exports to developing countries or to exports destined for relief purposes or food-related development purposes or welfare purposes in developing countries.

*Article 4. PROVISION OF INFORMATION*

1. In cases where prices in international trade of the products covered by Article 1 of this Protocol are approaching the minimum prices mentioned in Article 3:2(b) of this Protocol, and without prejudice to the provisions of Article III of the Arrangement, participants shall notify to the Committee all the relevant elements for evaluating their own market situation and, in particular, credit or loan practices, twinning with other products, barter or three-sided transactions, refunds or rebates, exclusivity contracts, packaging costs and details of the packaging, so that the Committee can make a verification.

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\* See Annex I(c), "Register of Processes and Control Measures". It is understood that exporters would be permitted to ship skimmed milk powder and buttermilk powder for animal feed purposes in an unaltered state to importers which have had their processes and control measures inserted in the Register. In this case, exporters would inform the Committee of their intention to ship unaltered skimmed milk powder and/or buttermilk powder for animal feed purposes to those importers which have their processes and control measures registered.

*Article 5. OBLIGATIONS OF EXPORTING PARTICIPANTS*

1. Exporting participants agree to use their best endeavours, in accordance with their institutional possibilities, to supply on a priority basis the normal commercial requirements of developing importing participants, especially those used for food-related development purposes and welfare purposes.

*Article 6. CO-OPERATION OF IMPORTING PARTICIPANTS*

1. Participants which import products covered by Article 1 of this Protocol undertake in particular:

- (a) To co-operate in implementing the minimum prices objective of this Protocol and to ensure, as far as possible, that the products covered by Article 1 of this Protocol are not imported at less than the appropriate customs valuation equivalent to the prescribed minimum prices;
- (b) Without prejudice to the provisions of Article III of the Arrangement and Article 4 of this Protocol, to supply information concerning imports of products covered by Article 1 of this Protocol from non-participants;
- (c) To consider sympathetically proposals for appropriate remedial action if imports at prices inconsistent with the minimum prices threaten the operation of this Protocol.

2. Paragraph 1 of this Article shall not apply to imports of skimmed milk powder and buttermilk powder for purposes of animal feed, provided that such imports are subject to the measures and procedures provided for in Article 3:5 of this Protocol.

## PART THREE

*Article 7. DEROGATIONS*

1. Upon request by a participant, the Committee shall have the authority to grant derogations from the provisions of Article 3, paragraphs 1 to 5 of this Protocol in order to remedy difficulties which observance of minimum prices could cause certain participants. The Committee shall pronounce on such a request within three months from the date of the request.

*Article 8. EMERGENCY ACTION*

1. Any participant which considers that its interests are seriously endangered by a country not bound by this Protocol can request the Chairman of the Committee to convene an emergency meeting of the Committee within two working days to determine and decide whether measures would be required to meet the situation. If such a meeting cannot be arranged within the two working days and the commercial interests of the participant concerned are likely to be materially prejudiced, that participant may take unilateral action to safeguard its position, on the condition that any other participants likely to be affected are immediately notified. The Chairman of the Committee shall also be formally advised immediately of the full circumstances of the case and shall be requested to call a special meeting of the Committee at the earliest possible moment.

ANNEX I *a*

## PROTOCOL REGARDING CERTAIN MILK POWDERS — LIST OF REFERENCE POINTS

In accordance with the provisions of Article 2 of this Protocol, the following reference points are designated for the countries listed below:

- Austria: Antwerp, Hamburg, Rotterdam
- Finland: Antwerp, Hamburg, Rotterdam
- Norway: Antwerp, Hamburg, Rotterdam
- Sweden: Antwerp, Hamburg, Rotterdam
- Poland: Antwerp, Hamburg, Rotterdam

ANNEX I *b*PROTOCOL REGARDING CERTAIN MILK POWDERS—SCHEDULE OF PRICE DIFFERENTIALS  
ACCORDING TO MILK FAT CONTENT

<i>Milk fat content, %</i>	<i>Minimum price, US\$/metric ton</i>
Less than 2 .....	425
Equal to or more than 2, less than 3 .....	437
Equal to or more than 3, less than 4 .....	449
Equal to or more than 4, less than 5 .....	461
Equal to or more than 5, less than 6 .....	473
Equal to or more than 6, less than 7 .....	485
Equal to or more than 7, less than 8 .....	497
Equal to or more than 8, less than 9 .....	509
Equal to or more than 9, less than 10 .....	521
Equal to or more than 10, less than 11 .....	533
Equal to or more than 11, less than 12 .....	545
Equal to or more than 12, less than 13 .....	557
Equal to or more than 13, less than 14 .....	569
Equal to or more than 14, less than 15 .....	581
Equal to or more than 15, less than 16 .....	593
Equal to or more than 16, less than 17 .....	605
Equal to or more than 17, less than 18 .....	617
Equal to or more than 18, less than 19 .....	629
Equal to or more than 19, less than 20 .....	641
Equal to or more than 20, less than 21 .....	653
Equal to or more than 21, less than 22 .....	665
Equal to or more than 22, less than 23 .....	677
Equal to or more than 23, less than 24 .....	689
Equal to or more than 24, less than 25 .....	701
Equal to or more than 25, less than 26 .....	713
Equal to or more than 26, less than 27 .....	725
Equal to or more than 27, less than 28 .....	737
Equal to or more than —, less than — .....	—

## ANNEX 1 c

PROTOCOL REGARDING CERTAIN MILK POWDERS—  
REGISTER OF PROCESSES AND CONTROL MEASURES

In accordance with the provisions of Article 3:5 of this Protocol, the following processes and control measures are approved for the participants listed below:

	<i>Page</i>		<i>Page</i>
Australia .....	78	Japan .....	92
Austria .....	80	New Zealand .....	92
Canada .....	84	Norway .....	96
European Economic Community .....	86	Spain .....	98
Finland .....	88	Switzerland .....	104

## AUSTRALIA

Skimmed milk powder\* may be exported from the customs territory of Australia to third countries:

- (A) Either, after the competent Australian authorities have ensured that the skimmed milk powder has been denatured according to any one of the following processes:
- (1) By the addition, per 100 kgs. of skimmed milk powder, of 2.5 kgs. of lucerne meal or grass meal, containing not less than 70 per cent of particles not exceeding 300 microns, uniformly distributed throughout the mixture.
  - (2) By the addition of finely milled alfalfa flour (98 per cent to pass mesh 60, equivalent to 50 United States standard), in a proportion of 2 to 4 parts per 100 and of phenolphthalein in a proportion of 1:20,000 (1 gr. per 20 kgs. of milk).
  - (3) By the addition, in the proportion of 20 per 100 by weight of the product treated (80 per 100 by weight of milk powder and 20 per cent of the denaturing agent) of a mixture composed of 80 per cent bran and 20 per cent potato flour, rice flour or other common starch (at least 10 per cent to pass mesh 60, equivalent to 50 United States standard), with phenolphthalein in the proportion of 1:20,000.
  - (4) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 35 kgs. of undeodorized fish meal and 200 grs. of carbonate of iron or sulphate of iron and:
    - (a) 1.5 kgs. of activated carbon;
    - (b) Or 100 grs. of mixture composed of four fifths of yellow tartrazine (E 102) and one fifth of patent blue V (E 131);
    - (c) Or 20 grs. of cochineal red A (E 124);
    - (d) Or 40 grs. of patent blue V (E 131).
  - (5) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 40 kgs. of undeodorized fish meal and 300 grs. of carbonate of iron or sulphate of iron.

\* These processes and control measures apply to buttermilk powder as well as to skimmed milk powder intended for animal feed.

- (6) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 4.5 kgs. of fish oil or fish liver oil and 300 grs. of carbonate of iron or sulphate of iron.

The fish meal noted in processes 4 and 5 must contain at least 25 per cent of particles with dimension below 80 microns. In processes 4, 5 and 6, the iron salts have to contain at least 30 per cent of particles of a size lower than 80 microns. The colouring matters have to contain the following percentages of the pure product:

- At least 30 per cent for cochineal red A (E 124);
- At least 25 per cent for the other colouring matters: colouring matters have to contain at least 30 per cent of particles having a size lower than 80 microns; the acidity of fish oil calculated in oleic acid has to be equal to at least 10 per cent.

The products added to skimmed milk powder, according to processes 4, 5 and 6, have to be uniformly distributed as regards in particular the activated carbon, the iron salts and the colouring matters; two samples of 50 grs. each, taken at random in a lot of 25 kgs., must give by chemical determination the same results within the limits of errors admitted by the analysis method used.

- (7) Dye to be added to liquid skimmed milk before drying at the rate of 2 to 3 ozs. per 100 gallons of milk (12.5 to 18.7 grs. per hectolitre). The dye to be one of the following colours:

*English Standard Index Nos.*

Lissamine green .....	44.090, 42.095, 44.025
Tartrazine .....	19.140
Combined with	
(a) Brilliant blue F.C.F. ....	42.090
or	
(b) Green B.S. ....	44.090
Cochineal .....	77.289
Brilliant blue/F.C.F. ....	42.090

- (8) By the addition of meat and bone meal in a proportion of 2 to 4 parts of skimmed milk powder.

The bags or containers in which the denatured powder is packed will be labelled "For Animal Feed Only".

- (B) Or, after its incorporation in compound or mixed stockfoods of a kind falling within item 23.07 of the Customs Co-operation Council Nomenclature.

### AUSTRIA

Skimmed milk powder\* may be exported from the customs territory of Austria to third countries:

- (A) Either, after the competent Austrian authorities have ensured that the skimmed milk powder has been denatured according to any one of the following processes:
- (1) By the addition, per 100 kgs. of skimmed milk powder, of 2.5 kgs. of lucerne meal or grass meal, containing not less than 70 per cent of particles not exceeding 300 microns, uniformly distributed throughout the mixture.
  - (2) By the addition of finely milled alfalfa flour (98 per cent to pass mesh 60, equivalent to 50 United States standard), in a proportion of 2 to 4 parts per

\* These processes and control measures apply to buttermilk powder as well as to skimmed milk powder intended for animal feed.



100 and of phenolphthalein in a proportion of 1:20,000 (1 gr. per 20 kgs. of milk).

- (3) By the addition, in the proportion of 20 per 100 by weight of the product treated (80 per 100 by weight of milk powder and 20 per cent of the denaturing agent) of a mixture composed of 80 per cent bran and 20 per cent potato flour, rice flour or other common starch (at least 10 per cent to pass mesh 60, equivalent to 50 United States standard), with phenolphthalein in the proportion of 1:20,000.
- (4) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 35 kgs. of undeodorized fish meal and 200 grs. of carbonate of iron or sulphate of iron and:
  - (a) 1.5 kgs. of activated carbon;
  - (b) Or 100 grs. of mixture composed of four fifths of yellow tartrazine (E 102) and one fifth of patent blue V (E 131);
  - (c) Or 20 grs. of cochineal red A (E 124);
  - (d) Or 40 grs. of patent blue V (E 131).
- (5) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 40 kgs. of undeodorized fish meal and 300 grs. of carbonate of iron or sulphate of iron.
- (6) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 4.5 kgs. of fish oil or fish liver oil and 300 grs. of carbonate of iron or sulphate of iron.

The fish meal noted in processes 4 and 5 must contain at least 25 per cent of particles with dimension below eighty microns. In processes 4, 5 and 6, the iron salts have to contain at least 30 per cent of particles of a size lower than eighty microns. The colouring matters have to contain the following percentages of the pure product:

—At least 30 per cent for cochineal red A (E 124);

—At least 25 per cent for the other colouring matters: colouring matters have to contain at least 30 per cent of particles having a size lower than eighty microns; the acidity of fish oil calculated in oleic acid has to be equal to at least 10 per cent.

The products added to skimmed milk powder, according to processes 4, 5 and 6, have to be uniformly distributed as regards in particular the activated carbon, the iron salts and the colouring matters; two samples of 50 grs. each, taken at random in a lot of 25 kgs., must give by chemical determination the same results within the limits of errors admitted by the analysis method used.

- (7) Dye to be added to liquid skimmed milk before drying at the rate of 2 to 3 ozs. per 100 gls. of milk (12.5 to 18.7 grs. per hectolitre). The dye to be one of the following colours:

*English Standard Index Nos.*

Lissamine green .....	44.090, 42.095, 44.025
Tartrazine .....	19.140
Combined with:	
(a) Brilliant blue F.C.F. ....	42.090
or	
(b) Green B.S. ....	44.090
Cochineal .....	77.289
Brilliant blue/F.C.F. ....	42.090

- (8) By the addition of meat and bone meal in a proportion of 2 to 4 parts of skimmed milk powder.

The bags or containers in which the denatured powder is packed will be labelled "For Animal Feed Only".

- (B) Or, after its incorporation in compound or mixed stockfoods of a kind falling within item 23.07 of the Customs Co-operation Council Nomenclature.

#### CANADA

- (1) By the addition of finely milled alfalfa flour (98 per cent to pass mesh 60, equivalent to 50 United States standard), in a proportion of 2 to 4 parts per 100 and of phenolphthalein in a proportion of 1:20,000 (1 gramme per 20 kgs. of milk).
- (2) By the addition, in the proportion of 20 per 100 by weight of the product treated (80 per 100 by weight of milk powder and 20 per 100 of the denaturing agent) of a mixture composed of 80 per cent bran and 20 per cent potato flour, rice flour or other common starch (at least 10 per cent to pass mesh 60, equivalent to 50 United States standard) with phenolphthalein in the proportion of 1:20,000.
- (3) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 35 kgs. of undeodorized fish meal and 200 grammes of carbonate of iron or sulphate of iron and:
- (a) 1.5 kgs. of activated carbon;
  - (b) Or 100 grammes of mixture composed of four fifths of yellow tartrazine (E 102) and one fifth of patent blue V (E 131);
  - (c) Or 20 grammes of cochineal red A (E 124);
  - (d) Or 40 grammes of patent blue V (E 131).
- (4) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 40 kgs. of undeodorized fish meal and 300 grammes of carbonate of iron or sulphate of iron.
- (5) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 4.5 kgs. of fish oil or fish liver oil and 300 grammes of carbonate of iron or sulphate of iron.

The fish meal noted in processes 3 and 4 must contain at least 25 per cent of particles with dimension below 80 microns. In processes 3, 4 and 5, the iron salts have to contain at least 30 per cent of particles of a size lower than 80 microns. The colouring matters have to contain the following percentages of the pure product:

—At least 30 per cent for cochineal red A (E 124);

—At least 25 per cent for the other colouring matters: colouring matters have to contain at least 30 per cent of particles having a size lower than 80 microns; the acidity of fish oil calculated in oleic acid has to be equal to at least 10 per cent.

The products added to skimmed milk powder, according to processes 3, 4 and 5, have to be uniformly distributed as regards in particular the activated carbon, the iron salts and the colouring matters; two samples of 50 grs. each, taken at random in a lot of 25 kgs., must give by chemical determination the same results within the limits of errors admitted by the analysis method used.

- (6) By the addition of dye to liquid skimmed milk before drying at the rate of 2 to 3 ounces per 100 gallons of milk (12.5 to 18.7 grs. per hectolitre).

Dye to be one of the following colours:

*English Standard Index Nos.*

Lissamine green .....	44.090, 42.095, 44.025
Tartrazine .....	19.140
Combined with:	
(i) Brilliant blue F.C.F. ....	42.090
or	
(ii) Green B.S. ....	44.090
Cochineal .....	77.289
Brilliant blue/F.C.F. ....	42.090

- (7) By the addition of meat and bone meal in a proportion of 2:4 parts of skimmed milk powder.
- (8) By the addition, per 100 kgs. of skimmed milk powder, of 2.5 kgs. of lucerne meal or grass meal, containing not less than 70 per cent of particles not exceeding 300 microns, uniformly distributed throughout the mixture.  
The bags or containers in which the denatured powder is packed will be labelled "For Animal Feed Only"
- (9) Incorporation of skimmed milk powder in compound or mixed stockfoods of a kind falling within item 23.07 of the Customs Co-operation Council Nomenclature.

### EUROPEAN ECONOMIC COMMUNITY

Skimmed milk powder\* for use as animal feed may be exported to third countries:

- (a) Either after being denatured in the customs territory of the Community in accordance with Article 2 of Regulation (EEC) No. 990/72,\*\* as last amended by Regulation (EEC) No. 804/76:\*\*\*

"Skimmed milk powder shall be denatured by the addition, per 100 kgs. of skimmed milk powder, of 2.5 kgs. of lucerne meal or grass meal, containing not less than 70 per cent of particles not exceeding 300 microns, uniformly distributed throughout the mixture."

This product falls within sub-heading 04.02 A II (b) 1 of the common customs tariff;

- (b) Or after being incorporated in "sweetened forage; other preparations of a kind used for animal feeding", falling within sub-heading ex 23.07 B of the common customs tariff, containing skimmed milk powder;
- (c) Or after being dyed by the following dyeing process:

The dyeing is to be by means of the colouring matters identified by the Colour Index numbers—most recent edition—and the designations indicated hereunder.

\* These processes and control measures apply to buttermilk powder as well as to skimmed milk powder intended for animal feed. (See Regulation (EEC) No. 804/68, Article 10:1.)

\*\* O.J. No. L 115 of 17 May 1972, page 1.

\*\*\* O.J. No. L. 93 of 8 April 1976, page 22.

These colouring matters:

- Are to be used alone or in combination, in the form of very fine impalpable powder, and
- Are to be uniformly distributed in the skimmed milk powder
- In minimum quantities of 200 grs./100 kgs.

*Designation of colouring matters*

<i>C.I. No.</i>	<i>Designation</i>
19140 .....	Tartrazine*
42090 .....	Brilliant blue F.C.F.
42095 .....	Lissamine green
44090 .....	Green B.S., Lissamine green
74260 .....	Pigment green 7
77289 .....	Cochineal

(d) Or after denaturing in accordance with Annex III to Regulation (EEC) No. 2054/76,\*\* as last amended by Regulation (EEC) No. 2823/78:\*\*\*

- (1) Homogeneous addition to the products to be denatured of 1 per cent blood meal and 1 per cent non-deodorized fish-meal; the two substances must be finely ground and 80 per cent of both must be able to pass through the mesh of a No. 60 sieve of the Tyler fine series (0.246 mm. mesh) or equivalent thereof.

The blood meal must be of a type regarded in the trade as soluble and must satisfy the following conditions: when the meal is diluted in water to 10 per cent strength and the solution has been stirred for fifteen minutes and then centrifuged for another fifteen minutes at 2,000 revolutions per minute it must not deposit more than 5 per cent sediment.

- (2) Homogeneous addition to the products to be denatured of 1 per cent blood meal and 1 per cent non-deodorized fish solubles.

The blood meal must present the same characteristics as required in the first procedure and the fish solubles must be as fine as required in the above procedure for blood meal and fish meal.

## *FINLAND*

Skimmed milk powder† may be exported from the customs territory of Finland to third countries:

- (A) Either, after the competent Finnish authorities have ensured that the skimmed milk powder has been denatured according to any one of the following processes:
  - (1) By the addition, per 100 kgs. of skimmed milk powder, of 2.5 kgs. of lucerne meal or grass meal, containing not less than 70 per cent of particles not exceeding 300 microns, uniformly distributed throughout the mixture.

\* This colouring matter to be used only in combination with one or more of the others included in the above list.

\*\* O.J. No. L. 228 of 20 August 1978, page 17.

\*\*\* O.J. No. L. 334 of 1 December 1978, page 84.

† These processes and control measures apply to buttermilk powder as well as to skimmed milk powder intended for animal feed.

- (2) By the addition of finely milled alfalfa flour (98 per cent to pass mesh 60, equivalent to 50 United States standard), in a proportion of 2 to 4 parts per 100 and of phenolphthalein in a proportion of 1:20,000 (1 gr. per 20 kgs. of milk).
- (3) By the addition, in the proportion of 20 per 100 by weight of the product treated (80 per 100 by weight of milk powder and 20 per cent of the denaturing agent) of a mixture composed of 80 per cent bran and 20 per cent potato flour, rice flour or other common starch (at least 10 per cent to pass mesh 60, equivalent to 50 United States standard), with phenolphthalein in the proportion of 1:20,000.
- (4) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 35 kgs. of undeodorized fish meal and 200 grs. of carbonate of iron or sulphate of iron and:
  - (a) 1.5 kgs. of activated carbon;
  - (b) Or 100 grs. of mixture composed of four fifths of yellow tartrazine (E 102) and one fifth of patent blue V (E 131);
  - (c) Or 20 grs. of cochineal red A (E 124);
  - (d) Or 40 grs. of patent blue V (E 131).
- (5) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 40 kgs. of undeodorized fish meal and 300 grs. of carbonate of iron or sulphate of iron.
- (6) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 4.5 kgs. of fish oil or fish liver oil and 300 grs. of carbonate of iron or sulphate of iron.

The fish meal noted in processes 4 and 5 must contain at least 25 per cent of particles with dimension below eighty microns. In processes 4, 5 and 6, the iron salts have to contain at least 30 per cent of particles of a size lower than eighty microns. The colouring matters have to contain the following percentages of the pure product:

—At least 30 per cent for cochineal red A (E 124);

—At least 25 per cent for the other colouring matters: colouring matters have to contain at least 30 per cent of particles having a size lower than eighty microns; the acidity of fish oil calculated in oleic acid has to be equal to at least 10 per cent.

The products added to skimmed milk powder, according to processes 4, 5 and 6, have to be uniformly distributed as regards in particular the activated carbon, the iron salts and the colouring matters; two samples of 50 grs. each, taken at random in a lot of 25 kgs., must give by chemical determination the same results within the limits of errors admitted by the analysis method used.

- (7) Dye to be added to liquid skimmed milk before drying at the rate of 2 to 3 ozs. per 100 gls. of milk (12.5 to 18.7 grs. per hectolitre). The dye to be one of the following colours:

*English Standard Index Nos.*

Lissamine green .....	44.090, 42.095, 44.025
Tartrazine .....	19.140
Combined with:	
(a) Brilliant blue F.C.F. ....	42.090
or	
(b) Green B.S. ....	44.090
Cochineal .....	77.289
Brilliant blue/F.C.F. ....	42.090

- (8) By the addition of meat and bone meal in a proportion of 2 to 4 parts of skimmed milk powder.

The bags or containers in which the denatured powder is packed will be labelled "For Animal Feed Only".

- (B) Or, after its incorporation in compound or mixed stockfoods of a kind falling within item 23.07 of the Customs Co-operation Council Nomenclature.

### *JAPAN*

Based on the provisions of Article 13 of the Customs Tariff Law, he who wants to import, with customs duty exempted, skimmed milk powder so as to produce animal feed through mixing the powder concerned with other materials shall take the following steps so that the powder concerned will not be diverted to uses other than animal feed:

1. He shall in advance make an application to the Director of Customs Office so that his factory be authorized to produce mixed feed with the duty-exempted skimmed milk powder.

2. When he (himself or through his agent) imports skimmed milk powder for purposes of animal feed, he shall go through necessary importation formalities and customs officers at a port of entry shall keep a record on the quantity of the skimmed milk powder thus imported.

3. He shall deliver the skimmed milk powder to his factory authorized under paragraph 1 above and mix it with fish meal, chrysalis meal or fish soluble.

4. After producing mixed feed, he shall submit, for inspection by the Customs Office, a report which contains, among others, information on the quantities of the skimmed milk powder used in the production and of other materials mixed therewith. The customs officers shall check how much of the quantity recorded at the time of entry has been used in the production and inspect the product concerned before its delivery from the factory.

In cases where he violates the control measures mentioned above, the authorization under paragraph 1 above shall be cancelled and the exempted customs duty shall be collected according to the provisions of the Customs Tariff Law. In addition to the above, he shall be fined or imprisoned, as the case may be, on the ground of the evasion of customs duty as provided for by the Customs Law.

### *NEW ZEALAND\**

- (1) By the addition of finely milled alfalfa flour (98 per cent to pass mesh 60, equivalent to 50 United States standard), in a proportion of 2 to 4 parts per 100 and of phenolphthalein in a proportion of 1:20,000 (1 gr. per 20 kgs. of milk).
- (2) By the addition, in the proportion of 20 per 100 by weight of the product treated (80 per 100 by weight of milk powder and 20 per 100 of the denaturing agent) of a mixture composed of 80 per cent bran and 20 per cent potato flour, rice flour or other common starch (at least 10 per cent to pass mesh 60, equivalent to 50 United States standard), with phenolphthalein in the proportion of 1:20,000.

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\* These processes and control measures apply to buttermilk powder as well as to skimmed milk powder intended for animal feed.

- (3) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 35 kgs. of undeodorized fish meal and 200 grs. of carbonate of iron or sulphate of iron and
- 1.5 kgs. of activated carbon;
  - Or 100 grs. of mixture composed of four fifths of yellow tartrazine (E 102) and one fifth of patent blue V (E 131);
  - Or 20 grs. of cochineal red A (E 124);
  - Or 40 grs. of patent blue V (E 131);
  - Or 20 grs. of edicol lime.
- (4) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 40 kgs. of undeodorized fish meal and 300 grs. of carbonate of iron or sulphate of iron.
- (5) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 4.5 kgs. of fish oil or fish liver oil and 300 grs. of carbonate of iron or sulphate of iron.

The fish meal noted in processes 3 and 4 must contain at least 25 per cent of particles with dimension below 80 microns. In processes 3, 4 and 5, the iron salts have to contain at least 30 per cent of particles of a size lower than 80 microns. The colouring matters have to contain the following percentages of the pure product:

—At least 30 per cent for cochineal red A (E 124);

—At least 25 per cent for the other colouring matters: colouring matters have to contain at least 30 per cent of particles having a size lower than 80 microns; the acidity of fish oil calculated in oleic acid has to be equal to at least 10 per cent.

The products added to skimmed milk powder, according to processes 3, 4 and 5, have to be uniformly distributed as regards in particular the activated carbon, the iron salts and the colouring matters; two samples of 50 grs. each, taken at random in a lot of 25 kgs., must give by chemical determination the same results within the limits of errors admitted by the analysis method used.

- (6) By the addition of dye to liquid skimmed milk before drying at the rate of 2 to 3 ounces per 100 gallons of milk (12.5 to 18.7 grs. per hectolitre).

Dye to be one of the following colours:

*English Standard Index Nos.*

Lissamine green .....	44.090, 42.095, 44.025
Tartrazine .....	19.140
Combined with:	
(i) Brilliant blue F.C.F. ....	42.090
or	
(ii) Green B.S. ....	44.090
Cochineal .....	77.289
Brilliant blue/F.C.F. ....	42.090

- (7) By the addition of meat and bone meal in a proportion of 2:4 parts of skimmed milk powder.
- (8) By the addition, per 100 kgs. of skimmed milk powder, of 2.5 kgs. of lucerne meal or grass meal, containing not less than 70 per cent of particles not exceeding 300 microns, uniformly distributed throughout the mixture.

The bags or containers in which the denatured powder is packed will be labelled "For Animal Feed only"

- (9) Incorporation of skimmed milk powder in compound or mixed stockfoods of a kind falling within item 23.07 of the Customs Co-operation Council Nomenclature.

### NORWAY

Skimmed milk powder\* may be exported from the customs territory of Norway to third countries:

- (A) Either, after the competent Norwegian authorities have ensured that the skimmed milk powder has been denatured according to any one of the following processes:
- (1) By the addition, per 100 kgs. of skimmed milk powder, of 2.5 kgs. of lucerne meal or grass meal, containing not less than 70 per cent of particles not exceeding 300 microns, uniformly distributed throughout the mixture.
  - (2) By the addition of finely milled alfalfa flour (98 per cent to pass mesh 60, equivalent to 50 United States standard), in a proportion of 2 to 4 parts per 100 and of phenolphthalein in a proportion of 1:20,000 (1 gr. per 20 kgs. of milk).
  - (3) By the addition, in the proportion of 20 per 100 by weight of the product treated (80 per 100 by weight of milk powder and 20 per cent of the denaturing agent) of a mixture composed of 80 per cent bran and 20 per cent potato flour, rice flour or other common starch (at least 10 per cent to pass mesh 60, equivalent to 50 United States standard), with phenolphthalein in the proportion of 1:20,000.
  - (4) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 35 kgs. of undeodorized fish meal and 200 grs. of carbonate of iron or sulphate of iron and:
    - (a) 1.5 kgs. of activated carbon;
    - (b) Or 100 grs. of mixture composed of four fifths of yellow tartrazine (E 102) and one fifth of patent blue V (E 131);
    - (c) Or 20 grs. of cochineal red A (E 124);
    - (d) Or 40 grs. of patent blue V (E 131).
  - (5) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 40 kgs. of undeodorized fish meal and 300 grs. of carbonate of iron or sulphate of iron.
  - (6) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 4.5 kgs. of fish oil or fish liver oil and 300 grs. of carbonate of iron or sulphate of iron.

The fish meal noted in processes 4 and 5 must contain at least 25 per cent of particles with dimension below eighty microns. In processes 4, 5 and 6, the iron salts have to contain at least 30 per cent of particles of a size lower than eighty microns. The colouring matters have to contain the following percentages of the pure product:

—At least 30 per cent for cochineal red A (E 124);

\* These processes and control measures apply to buttermilk powder as well as to skimmed milk powder intended for animal feed.



—At least 25 per cent for the other colouring matters: colouring matters have to contain at least 30 per cent of particles having a size lower than eighty microns; the acidity of fish oil calculated in oleic acid has to be equal to at least 10 per cent.

The products added to skimmed milk powder, according to processes 4, 5 and 6, have to be uniformly distributed as regards in particular the activated carbon, the iron salts and the colouring matters; two samples of 50 grs. each, taken at random in a lot of 25 kgs., must give by chemical determination the same results within the limits of errors admitted by the analysis method used.

- (7) Dye to be added to liquid skimmed milk before drying at the rate of 2 to 3 ozs. per 100 gls. of milk (12.5 to 18.7 grs. per hectolitre). The dye to be one of the following colours:

*English Standard Index Nos.*

Lissamine green .....	44.090, 42.095, 44.025
Tartrazine .....	19.140
Combined with:	
(a) Brilliant blue F.C.F. ....	42.090
or	
(b) Green B.S. ....	44.090
Cochineal .....	77.289
Brilliant blue/F.C.F. ....	42.090

- (8) By the addition of meat and bone meal in a proportion of 2 to 4 parts of skimmed milk powder.

The bags or containers in which the denatured powder is packed will be labelled "For Animal Feed Only".

- (B) Or, after its incorporation in compound or mixed stockfoods of a kind falling within item 23.07 of the Customs Co-operation Council Nomenclature.

### SPAIN

The control systems applied by Spain to imports of skimmed milk powder intended for animal feed are set forth in the following texts annexed hereto:

- (1) Circular No. 789 of the General Directorate of Customs, establishing rules for the denaturing of milk powder (Annex 1);
- (2) Order of Ministry of Agriculture of 30 October 1976 establishing control and surveillance of denatured milk powder and whey powder for use in animal feed (Annex 2).

In addition, other supplementary provisions are in existence such as the Ministry of Finance Order dated 22 September 1969, determining the responsibilities of the customs authorities with respect to chemical analysis, and Customs Circular No. 626 (*Official Gazette* of 17 October 1969) prescribing the modalities for chemical analysis, rules for the taking of samples and the responsibility of the various laboratories.

ANNEX 1. GENERAL DIRECTORATE OF CUSTOMS—CIRCULAR NO. 789 (OFFICIAL GAZETTE OF 12 OCTOBER 1977) ESTABLISHING RULES FOR THE DENATURING OF MILK POWDER

The denaturing of skimmed milk powder is to be effected by either of the following two processes:

1. Homogeneous addition to the products to be denatured of 1 per cent of blood flour and 1 per cent of fish flour;\* both substances must be finely ground, and each must pass through a No. 60 screen of the Tyler fine series (0.246 millimetre mesh) or its standard equivalents, in a proportion of not less than 80 per cent.

The blood flour shall be of a type regarded as soluble in the trade and must meet the requirement that when diluted in water in a 10 per cent solution and when the solution is shaken for fifteen minutes and centrifuged for an additional fifteen minutes at 2,000 revolutions per minute, the sediment shall not exceed 5 per cent.

2. Homogeneous addition to the products to be denatured of 1 per cent of blood flour and 1 per cent of non-deodorized fish solubles.

The blood flour shall have the characteristics required in the previous process and the fish solubles shall also have, so far as degree of fineness is concerned, the same characteristics as those indicated in the previous process for blood flour and fish flour.

ANNEX 2. MINISTRY OF AGRICULTURE—ORDER OF 30 OCTOBER 1976 ESTABLISHING CONTROL AND SURVEILLANCE OF DENATURED MILK POWDER AND WHEY POWDER FOR USE IN ANIMAL FEED

The import of denatured milk powder or whey powder under the Liberalized-Trade Régime exclusively for purposes of animal feed requires regulation of the control and surveillance of use, with the twofold objective of guaranteeing the quality of both the basic product and the denaturing agents employed and of preventing unlawful competition with domestic dairy products.

Quality standards and requirements for substances and products used in animal feed having been approved by Decree 851/1975 of 20 March and Ministerial Order of the Minister of Agriculture of 23 June 1976, it is necessary to make an order regarding procedures for testing and demanding the necessary quality in those products.

In pursuance of the instructions contained in Article 21 of the said Decree regarding the control and surveillance to be exercised by the Ministry of Agriculture over the handling, transport and storage of products for use in animal feed and by virtue of the authority vested in this Department by final provision 4 of the said Decree, I have deemed it fitting to provide as follows:

*Article 1.* The denatured milk powder and whey powder to be imported must meet the quality requirements laid down for those products in the Ministerial Order of 23 June 1976, taking into account any modifications in those characteristics which may result from the denaturing agent used. The products used as denaturing agents may be those approved by Circular No. 543 of the General Directorate of Customs (*Boletín Oficial del Estado* of 28 July 1966) or such other products as may subsequently be approved for the purpose.

\* It is the understanding of the Spanish authorities that the fish flour must be non-deodorized.

The foregoing shall be tested by means of analyses performed by laboratories belonging to this Department on samples taken, prior to customs clearance, by the appropriate inspection services from the lots being imported.

*Article 2.* In order to ensure adequate preservation of the quality of these products, they may only be imported in sacks. Each of the sacks shall bear an appropriate label giving particulars concerning the type of product and the denaturing agent or agents used. Each sack shall be conspicuously marked with the words: "Products for use only in animal feed".

*Article 3.* The Customs Veterinary Inspection Services of this Department shall take the necessary samples and shall arrange for their despatch to the appropriate laboratory for analysis.

Before issuing the Certificate of Inspection, they shall verify the health documents accompanying the lot to be imported and shall obtain from the importer complete information concerning the destination of the product in question so as to supplement the particulars on the Import and Destination Form that is to accompany the goods (Annex 1). This form shall be signed by the importer or by a person duly authorized by him.

If the imported lot has different destinations, the importer or his representative shall make a declaration for each sub-lot.

*Article 4.* For purposes of subsequent control of these products, the Customs Veterinary Inspection Services shall send a copy of the Import and Destination Form to the appropriate provincial branch-office for agriculture so that the necessary verifications and procedures may be carried out by the Service for Fraud Prevention and Agricultural Testing and Analysis.

*Article 5.* Imported denatured dairy products shall be used exclusively in animal feed and accordingly, after clearance by Customs, they shall be consigned exclusively to fodder or additive plants, wholesale warehouses or stock-farmers, all of whom shall preserve the documentation accompanying the goods since [their] entry in Customs. The subsequent movement of these products shall be restricted to authorized industrial and warehousing enterprises, which must ensure that the goods are always accompanied by documents or invoices certifying the origin thereof. The consignee of the goods shall hold the original of these documents at the disposal of the inspection services for one year, and the consignor shall hold the copy or counterfoil for the same period of time and for the same purpose.

*Article 6.* The removal or total or partial elimination of the denaturing substances incorporated in the dairy products referred to in this Order, and likewise any other practice that would annul effects indicative of the presence of such substances, shall be prohibited.

*Article 7.* The inspection services of the Department shall ensure strictest compliance with the provisions of this Order, and any movement or possession of the said products in circumstances other than those authorized by this Order shall be deemed clandestine.

*Article 8.* Infringements of the provisions laid down in this Order shall be punished in accordance with the provisions of Decree 2177/1973, of 12 July, governing penalties for fraud in respect of agricultural products.

*Article 9.* The General Directorate of Agrarian Industries and the General Directorate of Agrarian Production are hereby empowered to establish additional rules for the implementation of the present Order.

Communicated for your information and action, Madrid, 30 October 1976.

## SWITZERLAND

Skimmed milk powder may be exported from the customs territory of Switzerland to third countries:

- (A) Either, after the competent Swiss authorities have ensured that the skimmed milk powder has been denatured according to any one of the following processes:
- (1) By the addition, per 100 kgs. of skimmed milk powder, of 2.5 kgs. of lucerne meal or grass meal, containing not less than 70 per cent of particles not exceeding 300 microns, uniformly distributed throughout the mixture.
  - (2) By the addition of finely milled alfalfa flour (98 per cent to pass mesh 60, equivalent to 50 United States standard), in a proportion of 2 to 4 parts per 100 and of phenolphthalein in a proportion of 1:20,000 (1 gr. per 20 kgs. of milk).
  - (3) By the addition, in the proportion of 20 per 100 by weight of the product treated (80 per 100 by weight of milk powder and 20 per cent of the denaturing agent) of a mixture composed of 80 per cent bran and 20 per cent potato flour, rice flour or other common starch (at least 10 per cent to pass mesh 60, equivalent to 50 United States standard), with phenolphthalein in the proportion of 1:20,000.
  - (4) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 35 kgs. of undeodorized fish meal and 200 grs. of carbonate of iron or sulphate of iron and:
    - (a) 1.5 kgs. of activated carbon;
    - (b) Or 100 grs. of mixture composed of four fifths of yellow tartrazine (E 102) and one fifth of patent blue V (E 131);
    - (c) Or 20 grs. of cochineal red A (E 124);
    - (d) Or 40 grs. of patent blue V (E 131).
  - (5) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 40 kgs. of undeodorized fish meal and 300 grs. of carbonate of iron or sulphate of iron.
  - (6) By the addition of, for each 100 kgs. of skimmed milk powder, a minimum of 4.5 kgs. of fish oil or fish liver oil and 300 grs. of carbonate of iron or sulphate of iron.

The fish meal noted in processes 4 and 5 must contain at least 25 per cent of particles with dimension below eighty microns. In processes 4, 5 and 6, the iron salts have to contain at least 30 per cent of particles of a size lower than eighty microns. The colouring matters have to contain the following percentages of the pure product:

—At least 30 per cent for cochineal red A (E 124);

—At least 25 per cent for the other colouring matters: colouring matters have to contain at least 30 per cent of particles having a size lower than eighty microns; the acidity of fish oil calculated in oleic acid has to be equal to at least 10 per cent.

The products added to skimmed milk powder, according to processes 4, 5 and 6, have to be uniformly distributed as regards in particular the activated carbon, the iron salts and the colouring matters; two samples of 50 grs. each, taken at random in a lot of 25 kgs., must give by chemical determination the same results within the limits of errors admitted by the analysis method used.

- (7) Dye to be added to liquid skimmed milk before drying at the rate of 2 to 3 ozs. per 100 gls. of milk (12.5 to 18.7 grs. per hectolitre). The dye to be one of the following colours:

*English Standard Index Nos.*

Lissamine green .....	44.090, 42.095, 44.025
Tartrazine .....	19.140
Combined with:	
(a) Brilliant blue F.C.F. ....	42.090
or	
(b) Green B.S. ....	44.090
Cochineal .....	77.289
Brilliant blue/F.C.F. ....	42.090

- (8) By the addition of meat and bone meal in a proportion of 2 to 4 parts of skimmed milk powder.

The bags or containers in which the denatured powder is packed will be labelled "For Animal Feed Only".

- (B) Or, after its incorporation in compound or mixed stockfoods of a kind falling within item 23.07 of the Customs Co-operation Council Nomenclature.

## ANNEX II

### PROTOCOL REGARDING MILK FAT

#### PART ONE

##### *Article 1. PRODUCT COVERAGE*

1. This Protocol applies to milk fat falling under CCCN heading No. 04.03, having a milk fat content equal to or greater than 50 per cent by weight.

#### PART TWO

##### *Article 2. PILOT PRODUCTS*

1. For the purpose of this Protocol, minimum export prices shall be established for the pilot products of the following descriptions:

(a) *Designation: Anhydrous milk fat*

—Milk fat content: 99.5 per cent by weight

(b) *Designation: Butter*

—Milk fat content: 80 per cent by weight

*Packaging.* In packages normally used in the trade, of a net content by weight of not less than 25 kgs. or 50 lbs. as appropriate.

*Terms of sale.* F.o.b. from the exporting country or free-at-frontier exporting country.

By derogation from this provision, reference points are designated for the countries listed in Annex II a. The Committee established in pursuance of Article VII:2(a) of the Arrangement (hereinafter referred to as the Committee) may amend the contents of that Annex.

Prompt payment against documents.

### Article 3. MINIMUM PRICES

#### *Level and observance of minimum prices*

1. Participants undertake to take the steps necessary to ensure that the export prices of the products defined in Article 2 of this Protocol shall not be less than the minimum prices applicable under the present Protocol. If the products are exported in the form of goods in which they have been incorporated, participants shall take the steps necessary to avoid the circumvention of the price provisions of this Protocol.

2. (a) The minimum price levels set out in the present Article take account, in particular, of the current market situation, dairy prices in producing participants, the need to ensure an appropriate relationship between the minimum prices established in the Protocols to the present Arrangement, the need to ensure equitable prices to consumers, and the desirability of maintaining a minimum return to the most efficient producers in order to ensure stability of supply over the longer term.

(b) The minimum prices provided for in paragraph 1 of the present Article applicable at the date of entry into force of this Protocol are fixed at:

(i) US\$1,100 per metric ton for the anhydrous milk fat defined in Article 2 of this Protocol.

(ii) US\$925 per metric ton for the butter defined in Article 2 of this Protocol.

3. (a) The levels of the minimum prices specified in the present Article can be modified by the Committee, taking into account, on the one hand, the results of the operation of the Protocol and, on the other hand, the evolution of the situation of the international market.

(b) The levels of the minimum prices specified in the present Article shall be subject to review at least once a year by the Committee. The Committee shall meet in September of each year for this purpose. In undertaking this review the Committee shall take account in particular, to the extent relevant and necessary, of costs faced by producers, other relevant economic factors of the world market, the need to maintain a long-term minimum return to the most economic producers, the need to maintain stability of supply and to ensure acceptable prices to consumers, and the current market situation and shall have regard to the desirability of improving the relationship between the levels of the minimum prices set out in paragraph 2(b) of the present Article and the dairy support levels in the major producing participants.

#### *Adjustment of minimum prices*

4. If the products actually exported differ from the pilot products in respect of the fat content, packaging or terms of sale, the minimum prices shall be adjusted so as to protect the minimum prices established in this Protocol for the products specified in Article 2 of this Protocol according to the following provisions:

*Milk fat content.* If the milk fat content of the product defined in Article 1 of the present Protocol differs from the milk fat content of the pilot products as defined in Article 2 of the present Protocol then, if the milk fat content is equal to or greater than 82 per cent or less than 80 per cent, the minimum price of this product shall be, for each full percentage point by which the milk fat content is more than or less than 80 per cent, increased or reduced in proportion to the difference between the minimum prices established for the pilot products defined in Article 2 of the present Protocol.\*

\* See Annex II (b), "Schedule of price differentials according to milk fat content".

*Packaging.* If the products are offered otherwise than in packages normally used in the trade, of a net content by weight of not less than 25 kgs. or 50 lbs., as appropriate, the minimum prices shall be adjusted so as to reflect the difference in the cost of packaging from the type of package specified above.

*Terms of sale.* If sold on terms other than f.o.b. from the exporting country or free-at-frontier exporting country,\* the minimum prices shall be calculated on the basis of the minimum f.o.b. prices specified in paragraph 2(b) of this Article, plus the real and justified costs of the services provided; if the terms of the sale include credit, this shall be charged for at the prevailing commercial rates in the country concerned.

#### *Special conditions of sales*

5. Participants undertake within the limit of their institutional possibilities to ensure that practices such as those referred to in Article 4 of this Protocol do not have the effect of directly or indirectly bringing the export prices of the products subject to the minimum price provisions below the agreed minimum prices.

#### *Field of application*

6. For each participant, this Protocol is applicable to exports of the products specified in Article 1 of this Protocol manufactured or repacked inside its own customs territory.

#### *Transactions other than normal commercial transactions*

7. The provisions of paragraphs 1 to 6 of this Article shall not be regarded as applying to donated exports to developing countries or to exports destined for relief purposes or food-related development purposes or welfare purposes in developing countries.

### *Article 4. PROVISION OF INFORMATION*

1. In cases where prices in international trade of the products covered by Article 1 of this Protocol are approaching the minimum prices mentioned in Article 3:2(b) of this Protocol, and without prejudice to the provisions of Article III of the Arrangement, participants shall notify to the Committee all the relevant elements for evaluating their own market-situation and, in particular, credit or loan practices, twinning with other products, barter or three-sided transactions, refunds or rebates, exclusivity contracts, packaging costs and details of the packaging, so that the Committee can make a verification.

### *Article 5. OBLIGATIONS OF EXPORTING PARTICIPANTS*

1. Exporting participants agree to use their best endeavours, in accordance with their institutional possibilities, to supply on a priority basis the normal commercial requirements of developing importing participants, especially those used for food-related development purposes and welfare purposes.

### *Article 6. CO-OPERATION OF IMPORTING PARTICIPANTS*

1. Participants which import products covered by Article 1 of this Protocol undertake in particular:

- (a) To co-operate in implementing the minimum prices objective of this Protocol and to ensure, as far as possible, that the products covered by Article 1 of this Protocol are

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\* See Article 2.

not imported at less than the appropriate customs valuation equivalent to the prescribed minimum prices;

- (b) Without prejudice to the provisions of Article III of the Arrangement and Article 4 of this Protocol, to supply information concerning imports of products covered by Article 1 of this Protocol from non-participants;
- (c) To consider sympathetically proposals for appropriate remedial action if imports at prices inconsistent with the minimum prices threaten the operation of this Protocol.

### PART THREE

#### *Article 7. DEROGATIONS*

1. Upon request by a participant, the Committee shall have the authority to grant derogations from the provisions of Article 3, paragraphs 1 to 4 of this Protocol in order to remedy difficulties which observance of minimum prices could cause certain participants. The Committee shall pronounce on such a request within three months from the date of the request.

#### *Article 8. EMERGENCY ACTION*

1. Any participant, which considers that its interests are seriously endangered by a country not bound by this Protocol, can request the Chairman of the Committee to convene an emergency meeting of the Committee within two working days to determine and decide whether measures would be required to meet the situation. If such a meeting cannot be arranged within the two working days and the commercial interests of the participant concerned are likely to be materially prejudiced, that participant may take unilateral action to safeguard its position, on the condition that any other participants likely to be affected are immediately notified. The Chairman of the Committee shall also be formally advised immediately of the full circumstances of the case and shall be requested to call a special meeting of the Committee at the earliest possible moment.

### ANNEX II *a*

#### PROTOCOL REGARDING MILK FAT—LIST OF REFERENCE POINTS

In accordance with the provisions of Article 2 of this Protocol, the following reference points are designated for the countries listed below:

- Austria: Antwerp, Hamburg, Rotterdam
- Finland: Antwerp, Hamburg, Rotterdam  
Basle: for butter exports to Switzerland
- Norway: Antwerp, Hamburg, Rotterdam
- Sweden: Antwerp, Hamburg, Rotterdam  
Basle: for butter exports to Switzerland



ANNEX II *b*

PROTOCOL REGARDING MILK FAT—  
SCHEDULE OF PRICE DIFFERENTIALS ACCORDING TO MILK FAT CONTENT

<i>Milk fat content, %</i>		<i>Minimum price, US\$/metric ton</i>
Equal to or more than —, less than —	.....	—
Equal to or more than —, less than —	.....	—
Equal to or more than 79, less than 80	.....	916.25
Equal to or more than 80, less than 82	.....	925
Equal to or more than 82, less than 83	.....	942.50
Equal to or more than 83, less than 84	.....	951.25
Equal to or more than 84, less than 85	.....	960
Equal to or more than 85, less than 86	.....	968.85
Equal to or more than 86, less than 87	.....	977.50
Equal to or more than 87, less than 88	.....	986.25
Equal to or more than 88, less than 89	.....	995
Equal to or more than 89, less than 90	.....	1,003.75
Equal to or more than 90, less than 91	.....	1,012.50
Equal to or more than 91, less than 92	.....	1,021.25
Equal to or more than 92, less than 93	.....	1,030
Equal to or more than 93, less than 94	.....	1,038.75
Equal to or more than 94, less than 95	.....	1,047.50
Equal to or more than 95, less than 96	.....	1,056.25
Equal to or more than 96, less than 97	.....	1,065
Equal to or more than 97, less than 98	.....	1,073.75
Equal to or more than 98, less than 99	.....	1,082.50
Equal to or more than 99, less than 99.5	.....	1,091.25
Equal to or more than 99.5, .....	.....	1,100

## ANNEX III

PROTOCOL REGARDING CERTAIN CHEESES

PART ONE

*Article 1. PRODUCT COVERAGE*

1. This Protocol applies to cheeses falling under CCCN heading No. 04.04, having a fat content in dry matter, by weight, equal to or more than 45 per cent and a dry matter content, by weight, equal to or more than 50 per cent.

PART TWO

*Article 2. PILOT PRODUCT*

1. For the purpose of this Protocol, a minimum export price shall be established for the pilot product of the following description:

*Designation: Cheese*

*Packaging.* In packages normally used in the trade of a net content by weight of not less than 20 kgs. or 40 lbs., as appropriate.

*Terms of sale.* F.o.b. from the exporting country or free-at-frontier exporting country.

By derogation from this provision, reference points are designated for the countries listed in Annex IIIa. The Committee established in pursuance of Article VII:2(a) of the Arrangement (hereinafter referred to as the Committee) may amend the contents of that Annex.

Prompt payment against documents.

### Article 3. MINIMUM PRICE

#### *Level and observance of minimum price*

1. Participants undertake to take the steps necessary to ensure that the export prices of the products defined in Articles 1 and 2 of this Protocol shall not be less than the minimum price applicable under the present Protocol. If the products are exported in the form of goods in which they have been incorporated, participants shall take the steps necessary to avoid the circumvention of the price provisions of this Protocol.

2. (a) The minimum price level set out in the present Article takes account, in particular, of the current market situation, dairy prices in producing participants, the need to ensure an appropriate relationship between the minimum prices established in the Protocols to the present Arrangement, the need to ensure equitable prices to consumers, and the desirability of maintaining a minimum return to the most efficient producers in order to ensure stability of supply over the longer term.

(b) The minimum price provided for in paragraph 1 of the present Article applicable at the date of entry into force of this Protocol is fixed at US\$800 per metric ton.

3. (a) The level of the minimum price specified in the present Article can be modified by the Committee, taking into account, on the one hand, the results of the operation of the Protocol and, on the other hand, the evolution of the situation of the international market.

(b) The level of the minimum price specified in the present Article shall be subject to review at least once a year by the Committee. The Committee shall meet in September of each year for this purpose. In undertaking this review the Committee shall take account in particular, to the extent relevant and necessary, of costs faced by producers, other relevant economic factors of the world market, the need to maintain a long-term minimum return to the most economic producers, the need to maintain stability of supply and to ensure acceptable prices to consumers, and the current market situation and shall have regard to the desirability of improving the relationship between the level of the minimum price set out in paragraph 2(b) of the present Article and the dairy support levels in the major producing participants.

#### *Adjustment of minimum price*

4. If the products actually exported differ from the pilot product in respect of the packaging or terms of sale, the minimum price shall be adjusted so as to protect the minimum price established in this Protocol, according to the following provisions:

*Packaging.* If the products are offered otherwise than in packages as specified in Article 2, the minimum price shall be adjusted so as to reflect the difference in the cost of packaging from the type of package specified above.

*Terms of sale.* If sold on terms other than f.o.b. from the exporting country or free-at-frontier exporting country,\* the minimum price shall be calculated on the basis of the minimum f.o.b. price specified in paragraph 2(b) of this Article, plus the real and justified costs of the services provided; if the terms of the sale include credit, this shall be charged for at the prevailing commercial rates in the country concerned.

\* See Article 2.

*Special conditions of sale*

5. Participants undertake within the limit of their institutional possibilities to ensure that practices such as those referred to in Article 4 of this Protocol do not have the effect of directly or indirectly bringing the export prices of the products subject to the minimum price provisions below the agreed minimum price.

*Field of application*

6. For each participant, this Protocol is applicable to exports of the products specified in Article 1 of this Protocol manufactured or repacked inside its own customs territory.

*Transactions other than normal commercial transactions*

7. The provisions of paragraphs 1 to 6 of this Article shall not be regarded as applying to donated exports to developing countries or to exports destined for relief purposes or food-related development purposes or welfare purposes in developing countries.

*Article 4. PROVISION OF INFORMATION*

1. In cases where prices in international trade of the products covered by Article 1 of this Protocol are approaching the minimum price mentioned in Article 3:2(b) of this Protocol and without prejudice to the provisions of Article III of the Arrangement participants shall notify to the Committee all the relevant elements for evaluating their own market situation and, in particular, credit or loan practices, twinning with other products, barter or three-sided transactions, refunds or rebates, exclusivity contracts, packaging costs and details of the packaging, so that the Committee can make a verification.

*Article 5. OBLIGATIONS OF EXPORTING PARTICIPANTS*

1. Exporting participants agree to use their best endeavours, in accordance with their institutional possibilities, to supply on a priority basis the normal commercial requirements of developing importing participants, especially those used for food-related development purposes and welfare purposes.

*Article 6. CO-OPERATION OF IMPORTING PARTICIPANTS*

1. Participants which import products covered by Article 1 of this Protocol undertake in particular:

- (a) To co-operate in implementing the minimum price objective of this Protocol and to ensure, as far as possible, that the products covered by Article 1 of this Protocol are not imported at less than the appropriate customs valuation equivalent to the prescribed minimum price;
- (b) Without prejudice to the provisions of Article III of the Arrangement and Article 4 of this Protocol, to supply information concerning imports of products covered by Article 1 of this Protocol from non-participants;
- (c) To consider sympathetically proposals for appropriate remedial action if imports at prices inconsistent with the minimum price threaten the operation of this Protocol.

## PART THREE

*Article 7. DEROGATIONS*

1. Upon request by a participant, the Committee shall have the authority to grant derogations from the provisions of Article 3, paragraphs 1 to 4 of this Protocol in order to remedy difficulties which observance of minimum prices could cause certain participants. The Committee shall pronounce on such a request within thirty days from the date of the request.

2. The provisions of Article 3:1 to 4 shall not apply to exports, in exceptional circumstances, of small quantities of natural unprocessed cheese which would be below normal export quality as a result of deterioration or production faults. Participants exporting such cheese shall notify the GATT secretariat in advance of their intention to do so. Participants shall also notify the Committee quarterly of all sales of cheese effected under the provisions of this paragraph, specifying in respect of each transaction, the quantities, prices and destinations involved.

*Article 8. EMERGENCY ACTION*

1. Any participant, which considers that its interests are seriously endangered by a country not bound by this Protocol, can request the Chairman of the Committee to convene an emergency meeting of the Committee within two working days to determine and decide whether measures would be required to meet the situation. If such a meeting cannot be arranged within the two working days and the commercial interests of the participant concerned are likely to be materially prejudiced, that participant may take unilateral action to safeguard its position, on the condition that any other participants likely to be affected are immediately notified. The Chairman of the Committee shall also be formally advised immediately of the full circumstances of the case and shall be requested to call a special meeting of the Committee at the earliest possible moment.

ANNEX III *a*

## PROTOCOL REGARDING CERTAIN CHEESES—LIST OF REFERENCE POINTS

In accordance with the provisions of Article 2 of this Protocol, the following reference points are designated for the countries listed below:

- Austria: Antwerp, Hamburg, Rotterdam
- Finland: Antwerp, Hamburg, Rotterdam
- Norway: Antwerp, Hamburg, Rotterdam
- Sweden: Antwerp, Hamburg, Rotterdam
- Poland: Antwerp, Hamburg, Rotterdam

## APPENDIX. INTERPRETATIVE STATEMENTS

The United States undertakes to implement the economic provisions of this Arrangement fully within the limit of its institutional possibilities.

Japan undertakes to implement the provisions of this Arrangement fully within the limit of its institutional possibilities.

Japan has accepted Article 3:5 of the Protocol Regarding Certain Milk Powders on the understanding that advance notification of its intention to make use of the provisions of

that paragraph may be made globally for a given period and not separately for each transaction.

The Nordic countries have accepted Article V:3 of the Arrangement with the understanding that it does not in any way prejudice their position with regard to the definition of (other than) normal commercial transactions.

Switzerland has indicated that it is reserving the right to request at a later date the designation of two or three European ports as reference points under Article 2 of the Protocol Regarding Certain Milk Powders in the event that its exports made this necessary.

New Zealand has indicated that the annual quantities of its exports under Article 7:2 of the Protocol Regarding Certain Cheeses should normally be of the order of 1,000 metric tons and could, in exceptional circumstances, amount to some 2,000 metric tons.

For the People's  
Democratic  
Republic of Algeria:

Pour la République  
algérienne  
démocratique  
et populaire :

Por la República  
Argelina  
Democrática y Popular:

For the Argentine  
Republic:

Pour la République  
argentine :

Por la República  
Argentina:

[G. O. MARTINEZ  
17 December 1979

Subject to ratification — Sous réserve de ratification]

For the Commonwealth  
of Australia:

Pour le Commonwealth  
d'Australie :

Por el Commonwealth  
de Australia:

For the Republic  
of Austria:

Pour la République  
d'Autriche :

Por la República  
de Austria:

[R. WILLENPART  
17 December 1979

Subject to ratification — Sous réserve de ratification]

For the People's Republic  
of Bangladesh:

Pour la République  
populaire du Bangladesh :

Por la República Popular  
de Bangladesh:

For Barbados:

Pour la Barbade :

Por Barbados:

For the Kingdom  
of Belgium:

Pour le Royaume  
de Belgique :

Por el Reino  
de Bélgica:

For the People's  
Republic of Benin:

Pour la République  
populaire du Bénin :

Por la República  
Popular de Benin:

For the Republic  
of Bolivia:

Pour la République  
de Bolivie :

Por la República  
de Bolivia:

For the Republic  
of Botswana:

Pour la République  
du Botswana :

Por la República  
de Botswana:

For the Federative  
Republic of Brazil:

Pour la République  
fédérative du Brésil :

Por la República  
Federativa del Brasil:

For the People's  
Republic of Bulgaria:

Pour la République  
populaire de Bulgarie :  
[I. ANASTASSOV  
26 December 1979]

Por la República  
Popular de Bulgaria:

For the Socialist Republic  
of the Union  
of Burma:

Pour la République  
socialiste de l'Union  
birmane :

Por la República Socialista  
de la Unión  
Birmana:

For the Republic  
of Burundi:

Pour la République  
du Burundi :

Por la República  
de Burundi:

For the United Republic  
of Cameroon:

Pour la République-Unie  
du Cameroun :

Por la República Unida  
del Camerún:

For Canada:

Pour le Canada :

Por el Canadá:

For the Central African  
Empire:

Pour l'Empire  
centrafricain :

Por el Imperio  
Centroafricano:

For the Republic  
of Chad:

Pour la République  
du Tchad :

Por la República  
del Chad:

For the Republic  
of Chile:

Pour la République  
du Chili :

Por la República  
de Chile:

For the Republic  
of Colombia:

Pour la République  
de Colombie :

Por la República  
de Colombia:

For the People's Republic  
of the Congo:

Pour la République  
populaire du Congo :

Por la República Popular  
del Congo:

For the Republic  
of Costa Rica:

Pour la République  
du Costa Rica :

Por la República  
de Costa Rica:

For the Republic  
of Cuba:

Pour la République  
de Cuba :

Por la República  
de Cuba:

For the Republic  
of Cyprus:

Pour la République  
de Chypre :

Por la República  
de Chipre:

For the Czechoslovak  
Socialist Republic:

Pour la République  
socialiste tchécoslovaque :

Por la República  
Socialista Checoslovaca:

For the Kingdom  
of Denmark:

Pour le Royaume  
du Danemark :

Por el Reino  
de Dinamarca:

For the Dominican  
Republic:

Pour la République  
dominicaine :

Por la República  
Dominicana:

For the Republic  
of Ecuador:

Pour la République  
de l'Équateur :

Por la República  
del Ecuador:

For the Arab Republic  
of Egypt:

Pour la République  
arabe d'Égypte :

Por la República Árabe  
de Egipto:



For the Republic  
of El Salvador:

Pour la République  
d'El Salvador :

Por la República  
de El Salvador:

For Ethiopia:

Pour l'Éthiopie :

Por Etiopía:

For the Republic  
of Finland:

Pour la République  
de Finlande :

Por la República  
de Finlandia:

[PAAVO KAARLEHTO  
17 December 1979

Subject to ratification — Sous réserve de ratification]

For the French Republic:

Pour la République  
française :

Por la República Francesa:

For the Gabonese  
Republic:

Pour la République  
gabonaise :

Por la República  
Gabonesa:

For the Republic  
of the Gambia:

Pour la République  
de Gambie :

Por la República  
de Gambia:

For the Federal Republic  
of Germany:

Pour la République  
fédérale d'Allemagne :

Por la República Federal  
de Alemania:

For the Republic  
of Ghana:

Pour la République  
du Ghana :

Por la República  
de Ghana:

For the Hellenic Republic:

Pour la République  
hellénique :

Por la República Helénica:

For the Republic  
of Guatemala:

Pour la République  
du Guatemala :

Por la República  
de Guatemala:

For the Republic  
of Guyana:

Pour la République  
du Guyana :

Por la República  
de Guyana:

For the Republic of Haiti:

Pour la République  
d'Haïti :

Por la República de Haití:

For the Republic  
of Honduras:

Pour la République  
du Honduras :

Por la República  
de Honduras:

For the Hungarian  
People's Republic:

Pour la République  
populaire hongroise :  
[JANOS NYERGES  
17 December 1979]

Por la República  
Popular Húngara:

For the Republic  
of Iceland:

Pour la République  
d'Islande :

Por la República  
de Islandia:

For the Republic  
of India:

Pour la République  
de l'Inde :

Por la República  
de la India:

For the Republic  
of Indonesia:

Pour la République  
d'Indonésie :

Por la República  
de Indonesia:

For Iran:

Pour l'Iran :

Por el Irán:

For the Republic  
of Iraq:

Pour la République  
d'Irak :

Por la República  
del Iraq:

For Ireland:

Pour l'Irlande :

Por Irlanda:

For the State of Israel:	Pour l'Etat d'Israël :	Por el Estado de Israel:
For the Italian Republic:	Pour la République italienne :	Por la República Italiana:
For the Republic of the Ivory Coast:	Pour la République de Côte d'Ivoire :	Por la República de Costa de Marfil:
For Jamaica:	Pour la Jamaïque :	Por Jamaica:
For Japan:	Pour le Japon : [MASAO SAWAKI 17 December 1979]	Por el Japón:
For the Republic of Kenya:	Pour la République du Kenya :	Por la República de Kenya:
For the Republic of Korea:	Pour la République de Corée :	Por la República de Corea:
For the State of Kuwait:	Pour l'Etat du Koweït :	Por el Estado de Kuwait:
For the Grand Duchy of Luxembourg:	Pour le Grand-Duché de Luxembourg :	Por el Gran Ducado de Luxemburgo:
For the Democratic Republic of Madagascar:	Pour la République démocratique de Madagascar :	Por la República Democrática de Madagascar:

For the Republic of Malawi:	Pour la République du Malawi :	Por la República de Malawi:
For Malaysia:	Pour la Malaisie :	Por Malasia:
For the Republic of Mali:	Pour la République du Mali :	Por la República de Malí:
For the Republic of Malta:	Pour la République de Malte :	Por la República de Malta:
For the Islamic Republic of Mauritania:	Pour la République islamique de Mauritanie :	Por la República Islámica de Mauritania:
For Mauritius:	Pour Maurice :	Por Mauricio:
For the United Mexican States:	Pour les Etats-Unis de Mexique :	Por los Estados Unidos Mexicanos:
For the Kingdom of the Netherlands:	Pour le Royaume des Pays-Bas :	Por el Reino de los Países Bajos:
For New Zealand:	Pour la Nouvelle-Zélande : [E. FARNON 17 December 1979]	Por Nueva Zelandia:
For the Republic of Nicaragua:	Pour la République du Nicaragua :	Por la República de Nicaragua:

For the Republic  
of Niger:

Pour la République  
du Niger :

Por la República  
del Níger:

For the Federal Republic  
of Nigeria:

Pour la République  
fédérale du Nigéria :

Por la República Federal  
de Nigeria:

For the Kingdom  
of Norway:

Pour le Royaume  
de Norvège :

Por el Reino  
de Noruega:

[JOHAN CAPPELEN  
17 December 1979

Subject to acceptance — Sous réserve de l'acceptation]

For the Islamic Republic  
of Pakistan:

Pour la République  
islamique du Pakistan :

Por la República Islámica  
del Pakistán:

For the Republic  
of Panama:

Pour la République  
du Panama :

Por la República  
de Panamá:

For Papua New Guinea:

Pour Papouasie-Nouvelle-  
Guinée :

Por Papua Nueva Guinea:

For the Republic  
of Paraguay:

Pour la République  
du Paraguay :

Por la República  
del Paraguay:

For the Republic  
of Peru:

Pour la République  
du Pérou :

Por la República  
del Perú:

For the Republic  
of the Philippines:

Pour la République  
des Philippines :

Por la República  
de Filipinas:

For the Polish  
People's Republic:

Pour la République  
populaire de Pologne :

Por la República  
Popular Polaca:

For the Portuguese  
Republic:

Pour la République  
portugaise :

Por la República  
Portuguesa:

For Rhodesia:

Pour la Rhodésie :

Por Rhodesia:

For the Socialist Republic  
of Romania:

Pour la République  
socialiste de Roumanie :

Por la República Socialista  
de Rumania:

For the Rwandese  
Republic:

Pour la République  
rwandaise :

Por la República  
Rwandesa:

For the Republic  
of Senegal:

Pour la République  
du Sénégal :

Por la República  
del Senegal:

For the Republic  
of Sierra Leone:

Pour la République  
de Sierra Leone :

Por la República  
de Sierra Leona:

For the Republic  
of Singapore:

Pour la République  
de Singapour :

Por la República  
de Singapur:

For the Somali  
Democratic Republic:

Pour la République  
démocratique somalie :

Por la República  
Democrática Somalí:

For the Republic  
of South Africa:

Pour la République  
sud-africaine :  
[D. F. TOTHILL  
18 December 1979]

Por la República  
de Sudáfrica:

For the Spanish State:

Pour l'Etat espagnol :

Por el Estado Español:

For the Democratic  
Socialist Republic  
of Sri Lanka:

Pour la République  
socialiste démocratique  
de Sri Lanka :

Por la República Socialista  
Democrática  
de Sri Lanka:

For the Democratic  
Republic of Sudan:

Pour la République  
démocratique du Soudan :

Por la República  
Democrática del Sudán:

For the Republic  
of Suriname:

Pour la République  
du Suriname :

Por la República  
de Suriname:

For the Kingdom  
of Swaziland:

Pour le Royaume  
du Swaziland :

Por el Reino  
de Swazilandia:

For the Kingdom  
of Sweden:

Pour le Royaume  
de Suède :

Por el Reino  
de Suecia:

[M. LEMMEL  
17 December 1979

Subject to ratification — Sous réserve de ratification]

For the Swiss  
Confederation:

Pour la Confédération  
suisse :

Por la Confederación  
Suiza:

[A. DUNKEL  
17 December 1979]

For the United Republic  
of Tanzania:

Pour la République-  
Unie de Tanzanie :

Por la República  
Unida de Tanzania:

For the Kingdom  
of Thailand:

Pour le Royaume  
de Thaïlande :

Por el Reino  
de Tailandia:

For the Togolese  
Republic:

Pour la République  
togolaise :

Por la República  
Togolesa:

For the Kingdom of Tonga:	Pour le Royaume des Tonga :	Por el Reino de Tonga:
For the Republic of Trinidad and Tobago:	Pour la République de Trinité-et-Tobago :	Por la República de Trinidad y Tabago:
For the Republic of Tunisia:	Pour la République tunisienne :	Por la República de Túnez:
For the Republic of Turkey:	Pour la République turque :	Por la República de Turquía:
For the Republic of Uganda:	Pour la République de l'Ouganda :	Por la República de Uganda:
For the United Kingdom of Great Britain and Northern Ireland:	Pour le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord :	Por el Reino Unido de Gran Bretaña e Irlanda del Norte:
For the United States of America:	Pour les Etats-Unis d'Amérique : [MICHAEL B. SMITH 17 December 1979]	Por los Estados Unidos de América:
For the Republic of Upper Volta:	Pour la République de Haute-Volta :	Por la República del Alto Volta:
For the Eastern Republic of Uruguay:	Pour la République orientale de l'Uruguay :	Por la República Oriental del Uruguay:
For the Republic of Venezuela:	Pour la République du Venezuela :	Por la República de Venezuela:



For the Socialist  
Republic  
of Viet Nam:

Pour la République  
socialiste  
du Viet Nam :

Por la República  
Socialista  
de Viet Nam:

For the People's  
Democratic Republic  
of Yemen:

Pour la République  
démocratique populaire  
du Yémen :

Por la República  
Democrática Popular  
del Yemen:

For the Socialist  
Federal Republic  
of Yugoslavia:

Pour la République  
fédérative socialiste  
de Yougoslavie :

Por la República  
Federativa Socialista  
de Yugoslavia:

For the Republic  
of Zaïre:

Pour la République  
du Zaïre :

Por la República  
del Zaïre:

For the Republic  
of Zambia:

Pour la République  
de Zambie :

Por la República  
de Zambia:

For the European  
Economic Community:

Pour la Communauté  
économique européenne :  
[P. LUYTEN  
17 December 1979]

Por la Comunidad  
Económica Europea:

LXXXV. AGREEMENT<sup>1</sup> ON TRADE IN CIVIL AIRCRAFT (WITH ANNEX). DONE AT GENEVA ON 12 APRIL 1979

*Authentic texts: English and French.*

*Registered by the Director-General to the Contracting Parties to the General Agreement on Tariffs and Trade, acting on behalf of the Parties, on 1 July 1980.*

PREAMBLE

Signatories\* 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;

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

<sup>1</sup> Came into force on 1 January 1980 in respect of the following States and organization, which had accepted or acceded to it by that date, in accordance with article 9 (3):

<i>State or organization</i>	<i>Date of definitive signature (s) or deposit of an instrument of ratification or acceptance (A)</i>
Denmark . . . . . (With a declaration of non-application to the Faeroe Islands.)	21 December 1979
European Economic Community . . . . .	17 December 1979 <i>s</i>
France . . . . .	17 December 1979 <i>s</i>
Germany, Federal Republic of* . . . . . (With a declaration of application to Berlin (West).)	17 December 1979 <i>s</i>
Ireland . . . . .	17 December 1979 <i>s</i>
Luxembourg . . . . .	17 December 1979 <i>s</i>
Norway . . . . .	28 December 1979 <i>A</i>
Sweden . . . . .	20 December 1979
United Kingdom of Great Britain and Northern Ireland . . . . . (In respect of the territories for which it has international responsibility, except for Antigua, Belize, Bermuda, Brunei, Cayman Islands, Hong Kong, Montserrat, St. Kitts-Nevis, Sovereign Base Areas Cyprus and Virgin Islands.)	17 December 1979 <i>s</i>
United States of America . . . . .	20 December 1979 <i>A</i>

Subsequently, the Agreement entered into force in respect of the following States on the thirtieth day following the date on which they had accepted it or acceded to it, in accordance with article 9 (3):

<i>State</i>	<i>Date of deposit of an instrument of ratification, acceptance (A), or of approval (AA)</i>
United Kingdom of Great Britain and Northern Ireland . . . . . (With effect from 20 March 1980. In respect of the metropolitan territories.)	19 February 1980 <i>AA</i>
Switzerland* . . . . . (With effect from 2 May 1980.)	2 April 1980
Japan . . . . . (With effect from 25 May 1980.)	25 April 1980 <i>A</i>
Austria . . . . . (With effect from 23 July 1980.)	23 June 1980

\* See p. 202 of this volume for the text of the declarations made upon definitive signature or ratification.

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,<sup>1</sup> hereinafter referred to as “the GATT”, and under other multilateral agreements negotiated under the auspices of the GATT;

Recognizing the need to provide for international notification, consultation, surveillance and dispute settlement procedures with a view to ensuring a fair, prompt and effective enforcement of the provisions of this Agreement and to maintain the balance of rights and obligations among them;

Desiring to establish an international framework governing conduct of trade in civil aircraft;

Hereby agree as follows:

#### *Article 1. PRODUCT COVERAGE*

1.1. This Agreement applies to the following products:

- (a) All civil aircraft,
- (b) All civil aircraft engines and their parts and components,
- (c) All other parts, components, and sub-assemblies of civil aircraft,
- (d) All ground flight simulators and their parts and components,

whether used as original or replacement equipment in the manufacture, repair, maintenance, rebuilding, modification or conversion of civil aircraft.

1.2. For the purposes of this Agreement “civil aircraft” means (a) all aircraft other than military aircraft and (b) all other products set out in Article 1.1 above.

#### *Article 2. CUSTOMS DUTIES AND OTHER CHARGES*

2.1. Signatories agree:

- (2.1.1) To eliminate by 1 January 1980, or by the date of entry into force of this Agreement, all customs duties and other charges\* of any kind levied on, or in connexion with, the importation of products, classified for customs purposes under their respective tariff headings listed in the Annex, if such products are for use in a

\* “Other charges” shall have the same meaning as in Article II of the GATT.

<sup>1</sup> United Nations, *Treaty Series*, vol. 55, p. 187.

civil aircraft and incorporation therein, in the course of its manufacture, repair, maintenance, rebuilding, modification or conversion;

- (2.1.2) To eliminate by 1 January 1980, or by the date of entry into force of this Agreement, all customs duties and other charges\* of any kind levied on repairs on civil aircraft;
- (2.1.3) To incorporate in their respective GATT Schedules by 1 January 1980, or by the date of entry into force of this Agreement, duty-free or duty-exempt treatment for all products covered by Article 2.1.1 above and for all repairs covered by Article 2.1.2 above.

2.2. Each Signatory shall: (a) adopt or adapt an end-use system of customs administration to give effect to its obligations under Article 2.1 above; (b) ensure that its end-use system provides duty-free or duty-exempt treatment that is comparable to the treatment provided by other Signatories and is not an impediment to trade, and (c) inform other Signatories of its procedures for administering the end-use system.

### *Article 3. TECHNICAL BARRIERS TO TRADE*

3.1. Signatories note that the provisions of the Agreement on Technical Barriers to Trade<sup>1</sup> apply to trade in civil aircraft. In addition, Signatories agree that civil aircraft certification requirements and specifications on operating and maintenance procedures shall be governed, as between Signatories, by the provisions of the Agreement on Technical Barriers to Trade.

### *Article 4. GOVERNMENT-DIRECTED PROCUREMENT, MANDATORY SUB-CONTRACTS AND INDUCEMENTS*

4.1. Purchasers of civil aircraft should be free to select suppliers on the basis of commercial and technological factors.

4.2. Signatories shall not require airlines, aircraft manufacturers, or other entities engaged in the purchase of civil aircraft, nor exert unreasonable pressure on them, to procure civil aircraft from any particular source, which would create discrimination against suppliers from any Signatory.

4.3. Signatories agree that the purchase of products covered by this Agreement should be made only on a competitive price, quality and delivery basis. In conjunction with the approval or awarding of procurement contracts for products covered by this Agreement a Signatory may, however, require that its qualified firms be provided with access to business opportunities on a competitive basis and on terms no less favourable than those available to the qualified firms of other Signatories.\*\*

4.4. Signatories agree to avoid attaching inducements of any kind to the sale or purchase of civil aircraft from any particular source which would create discrimination against suppliers from any Signatory.

### *Article 5. TRADE RESTRICTIONS*

5.1. Signatories shall not apply quantitative restrictions (import quotas) or import licensing requirements to restrict imports of civil aircraft in a manner inconsistent with

\* "Other charges" shall have the same meaning as in Article II of the GATT.

\*\* Use of the phrase "access to business opportunities . . . on terms no less favourable . . ." does not mean that the amount of contracts awarded to the qualified firms of one Signatory entitles the qualified firms of other Signatories to contracts of a similar amount.

<sup>1</sup> See p. 276 of this volume.

applicable provisions of the GATT. This does not preclude import monitoring or licensing systems consistent with the GATT.

5.2. Signatories shall not apply quantitative restrictions or export licensing or other similar requirements to restrict, for commercial or competitive reasons, exports of civil aircraft to other Signatories in a manner inconsistent with applicable provisions of the GATT.

#### *Article 6. GOVERNMENT SUPPORT, EXPORT CREDITS, AND AIRCRAFT MARKETING*

6.1. Signatories note that the provisions of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade<sup>1</sup> (Agreement on Subsidies and Countervailing Measures) apply to trade in civil aircraft. They affirm that in their participation in, or support of, civil aircraft programmes they shall seek to avoid adverse effects on trade in civil aircraft in the sense of Articles 8.3 and 8.4 of the Agreement on Subsidies and Countervailing Measures. They also shall take into account the special factors which apply in the aircraft sector, in particular the widespread governmental support in this area, their international economic interests, and the desire of producers of all Signatories to participate in the expansion of the world civil aircraft market.

6.2. Signatories agree that pricing of civil aircraft should be based on a reasonable expectation of recoupment of all costs, including non-recurring programme costs, identifiable and pro-rated costs of military research and development on aircraft, components, and systems that are subsequently applied to the production of such civil aircraft, average production costs, and financial costs.

#### *Article 7. REGIONAL AND LOCAL GOVERNMENTS*

7.1. In addition to their other obligations under this Agreement, Signatories agree not to require or encourage, directly or indirectly, regional and local governments and authorities, non-governmental bodies, and other bodies to take action inconsistent with provisions of this Agreement.

#### *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.

<sup>1</sup> See p. 204 of this volume.

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 countervailing 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 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 PROVISIONS

9.1. *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.

9.2. *Reservations.* 9.2.1. Reservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other Signatories.

9.3. *Entry into force.* 9.3.1. This Agreement shall enter into force on 1 January 1980 for the governments\* which have accepted or acceded to it by that date. For each other government it shall enter into force on the thirtieth day following the date of its acceptance or accession to this Agreement.

9.4. *National legislation.* 9.4.1. Each government accepting or acceding to this Agreement shall ensure, not later than the date of entry into force of this Agreement for it, the conformity of its laws, regulations and administrative procedures with the provisions of this Agreement.

9.4.2. Each Signatory shall inform the Committee of any changes in its laws and regulations relevant to this Agreement and in the administration of such laws and regulations.

9.5. *Amendments.* 9.5.1. The Signatories may amend this Agreement, having regard, *inter alia*, to the experience gained in its implementation. Such an amendment, once the Signatories have concurred in accordance with the procedures established by the Committee, shall not come into force for any Signatory until it has been accepted by such Signatory.

9.6. *Withdrawal.* 9.6.1. Any Signatory may withdraw from this Agreement. The withdrawal shall take effect upon the expiration of twelve months from the day on which written notice of withdrawal is received by the Director-General to the CONTRACTING PARTIES to the GATT. Any Signatory may upon such notification request an immediate meeting of the Committee.

9.7. *Non-application of this Agreement between particular Signatories.* 9.7.1. This Agreement shall not apply as between any two Signatories if either of the Signatories, at the time either accepts or accedes to this Agreement, does not consent to such application.

9.8. *Annex.* 9.8.1. The Annex to this Agreement forms an integral part thereof.

9.9. *Secretariat.* 9.9.1. This Agreement shall be serviced by the GATT secretariat.

9.10. *Deposit.* 9.10.1. This Agreement shall be deposited with the Director-General to the CONTRACTING PARTIES to the GATT who shall promptly furnish to each Signatory and each contracting party to the GATT a certified copy thereof and of each amendment thereto pursuant to Article 9.5 and a notification of each acceptance thereof or accession thereto pursuant to Article 9.1, or each withdrawal therefrom pursuant to Article 9.6.

9.11. *Registration.* 9.11.1. This Agreement shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

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\* For the purpose of this Agreement, the term "government" is deemed to include the competent authorities of the European Economic Community.

DONE at Geneva this twelfth day of April nineteen hundred and seventy-nine in a single copy, in the English and French languages, each text being authentic, except as otherwise specified with respect to the various lists in the Annex.

## ANNEX

### PRODUCT COVERAGE

Signatories agree that products classified for customs purposes under their respective tariff headings listed below shall be accorded duty-free or duty-exempt treatment, if such products are for use in a civil aircraft and incorporation therein, in the course of its manufacture, repair, maintenance, rebuilding, modification or conversion.

These products shall not include:

- An incomplete or unfinished product, unless it has the essential characteristics of a complete or finished civil aircraft part, component, sub-assembly or item of equipment;\*
- Materials in any form (e.g., sheets, plates, profile shapes, strips, bars, pipes, tubes, or other shapes) unless they have been cut to size or shape or shaped for incorporation in civil aircraft;\*
- Raw materials and consumable goods.

### LIST OF ITEMS FROM THE CANADIAN TARIFF SCHEDULE

*The following list is authentic only in the English and French languages.*

- 44060-1 Civil aircraft; aircraft engines for use in civil aircraft
- 44061-1 Flight simulator systems; parts thereof, n.o.p.
- 44062-1 Hinges entitled to entry under tariff items 35200-1, 35400-1 and 36215-1;

Furniture entitled to entry under tariff items 35400-1, 44603-1, 61800-1 and 93907-1;

Castings entitled to entry under tariff items 35400-1 and 39000-1;

Forgings entitled to entry under tariff item 39200-1;

Sealed-beam lamps entitled to entry under tariff item 44504-1;

Microphones entitled to entry under tariff item 44536-1;

Magnesium castings entitled to entry under tariff item 71100-1;

Goods except parts, entitled to entry under tariff items 44028-1, 44300-1, 44514-1, 44538-1, 44540-1 and 46200-1;

Goods entitled to entry under tariff items 31200-1, 36800-1, 41417-1, 41417-2, 41505-1, 41505-2, 42400-1, 42405-1, 42700-1, 42701-1, 43005-1, 43300-1, 44053-1, 44057-1, 44059-1, 44500-1, 44502-1, 44516-1, 44524-1, 44532-1, 44533-1, 47100-1 and 61815-1;

All the foregoing when for use in the manufacture, repair, maintenance, rebuilding, modification or conversion of the goods enumerated in tariff item 44060-1.

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\* E.g., an article which has a civil aircraft manufacturer's parts number.



LIST OF PRODUCTS BASED ON CCCN (CUSTOMS COOPERATION  
COUNCIL NOMENCLATURE) HEADINGS

*The following list is authentic only in the English and French languages.*

NOTE. For the purpose of this list, "ex" means that for each CCCN heading listed below, the corresponding named products (or groups of products) will be accorded duty-free or duty-exempt treatment, if they are for use in civil aircraft and incorporation therein.\*

- ex 39.07 Piping and tubing, of plastic materials, with attached fittings, suitable for conducting gases or liquids
- ex 40.09 Piping and tubing, of unhardened vulcanized rubber, with attached fittings, suitable for conducting gases or liquids
- ex 40.11 Pneumatic tyres, of rubber
- ex 40.16 Piping and tubing of hardened rubber, with attached fittings, suitable for conducting gases or liquids
- ex 62.05 Escape chutes
- ex 68.13 Articles of asbestos, excluding thread and fabric
- ex 68.14 Friction material (segments, discs, washers, strips, sheets, plates, rolls and the like) of a kind suitable for brakes, for clutches or the like, with a basis of asbestos
- ex 70.08 Windshields of safety glass, not framed
- ex 73.25 Stranded wire, cables, cordage, ropes, plaited bands, slings and the like, of iron or steel wire, fitted with fittings, or made up into articles
- ex 73.38 Sanitary ware, excluding parts thereof, of iron or steel
- ex 83.02 Base metal fittings and mountings (including hinges)
  
- ex 83.07 Lamps and lighting fittings, and parts thereof, of base metal (excluding articles falling within chapter 85 except heading 85.22)
- ex 83.08 Flexible tubing and piping, of base metal, with attached fittings
- ex 84.06 Internal combustion piston engines, and parts thereof
  
- ex 84.07 Hydraulic engines and motors, excluding parts thereof
  
- ex 84.08 Non piston internal combustion engines, and parts thereof; other engines and motors, excluding parts thereof
  
- ex 84.10 Pumps for liquids, whether or not fitted with measuring devices, excluding parts thereof
- ex 84.11 Air pumps, vacuum pumps; air or gas compressors; fans, blowers and the like; the foregoing excluding parts thereof
- ex 84.12 Air conditioning machines, self-contained, comprising a motor-driven fan and elements for changing the temperature and humidity of air; the foregoing excluding parts thereof

\* "Flight simulators and parts thereof: ex 88.05" are also included, though they do not have to be incorporated.

- ex 84.15 Refrigerators and refrigerating equipment (electrical and other), excluding parts thereof
- ex 84.18 Centrifuges, filtering and purifying machinery and apparatus, for liquids or gases; the foregoing excluding parts thereof
- ex 84.21 Fire extinguishers (charged or not), excluding parts thereof
- ex 84.22 Elevators (lifts), hoists, winches, cranes, jacks, pulley tackle, belt conveyors and other lifting, handling, loading or unloading machinery, and conveyors; the foregoing excluding parts thereof
- ex 84.53 Automatic data processing machines
- ex 84.59 Non-electric starter motors,  
Propeller regulators, non-electric,  
Servo-mechanisms, non-electric,  
Windscreen wipers, non-electric,  
Hydraulic servo-motors, non-electric,  
Hydropneumatic spherical batteries,  
Pneumatic starters for jet-engines,  
Toilet units specially designed for aircraft,  
Mechanical actuators for thrust reversers;  
the foregoing excluding parts thereof
- ex 84.63 Speed changers and gear boxes, excluding parts thereof  
Pulleys and shaft couplings and parts of the foregoing, which are specially designed for installation in civil aircraft  
Torque converters and parts of the foregoing, which are specially designed for installation in civil aircraft  
Chain sprockets, clutches and universal joints, excluding parts thereof
- ex 85.01 Transformers, rated at 1 kVA or more, excluding parts thereof  
Electrical motors of 1 or more, but under 200 HP, excluding parts thereof  
Generators, motor-generators, converters (rotary or static), rectifiers and rectifying apparatus, inductors; the foregoing, excluding parts thereof
- ex 85.08 Electrical starting and ignition equipment for internal combustion engines (including ignition magnetos, magneto-dynamos, ignition coils, starter motors, sparking plugs and glow plugs); generators (dynamos and alternators) and cut-outs for use in conjunction with such engines; the foregoing, excluding parts thereof
- ex 85.12 Cooking stoves and ranges, electric; furnaces, heaters, ovens, electric; food warmers, electric; the foregoing, excluding parts thereof
- ex 85.14 Microphones and stands therefor; loudspeakers, audiofrequency electric amplifiers; the foregoing, excluding parts thereof
- ex 85.15 Solid-state (tubeless) radio receivers, excluding parts thereof  
Other radio-telegraphic and radio-telephonic transmission and reception apparatus, excluding parts thereof  
Radio navigational aid apparatus, radar apparatus and radio remote control apparatus; assemblies and sub-assemblies of such apparatus, consisting of two

- or more parts or pieces fastened or joined together, specially designed for installation in civil aircraft
- ex 85.17 Electric sound or visual signalling apparatus, excluding parts thereof
- ex 85.20 Sealed beam lamps, excluding parts thereof
- ex 85.22 Flight recorders and assemblies and sub-assemblies thereof, consisting of two or more parts or pieces fastened or joined together, specially designed for installation in civil aircraft
- ex 85.23 Ignition wiring sets and wiring sets designed for use in civil aircraft
- ex 88.01 Balloons and airships
- ex 88.02 Gliders  
Flying machines, including helicopters
- ex 88.03 Parts of balloons, airships, gliders, flying machines and helicopters
- ex 88.05 Flight simulators and parts thereof
- ex 90.14 Automatic pilots and parts thereof  
Optical navigational instruments, excluding parts thereof  
Other navigational instruments, and parts thereof  
Gyroscopic compasses and parts thereof  
Other compasses, excluding parts thereof
- ex 90.18 Gas masks and similar respirators, excluding parts thereof
- ex 90.23 Thermometers
- ex 90.24 Instruments and apparatus for measuring, checking or automatically controlling the flow, depth, pressure or other variables of liquids or gases, or for automatically controlling temperature
- ex 90.27 Speed indicators and tachometers
- ex 90.28 Automatic flight control instruments and apparatus  
Other electrical measuring, checking, analysing or automatically controlling instruments and apparatus
- ex 90.29 Parts of automatic flight control instruments and apparatus
- ex 91.03 Instrument panel clocks and clocks of a similar type, with watch movements; or with clock movements measuring less than 1.77 inches in width
- ex 91.08 Clock movements, assembled, without dials or hands, or with dials or hands whether or not assembled thereon; constructed or designed to operate for over 47 hours without rewinding, having over one jewel
- ex 94.01 Chairs and other seats (except leather covered chairs and seats), excluding parts thereof
- ex 94.03 Other furniture, excluding parts thereof

## LIST OF ITEMS FROM THE TARIFF SCHEDULES OF THE UNITED STATES

*The following list is authentic only in the English language.*

<i>TSUS</i>	<i>Description</i>
518.52	Articles NSPF, of asbestos, if certified for use in civil aircraft.
544.43	Windshields, if certified for use in civil aircraft.
642.22	Strands, ropes, cables and cordage; all the foregoing of wire, fitted with fittings, or made up into articles, if certified for use in civil aircraft.
647.04	Hinges and fittings and mountings, NSPF, not coated or plated with precious metal; all the foregoing of iron or steel, or aluminum, or zinc, if certified for use in civil aircraft.
647.07	Hinges and fittings and mountings, NSPF, not coated or plated with precious metal, of base metal other than iron, steel, aluminum or zinc, if certified for use in civil aircraft.
652.11	Flexible metal hose or tubing, with fittings, if certified for use in civil aircraft.
653.41	Illuminating articles and parts thereof, of base metal, if certified for use in civil aircraft.
653.96	Toilet and sanitary ware, if certified for use in civil aircraft.
660.58	Internal-combustion engines, piston-type, other than compression-ignition engines, if certified for use in civil aircraft.
660.61	Non-piston type internal combustion engines, if certified for use in civil aircraft.
660.69	Parts of piston-type engines other than compression-ignition engines, if certified for use in civil aircraft.
660.73	Parts of non-piston type engines or compression-ignition, piston-type engines, if certified for use in civil aircraft.
660.87	Non-electric engines and motors, NSPF, if certified for use in civil aircraft.
660.99	Pumps for liquids operated by any kind of power unit, if certified for use in civil aircraft.
661.08	Fans and blowers, if certified for use in civil aircraft.
661.14	Compressors, if certified for use in civil aircraft.
661.17	Air pumps and vacuum pumps, if certified for use in civil aircraft.
661.22	Air-conditioning machines, if certified for use in civil aircraft.
661.37	Refrigerators and refrigerating equipment, if certified for use in civil aircraft.
661.91	Centrifuges, if certified for use in civil aircraft.
661.97	Filtering and purifying machinery and apparatus, for liquids or gases, if certified for use in civil aircraft
662.52	Fire extinguishers, if certified for use in civil aircraft.
664.12	Elevators, hoists, winches, cranes, jacks, pulley tackle, belt conveyors, and other lifting, handling, loading or unloading machinery and conveyors; all the foregoing, if certified for use in civil aircraft.
676.16	Accounting, computing and other data processing machines, if certified for use in civil aircraft.
678.48	Flight simulating machines and parts thereof.
680.47	Gear boxes and other speed changers, other than those provided for in items 680.43 and 680.44, if certified for use in civil aircraft.

<i>TSUS</i>	<i>Description</i>
688.42	Electrical synchros and transducers, if certified for use in civil aircraft.
694.16	Civil balloons and airships.
694.21	Civil gliders.
694.41	Civil airplanes (including helicopters).
694.62	Other parts of civil aircraft, if certified for use in civil aircraft.
709.46	Gas masks and similar respirators, if certified for use in civil aircraft.
710.09	Optical instruments other than photogrammetrical instruments and rangefinders, if certified for use in civil aircraft.
710.15	Gyroscopic compasses and parts thereof, if certified for use in civil aircraft.
710.17	Other compasses, if certified for use in civil aircraft.
710.31	Automatic pilots and parts thereof, if certified for use in civil aircraft.
710.47	Other navigational instruments and parts thereof, if certified for use in civil aircraft.
711.37	Liquid-filled thermometers other than clinical thermometers, if certified for use in civil aircraft.
711.39	Other thermometers, if certified for use in civil aircraft.
711.83	Flowmeters, heat meters incorporating liquid supply meters, and anemometers; all the foregoing, if certified for use in civil aircraft.
711.87	Pressure gauges, thermostats and other instruments and apparatus for measuring, checking, or automatically controlling the flow, depth, pressure, or other variables of liquids or gases, or for automatically controlling temperature; all the foregoing, if certified for use in civil aircraft.
711.97	Speedometers and tachometers, if certified for use in civil aircraft.
712.06	Electrical optical measuring, checking, analyzing or automatically controlling instruments, if certified for use in civil aircraft.
712.48	Electrical automatic flight control instruments and apparatus, and parts thereof; all the foregoing, if certified for use in civil aircraft.
712.52	Other electrical measuring, checking, analyzing or automatically controlling instruments and apparatus, if certified for use in civil aircraft.
715.16	Clocks with watch movements or with clock movements measuring less than 1.77 inches in width, if certified for use in civil aircraft.
720.09	Clock movements, assembled, without dials or hands, or with dials or hands whether or not assembled thereon, constructed or designed to operate for over 47 hours without rewinding, having over one jewel, if certified for use in civil aircraft.
727.49	Furniture of reinforced or laminated plastics, if certified for use in civil aircraft.
727.51	Furniture of other rubber or plastics, if certified for use in civil aircraft.
727.56	Furniture, of materials other than unspun fibrous vegetable materials, wood, textile materials (except cotton), rubber or plastics, copper, or leather, if certified for use in civil aircraft.
772.46	Pneumatic tires, of rubber or plastics, if certified for use in civil aircraft.
772.67	Hose, pipe and tubing; all the foregoing NSPF, of rubber or plastics, suitable for conducting gases or liquids, with attached fittings, if certified for use in civil aircraft.

For the Argentine Republic:

Pour la République argentine :

For the Commonwealth of Australia:

Pour le Commonwealth d'Australie :

For the Republic of Austria:

Pour la République d'Autriche :

[Dr. WILLENPART

17 March 1980

Subject to ratification — Sous réserve de ratification]<sup>1</sup>

For the People's Republic  
of Bangladesh:

Pour la République populaire  
du Bangladesh :

For Barbados:

Pour la Barbade :

For the Kingdom of Belgium:

Pour le Royaume de Belgique :

[A. ONKELINX

17 December 1979

Subject to ratification — Sous réserve de ratification]

For the People's Republic  
of Benin:

Pour la République populaire  
du Bénin :

For the Federative Republic  
of Brazil:

Pour la République fédérative  
du Brésil :

For the Socialist Republic  
of the Union of Burma:

Pour la République socialiste  
de l'Union birmane :

<sup>1</sup> See p. 202 of this volume for the texts of the declarations made upon signature — Voir p. 202 du présent volume pour les textes des déclarations faites lors de la signature.

For the Republic of Burundi:

Pour la République du Burundi :

For the United Republic  
of Cameroon:

Pour la République-Unie  
du Cameroun :

For Canada:

Pour le Canada :

[MCPHAIL  
20 December 1979

Subject to ratification — Sous réserve de ratification]<sup>1</sup>

For the Central African Empire:

Pour l'Empire centrafricain :

For the Republic of Chad:

Pour la République du Tchad:

For the Republic of Chile:

Pour la République du Chili :

For the Republic of Colombia:

Pour la République de Colombie :

For the People's Republic  
of the Congo:

Pour la République populaire  
du Congo :

For the Republic of Cuba:

Pour la République de Cuba :

For the Republic of Cyprus:

Pour la République de Chypre :

<sup>1</sup> See p. 202 of this volume for the texts of the declarations made upon signature — Voir p. 202 du présent volume pour les textes des déclarations faites lors de la signature.

For the Czechoslovak  
Socialist Republic:

Pour la République socialiste  
tchécoslovaque :

For the Kingdom of Denmark:

Pour le Royaume du Danemark :

[H. E. KASTOFT  
17 December 1979]

Subject to ratification — Sous réserve de ratification]

For the Dominican Republic:

Pour la République dominicaine :

For the Arab Republic  
of Egypt:

Pour la République arabe  
d'Egypte :

For the Republic of Finland:

Pour la République de Finlande :

For the French Republic:

Pour la République française :

[FRANÇOIS MOUTON  
17 December 1979]

For the Gabonese Republic:

Pour la République gabonaise :

For the Republic  
of the Gambia:

Pour la République  
de Gambie :

For the Federal Republic  
of Germany:

Pour la République fédérale  
d'Allemagne :

[GRAF ZU RANTZAU  
17 December 1979]

For the Republic of Ghana:

Pour la République du Ghana :



For the Hellenic Republic:

Pour la République hellénique :

For the Republic of Guyana:

Pour la République du Guyana :

For the Republic of Haiti:

Pour la République d'Haïti :

For the Hungarian People's  
Republic:

Pour la République populaire  
hongroise :

For the Republic of Iceland:

Pour la République d'Islande :

For the Republic of India:

Pour la République de l'Inde :

For the Republic of Indonesia:

Pour la République d'Indonésie :

For Ireland:

Pour l'Irlande :

[SEÁN GAYNOR  
17 December 1979]

For the State of Israel:

Pour l'Etat d'Israël :

For the Italian Republic:

Pour la République italienne :

[V. C. DI MONTEZEMOLO  
17 December 1979]

Subject to ratification — Sous réserve de ratification]

For the Republic  
of the Ivory Coast:

Pour la République  
de Côte d'Ivoire :

For Jamaica:

Pour la Jamaïque :

For Japan:

Pour le Japon :

[MASAO SAWAKI  
17 December 1979]

Subject to completion of constitutional procedures —  
Sous réserve de l'accomplissement des procédures constitutionnelles]

For the Republic of Kenya:

Pour la République du Kenya :

For the Republic of Korea:

Pour la République de Corée :

For the State of Kuwait:

Pour l'Etat du Koweït :

For the Grand Duchy  
of Luxembourg:

Pour le Grand-Duché  
de Luxembourg :

[JEAN RETTEL  
17 December 1979]

For the Democratic Republic  
of Madagascar:

Pour la République démocratique  
de Madagascar :

For the Republic of Malawi:

Pour la République du Malawi :

For Malaysia:

Pour la Malaisie :

For the Republic of Malta:

Pour la République de Malte :

For the Islamic Republic  
of Mauritania:

Pour la République islamique  
de Mauritanie :

For Mauritius:

Pour Maurice :

For the United Mexican States:

Pour les Etats-Unis de Mexique :

For the Kingdom  
of the Netherlands:

Pour le Royaume  
des Pays-Bas :

[FEIN

17 December 1979

Subject to approval — Sous réserve d'approbation]

For New Zealand:

Pour la Nouvelle-Zélande :

For the Republic  
of Nicaragua:

Pour la République  
du Nicaragua :

For the Republic of Niger:

Pour la République du Niger :

For the Federal Republic  
of Nigeria:

Pour la République fédérale  
du Nigéria :

For the Kingdom of Norway:

Pour le Royaume de Norvège :

[JOHAN CAPPELEN

17 December 1979

Subject to acceptance — Sous réserve d'acceptation]

For the Islamic Republic  
of Pakistan:

Pour la République islamique  
du Pakistan :

For the Republic of Peru:

Pour la République du Pérou :

For the Republic  
of the Philippines:

Pour la République  
des Philippines :

For the Polish People's  
Republic:

Pour la République populaire  
de Pologne :

For the Portuguese Republic:

Pour la République portugaise :

For Rhodesia:

Pour la Rhodésie :

For the Socialist Republic  
of Romania:

Pour la République socialiste  
de Roumanie :

For the Rwandese Republic:

Pour la République rwandaise :

For the Republic of Senegal:

Pour la République du Sénégal :

For the Republic  
of Sierra Leone:

Pour la République  
de Sierra Leone :

For the Republic of Singapore:

Pour la République de Singapour :

For the Republic  
of South Africa:

Pour la République  
sud-africaine :

For the Spanish State:

Pour l'Etat espagnol :

For the Democratic Socialist  
Republic of Sri Lanka:

Pour la République socialiste  
démocratique de Sri Lanka :

For the Republic of Suriname:

Pour la République du Suriname :

For the Kingdom of Sweden:

Pour le Royaume de Suède :

[M. LEMMEL

17 December 1979

Subject to ratification — Sous réserve de ratification]

For the Swiss Confederation:

Pour la Confédération suisse :

[A. DUNKEL

17 December 1979

Subject to ratification — Sous réserve de ratification]

For the United Republic  
of Tanzania:

Pour la République-Unie  
de Tanzanie :

For the Togolese Republic:

Pour la République togolaise :

For the Republic  
of Trinidad and Tobago:

Pour la République  
de Trinité-et-Tobago :

For the Republic of Tunisia:

Pour la République tunisienne :

For the Republic of Turkey:

Pour la République turque :

For the Republic of Uganda:

Pour la République de l'Ouganda :

For the United Kingdom  
of Great Britain and Northern Ireland:

Pour le Royaume-Uni  
de Grande-Bretagne et d'Irlande du Nord :

[PETER MARSHALL  
17 December 1979]

Subject to approval in respect of its metropolitan territories —  
Sous réserve d'approbation à l'égard des territoires métropolitains]

For the United States  
of America:

Pour les Etats-Unis  
d'Amérique :

[MICHAEL B. SMITH  
17 December 1979]

Subject to acceptance — Sous réserve d'acceptation]

For the Republic  
of Upper Volta:

Pour la République  
de Haute-Volta :

For the Eastern Republic  
of Uruguay:

Pour la République orientale  
de l'Uruguay :

For the Socialist Federal Republic  
of Yugoslavia:

Pour la République fédérative socialiste  
de Yougoslavie :

For the Republic of Zaire:

Pour la République du Zaïre :

For the European Economic  
Community:

Pour la Communauté  
économique européenne :

[P. LUYTEN  
17 December 1979]

DECLARATIONS MADE  
UPON SIGNATURE

## AUSTRIA

“The acceptance of the Agreement on Trade in Civil Aircraft by the Republic of Austria is based on the understanding that its provisions do not affect the provisions of the State Treaty for the Re-establishment of an Independent and Democratic Austria of 15 May 1955”.<sup>1</sup>

## CANADA

“The Government of Canada reserves its position with regard to the obligations in Article 2 pending the completion of domestic legislative procedures. The Government of Canada will however afford duty-free treatment equivalent to that provided for in Article 2 as of 1 January 1980, and will promptly pursue completion of the necessary domestic legislative procedures. This reservation will be withdrawn when these procedures will have been completed”.

DECLARATIONS MADE UPON DEFINITIVE  
SIGNATURE (s) OR RATIFICATIONFEDERAL REPUBLIC  
OF GERMANY (s)

“The Agreement on Trade in Civil Aircraft shall also apply to Berlin (West) with effect from the date on which it enters into force for the Federal Republic of Germany, provided that the Government of the Federal Republic of Germany does not make a contrary declaration to the GATT secretariat within three months of the date of entry into force of the Agreement”.

<sup>1</sup> United Nations, *Treaty Series*, vol. 217, p. 223.

DÉCLARATIONS FAITES LORS  
DE LA SIGNATURE

## AUTRICHE

[TRANSLATION — TRANSLATION]

La République d'Autriche accepte l'Accord relatif au commerce des aéronefs civils, étant entendu que les dispositions de cet Accord ne modifient pas celles du Traité d'Etat portant rétablissement d'une Autriche indépendante et démocratique, du 15 mai 1955<sup>1</sup>.

## CANADA

[TRANSLATION — TRANSLATION]

Le Gouvernement du Canada réserve sa position au sujet des obligations stipulées par l'article 2, en attendant la fin des procédures législatives nationales. Toutefois, le Gouvernement du Canada accordera une exemption de droits équivalant à celle prévue par l'article 2 à partir du 1<sup>er</sup> juillet 1980 et hâtera l'achèvement des procédures législatives nationales nécessaires. La présente réserve sera annulée lorsque ces procédures seront terminées.

DÉCLARATIONS FAITES LORS DE LA  
SIGNATURE DÉFINITIVE (s) OU DE  
LA RATIFICATIONRÉPUBLIQUE FÉDÉRALE  
D'ALLEMAGNE (s)

[TRANSLATION — TRANSLATION]

L'Accord relatif au commerce des aéronefs civils s'appliquera aussi à Berlin (Ouest), à dater du jour où il entrera en vigueur pour la République fédérale d'Allemagne, sauf si le Gouvernement de la République fédérale d'Allemagne communique au secrétariat du GATT une déclaration en sens contraire dans les trois mois de l'entrée en vigueur de l'Accord.

<sup>1</sup> Nations Unies, *Recueil des Traités*, vol. 217, p. 223.

*SWITZERLAND**SUISSE*

[TRANSDUCTION — TRANSLATION]

“By a Federal Order, dated 19 March 1980, the Federal Chambers approved the Agreement on Trade in Civil Aircraft of 12 April 1979. As a result of this decision, the application of the said arrangement as from 1 January 1980, decided by the Federal Council on 10 December 1979, is confirmed definitively.”

Par une ordonnance fédérale, en date du 19 mars 1980, les Chambres fédérales ont approuvé l'Accord relatif au commerce des aéronefs civils du 12 avril 1979. A la suite de cette décision, la mise en vigueur de cet Accord, à dater du 1<sup>er</sup> janvier 1980, décidée par le Conseil fédéral du 10 décembre 1979, est définitivement confirmée.



LXXXVI. AGREEMENT<sup>1</sup> ON INTERPRETATION AND APPLICATION OF ARTICLES VI, XVI AND XXIII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE<sup>2</sup> (WITH ANNEX AND NOTES). DONE AT GENEVA ON 12 APRIL 1979

*Authentic texts: English, French and Spanish.*

*Registered by the Director-General to the Contracting Parties to the General Agreement on Tariffs and Trade, acting on behalf of the Parties, on 1 July 1980.*

The signatories\* 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,

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

<sup>1</sup> Came into force on 1 January 1980 in respect of the following States and organization, which had accepted or acceded to it by that date, in accordance with article 19 (4):

<i>State or organization</i>	<i>Date of definitive signature (s), acceptance by letter (l), or deposit of an instrument of ratification or acceptance (A)</i>
Brazil .....	28 December 1979 s
Canada .....	17 December 1979 s
European Economic Community .....	17 December 1979 s
Norway .....	28 December 1979 A
Sweden .....	20 December 1979
Switzerland .....	17 December 1979 s
United Kingdom of Great Britain and Northern Ireland .....	17 December 1979 l
(In respect of the territories for which it has international responsibility, except for Antigua, Bermuda, Brunei, Cayman Islands, Montserrat, St. Kitts-Nevis, Sovereign Base Areas Cyprus and Virgin Islands.)	
United States of America .....	17 December 1979 (s)
Uruguay .....	31 December 1979 (l)

Subsequently, the Agreement entered into force in respect of the following States on the thirtieth day following the date of their acceptance or accession, in accordance with article 19 (4):

<i>State</i>	<i>Date of definitive signature (s) or deposit of an instrument of ratification or acceptance (A)</i>
Finland .....	13 March 1980
(With effect from 12 April 1980.)	
Japan .....	25 April 1980 A
(With effect from 25 May 1980.)	
Pakistan .....	30 April 1980 s
(With effect from 30 May 1980.)	
Austria .....	28 May 1980
(With effect from 27 June 1980.)	
Republic of Korea .....	10 June 1980 s
(With effect from 10 July 1980.)	

<sup>2</sup> United Nations, *Treaty Series*, vol. 55, p. 187; for subsequent actions, see references in Cumulative Indexes Nos. 1 to 14, as well as annex A in volumes 905, 930, 945, 948, 954, 959, 972, 974, 997, 1028, 1031, 1050, 1078, 1080, 1129 and 1176.

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 Trade\*,<sup>1</sup> (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,

Have agreed as follows:

#### PART I

##### *Article 1. APPLICATION OF ARTICLE VI OF THE GENERAL AGREEMENT\*\**

Signatories shall take all necessary steps to ensure that the imposition of a countervailing duty\*\*\* on any product of the territory of any signatory imported into the territory of another signatory is in accordance with the provisions of Article VI of the General Agreement and the terms of this Agreement.

##### *Article 2. DOMESTIC PROCEDURES AND RELATED MATTERS*

1. Countervailing duties may only be imposed pursuant to investigations initiated† and conducted in accordance with the provisions of this Article. An investigation to determine the existence, degree and effect of any alleged subsidy shall normally be initiated upon a written request by or on behalf of the industry affected. The request shall include sufficient evidence of the existence of (a) a subsidy and, if possible, its amount, (b) injury within the meaning of Article VI of the General Agreement as interpreted by this Agreement†† and (c) a causal link between the subsidized imports and the alleged injury. If in special circumstances the authorities concerned decide to initiate an investigation without having received such a request, they shall proceed only if they have sufficient evidence on all points under (a) to (c) above.

2. Each signatory shall notify the Committee on Subsidies and Countervailing Measures††† (a) which of its authorities are competent to initiate and conduct investigations

\* Wherever 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.

\*\* The provisions of both Part I and Part II of this Agreement may be invoked in parallel; however, with regard to the effects of a particular subsidy in the domestic market of the importing country, only one form of relief (either a countervailing duty or an authorized countermeasure) shall be available.

\*\*\* The term "countervailing duty" shall be understood to mean a special duty levied for the purpose of off-setting any bounty or subsidy bestowed directly or indirectly upon the manufacture, production or export of any merchandise, as provided for in Article VI:3 of the General Agreement.

† The term "initiated" as used hereinafter means procedural action by which a signatory formally commences an investigation as provided in paragraph 3 of this Article.

†† Under this Agreement the term "injury" shall, unless otherwise specified, be taken to mean material injury to a domestic industry, threat of material injury to a domestic industry or material retardation of the establishment of such an industry and shall be interpreted in accordance with the provisions of Article 6.

††† As established in Part V of this Agreement and hereinafter referred to as "the Committee".

<sup>1</sup> United Nations, *Treaty Series*, vol. 55, p. 187.

referred to in this Article and (b) its domestic procedures governing the initiation and conduct of such investigations.

3. When the investigating authorities are satisfied that there is sufficient evidence to justify initiating an investigation, the signatory or signatories, the products of which are subject to such investigation and the exporters and importers known to the investigating authorities to have an interest therein and the complainants shall be notified and a public notice shall be given. In determining whether to initiate an investigation, the investigating authorities should take into account the position adopted by the affiliates of a complainant party\* which are resident in the territory of another signatory.

4. Upon initiation of an investigation and thereafter, the evidence of both a subsidy and injury caused thereby should be considered simultaneously. In any event the evidence of both the existence of subsidy and injury shall be considered simultaneously (a) in the decision whether or not to initiate an investigation and (b) thereafter during the course of the investigation, starting on a date not later than the earliest date on which in accordance with the provisions of this Agreement provisional measures may be applied.

5. The public notice referred to in paragraph 3 above shall describe the subsidy practice or practices to be investigated. Each signatory shall ensure that the investigating authorities afford all interested signatories and all interested parties\*\* a reasonable opportunity, upon request, to see all relevant information that is not confidential (as indicated in paragraphs 6 and 7 below) and that is used by the investigating authorities in the investigation, and to present in writing, and upon justification orally, their views to the investigating authorities.

6. Any information which is by nature confidential or which is provided on a confidential basis by parties to an investigation shall, upon cause shown, be treated as such by the investigating authorities. Such information shall not be disclosed without specific permission of the party submitting it.\*\*\* Parties providing confidential information may be requested to furnish non-confidential summaries thereof. In the event such parties indicate that such information is not susceptible of summary, a statement of reasons why summarization is not possible must be provided.

7. However, if the investigating authorities find that a request for confidentiality is not warranted and if the party requesting confidentiality is unwilling to disclose the information, such authorities may disregard such information unless it can otherwise be demonstrated to their satisfaction that the information is correct.†

8. The investigating authorities may carry out investigations in the territory of other signatories as required, provided they have notified in good time the signatory in question and unless the latter objects to the investigation. Further, the investigating authorities may carry out investigations on the premises of a firm and may examine the records of a firm if (a) the firm so agrees and (b) the signatory in question is notified and does not object.

9. In cases in which any interested party or signatory refuses access to, or otherwise does not provide, necessary information within a reasonable period or significantly

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\* For the purpose of this Agreement "party" means any natural or juridical person resident in the territory of any signatory.

\*\* Any "interested signatory" or "interested party" shall refer to a signatory or a party economically affected by the subsidy in question.

\*\*\* Signatories are aware that in the territory of certain signatories disclosure pursuant to a narrowly drawn protective order may be required.

† Signatories agree that requests for confidentiality should not be arbitrarily rejected.

impedes the investigation, preliminary and final findings,\* affirmative or negative, may be made on the basis of the facts available.

10. The procedures set out above are not intended to prevent the authorities of a signatory from proceeding expeditiously with regard to initiating an investigation, reaching preliminary or final findings, whether affirmative or negative, or from applying provisional or final measures, in accordance with relevant provisions of this Agreement.

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

3. Without prejudice to the obligation to afford reasonable opportunity for consultation, these provisions regarding consultations are not intended to prevent the authorities

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\* Because of different terms used under different systems in various countries the term "finding" is hereinafter used to mean a formal decision or determination.

\*\* It 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.

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 levied\* 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.\*\*

3. When a countervailing duty is imposed in respect of any product, such countervailing duty shall be levied, in the appropriate amounts, on a non-discriminatory basis on imports of such product from all sources found to be subsidized and to be causing injury, except as to imports from those sources which have renounced any subsidies in question or from which undertakings under the terms of this Agreement have been accepted.

4. If, after reasonable efforts have been made to complete consultations, a signatory makes a final determination of the existence and amount of the subsidy and that, through the effects of the subsidy, the subsidized imports are causing injury, it may impose a countervailing duty in accordance with the provisions of this section unless the subsidy is withdrawn.

5 (a) Proceedings may\*\*\* be suspended or terminated without the imposition of provisional measures or countervailing duties, if undertakings are accepted under which:

- (i) The government of the exporting country agrees to eliminate or limit the subsidy or take other measures concerning its effects; or
- (ii) The exporter agrees to revise its prices so that the investigating authorities are satisfied that the injurious effect of the subsidy is eliminated. Price increases under undertakings shall not be higher than necessary to eliminate the amount of the subsidy. Price undertakings shall not be sought or accepted from exporters unless the importing signatory has first (1) initiated an investigation in accordance with the provisions of Article 2 of this Agreement and (2) obtained the consent of the exporting signatory.

\* As used in this Agreement "levy" shall mean the definitive or final legal assessment or collection of a duty [or]<sup>1</sup> tax.

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

\*\*\* The word "may" shall not be interpreted to allow the simultaneous continuation of proceedings with the implementation of price undertakings, except as provided in paragraph 5(b) of this Article.

<sup>1</sup> The text appearing between brackets reflects a rectification of the English text effected by a procès-verbal of rectification drawn up by the Director-General to the Contracting Parties to the General Agreement on Tariffs and Trade dated 17 December 1979 in the absence of objections thereto by the Parties — Le texte entre crochets est une rectification du texte anglais effectuée par procès-verbal de rectification dressé par le Directeur général des Parties contractantes à l'Accord général sur les tarifs douaniers et le commerce en date du 17 décembre 1979, les Parties n'ayant pas formulé d'objections à cette rectification.

Undertakings offered need not be accepted if the authorities of the importing signatory consider their acceptance impractical, for example, if the number of actual or potential exporters is too great, or for other reasons.

(b) If the undertakings are accepted, the investigation of injury shall nevertheless be completed if the exporting signatory so desires or the importing signatory so decides. In such a case, if a determination of no injury or threat thereof is made, the undertaking shall automatically lapse, except in cases where a determination of no threat of injury is due in large part to the existence of an undertaking; in such cases the authorities concerned may require that an undertaking be maintained for a reasonable period consistent with the provisions of this Agreement.

(c) Price undertakings may be suggested by the authorities of the importing signatory, but no exporter shall be forced to enter into such an undertaking. The fact that governments or exporters do not offer such undertakings or do not accept an invitation to do so, shall in no way prejudice the consideration of the case. However, the authorities are free to determine that a threat of injury is more likely to be realized if the subsidized imports continue.

6. Authorities of an importing signatory may require any government or exporter from whom undertakings have been accepted to provide periodically information relevant to the fulfilment of such undertakings, and to permit verification of pertinent data. In case of violation of undertakings, the authorities of the importing signatory may take expeditious actions under this Agreement in conformity with its provisions which may constitute immediate application of provisional measures using the best information available. In such cases definitive duties may be levied in accordance with this Agreement on goods entered for consumption not more than ninety days before the application of such provisional measures, except that any such retroactive assessment shall not apply to imports entered before the violation of the undertaking.

7. Undertakings shall not remain in force any longer than countervailing duties could remain in force under this Agreement. The authorities of an importing signatory shall review the need for the continuation of any undertaking, where warranted, on their own initiative, or if interested exporters or importers of the product in question so request and submit positive information substantiating the need for such review.

8. Whenever a countervailing duty investigation is suspended or terminated pursuant to the provisions of paragraph 5 above and whenever an undertaking is terminated, this fact shall be officially notified and must be published. Such notices shall set forth at least the basic conclusions and a summary of the reasons therefor.

9. A countervailing duty shall remain in force only as long as, and to the extent necessary to counteract the subsidization which is causing injury. The investigating authorities shall review the need for continued imposition of the duty, where warranted, on their own initiative or if any interested party so requests and submits positive information substantiating the need for review.

#### *Article 5. PROVISIONAL MEASURES AND RETROACTIVITY*

1. Provisional measures may be taken only after a preliminary affirmative finding has been made that a subsidy exists and that there is sufficient evidence of injury as provided for in Article 2, paragraph 1(a) to (c). Provisional measures shall not be applied unless the authorities concerned judge that they are necessary to prevent injury being caused during the period of investigation.

2. Provisional measures may take the form of provisional countervailing duties guaranteed by cash deposits or bonds equal to the amount of the provisionally calculated amount of subsidization.

3. The imposition of provisional measures shall be limited to as short a period as possible, not exceeding four months.

4. The relevant provisions of Article 4 shall be followed in the imposition of provisional measures.

5. Where a final finding of injury (but not of a threat thereof or of a material retardation of the establishment of an industry) is made or in the case of a final finding of threat of injury where the effect of the subsidized imports would, in the absence of the provisional measures, have led to a finding of injury, countervailing duties may be levied retroactively for the period for which provisional measures, if any, have been applied.

6. If the definitive countervailing duty is higher than the amount guaranteed by the cash deposit or bond, the difference shall not be collected. If the definitive duty is less than the amount guaranteed by the cash deposit or bond, the excess amount shall be reimbursed or the bond released in an expeditious manner.

7. Except as provided in paragraph 5 above, where a finding of threat of injury or material retardation is made (but no injury has yet occurred) a definitive countervailing duty may be imposed only from the date of the finding of threat of injury or material retardation and any cash deposit made during the period of the application of provisional measures shall be refunded and any bonds released in an expeditious manner.

8. Where a final finding is negative any cash deposit made during the period of the application of provisional measures shall be refunded and any bonds released in an expeditious manner.

9. In critical circumstances where for the subsidized product in question the authorities find that injury which is difficult to repair is caused by massive imports in a relatively short period of a product benefiting from export subsidies paid or bestowed inconsistently with the provisions of the General Agreement and of this Agreement and where it is deemed necessary, in order to preclude the recurrence of such injury, to assess countervailing duties retroactively on those imports, the definitive countervailing duties may be assessed on imports which were entered for consumption not more than ninety days prior to the date of application of provisional measures.

#### Article 6. DETERMINATION OF INJURY

1. A determination of injury\* for purposes of Article VI of the General Agreement shall involve an objective examination of both (a) the volume of subsidized imports and their effect on prices in the domestic market for like products\*\* and (b) the consequent impact of these imports on domestic producers of such products.

2. With regard to volume of subsidized imports the investigating authorities shall consider whether there has been a significant increase in subsidized imports, either in absolute terms or relative to production or consumption in the importing signatory. With

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\* Determinations of injury under the criteria set forth in this Article shall be based on positive evidence. In determining threat of injury the investigating authorities, in examining the factors listed in this Article, may take into account the evidence on the nature of the subsidy in question and the trade effects likely to arise therefrom.

\*\* Throughout this Agreement the term "like product" (*« produit similaire »*) shall be interpreted to mean a product which is identical, i.e., alike in all respects to the product under consideration or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.

regard to the effect of the subsidized imports on prices, the investigating authorities shall consider whether there has been a significant price undercutting by the subsidized imports as compared with the price of a like product of the importing signatory, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. No one or several of these factors can necessarily give decisive guidance.

3. The examination of the impact on the domestic industry concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry such as actual and potential decline in output, sales, market share, profits, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investment and, in the case of agriculture, whether there has been an increased burden on Government support programmes. This list is not exhaustive, nor can one or several of these factors necessarily give decisive guidance.

4. It must be demonstrated that the subsidized imports are, through the effects\* of the subsidy, causing injury within the meaning of this Agreement. There may be other factors\*\* which at the same time are injuring the domestic industry, and the injuries caused by other factors must not be attributed to the subsidized imports.

5. In determining injury, the term "domestic industry" shall, except as provided in paragraph 7 below, be interpreted as referring to the domestic producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products, except that when producers are related\*\*\* to the exporters or importers or are themselves importers of the allegedly subsidized product the industry may be interpreted as referring to the rest of the producers.

6. The effect of the subsidized imports shall be assessed in relation to the domestic production of the like product when available data permit the separate identification of production in terms of such criteria as: the production process, the producers' realization, profits. When the domestic production of the like product has no separate identity in these terms the effects of subsidized imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.

7. In exceptional circumstances the territory of a signatory may, for the production in question, be divided into two or more competitive markets and the producers within each market may be regarded as a separate industry if (a) the producers within such market sell all or almost all of their production of the product in question in that market, and (b) the demand in that market is not to any substantial degree supplied by producers of the product in question located elsewhere in the territory. In such circumstances, injury

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\* As set forth in paragraphs 2 and 3 of this Article.

\*\* Such factors can include, *inter alia*, the volume and prices of non-subsidized imports of the product in question, contraction in demand or changes in the pattern of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry.

\*\*\* The Committee should develop a definition of the word "related" as used in this paragraph.



may be found to exist even where a major portion of the total domestic industry is not injured provided there is a concentration of subsidized imports into such an isolated market and provided further that the subsidized imports are causing injury to the producers of all or almost all of the production within such market.

8. When the industry has been interpreted as referring to the producers in a certain area, as defined in paragraph 7 above, countervailing duties shall be levied only on the products in question consigned for final consumption to that area. When the constitutional law of the importing signatory does not permit the levying of countervailing duties on such a basis, the importing signatory may levy the countervailing duties without limitation, only if (a) the exporters shall have been given an opportunity to cease exporting at subsidized prices to the area concerned or otherwise give assurances pursuant to Article 4, paragraph 5, of this Agreement, and adequate assurances in this regard have not been promptly given, and (b) such duties cannot be levied only on products of specific producers which supply the area in question.

9. Where two or more countries have reached under the provisions of Article XXIV:8(a) of the General Agreement such a level of integration that they have the characteristics of a single, unified market the industry in the entire area of integration shall be taken to be the industry referred to in paragraphs 5 to 7 above.

## PART II

### *Article 7. NOTIFICATION OF SUBSIDIES\**

1. Having regard to the provisions of Article XVI:1 of the General Agreement, any signatory may make a written request for information on the nature and extent of any subsidy granted or maintained by another signatory (including any form of income or price support) which operates directly or indirectly to increase exports of any product from or reduce imports of any product into its territory.

2. Signatories so requested shall provide such information as quickly as possible and in a comprehensive manner, and shall be ready upon request to provide additional information to the requesting signatory. Any signatory which considers that such information has not been provided may bring the matter to the attention of the Committee.

3. Any interested signatory which considers that any practice of another signatory having the effects of a subsidy has not been notified in accordance with the provisions of Article XVI:1 of the General Agreement may bring the matter to the attention of such other signatory. If the subsidy practice is not thereafter notified promptly, such signatory may itself bring the subsidy practice in question to the notice of the Committee.

### *Article 8. SUBSIDIES—GENERAL PROVISIONS*

1. Signatories recognize that subsidies are used by governments to promote important objectives of social and economic policy. Signatories also recognize that subsidies may cause adverse effects to the interests of other signatories.

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\* In this Agreement, the term "subsidies" shall be deemed to include subsidies granted by any government or any public body within the territory of a signatory. However, it is recognized that for signatories with different federal systems of government, there are different divisions of powers. Such signatories accept nonetheless the international consequences that may arise under this Agreement as a result of the granting of subsidies within their territories.

2. Signatories agree not to use export subsidies in a manner inconsistent with the provisions of this Agreement.

3. Signatories further agree that they shall seek to avoid causing, through the use of any subsidy:

- (a) Injury to the domestic industry of another signatory,\*
- (b) Nullification or impairment of the benefits accruing directly or indirectly to another signatory under the General Agreement,\*\* or
- (c) Serious prejudice to the interests of another signatory.\*\*\*

4. The adverse effects to the interests of another signatory required to demonstrate nullification or impairment† or serious prejudice may arise through:

- (a) The effects of the subsidized imports in the domestic market of the importing signatory,
- (b) The effects of the subsidy in displacing or impeding the imports of like products into the market of the subsidizing country, or
- (c) The effects of the subsidized exports in displacing†† the exports of like products of another signatory from a third country market.†††

#### *Article 9. EXPORT SUBSIDIES ON PRODUCTS OTHER THAN CERTAIN PRIMARY PRODUCTS‡*

1. Signatories shall not grant export subsidies on products other than certain primary products.

2. The practices listed in points (a) to (l) in the Annex are illustrative of export subsidies.

#### *Article 10. EXPORT SUBSIDIES ON CERTAIN PRIMARY PRODUCTS*

1. In accordance with the provisions of Article XVI:3 of the General Agreement, signatories agree not to grant directly or indirectly any export subsidy on certain primary products in a manner which results in the signatory granting such subsidy having more than an equitable share of world export trade in such product, account being taken of the shares of the signatories in trade in the product concerned during a previous representative period, and any special factors which may have affected or may be affecting trade in such product.

\* "Injury to the domestic industry" is used here in the same sense as it is used in Part I of this Agreement.

\*\* Benefits accruing directly or indirectly under the General Agreement include the benefits of tariff concessions bound under Article II of the General Agreement.

\*\*\* Serious prejudice to the interests of another signatory is used in this Agreement in the same sense as it is used in Article XVI:1 of the General Agreement and includes threat of serious prejudice.

† Signatories recognize that nullification or impairment of benefits may also arise through the failure of a signatory to carry out its obligations under the General Agreement or this Agreement. Where such failure concerning export subsidies is determined by the Committee to exist, adverse effects may, without prejudice to paragraph 9 of Article 18 below, be presumed to exist. The other signatory will be accorded a reasonable opportunity to rebut this presumption.

†† The term "displacing" shall be interpreted in a manner which takes into account the trade and development needs of developing countries and in this connection is not intended to fix traditional market shares.

††† The problem of third country markets so far as certain primary products are concerned are dealt with exclusively under Article 10 below.

‡ For purposes of this Agreement "certain primary products" means the products referred to in Note *Ad Article XVI* of the General Agreement, section B, paragraph 2, with the deletion of the words "or any mineral".

2. For purposes of Article XVI:3 of the General Agreement and paragraph 1 above:

- (a) "More than an equitable share of world export trade" shall include any case in which the effect of an export subsidy granted by a signatory is to displace the exports of another signatory bearing in mind the developments on world markets;
- (b) With regard to new markets traditional patterns of supply of the product concerned to the world market, region or country, in which the new market is situated shall be taken into account in determining "equitable share of world export trade";
- (c) "A previous representative period" shall normally be the three most recent calendar years in which normal market conditions existed.

3. Signatories further agree not to grant export subsidies on exports of certain primary products to a particular market in a manner which results in prices materially below those of other suppliers to the same market.

#### *Article 11. SUBSIDIES OTHER THAN EXPORT SUBSIDIES*

1. Signatories recognize that subsidies other than export subsidies are widely used as important instruments for the promotion of social and economic policy objectives and do not intend to restrict the right of signatories to use such subsidies to achieve these and other [important]<sup>1</sup> policy objectives which they consider desirable. Signatories note that among such objectives are:

- (a) The elimination of industrial, economic and social disadvantages of specific regions,
- (b) To facilitate the restructuring, under socially acceptable conditions, of certain sectors, especially where this has become necessary by reason of changes in trade and economic policies, including international agreements resulting in lower barriers to trade,
- (c) Generally to sustain employment and to encourage re-training and change in employment,
- (d) To encourage research and development programmes, especially in the field of high-technology industries,
- (e) The implementation of economic programmes and policies to promote the economic and social development of developing countries,
- (f) Redeployment of industry in order to avoid congestion and environmental problems.

2. Signatories recognize, however, that subsidies other than export subsidies, certain objectives and possible forms of which are described, respectively, in paragraphs 1 and 3 of this Article, may cause or threaten to cause injury to a domestic industry of another signatory or serious prejudice to the interests of another signatory or may nullify or impair benefits accruing to another signatory under the General Agreement, in particular where such subsidies would adversely affect the conditions of normal competition. Signatories shall therefore seek to avoid causing such effects through the use of subsidies. In particular, signatories, when drawing up their policies and practices in this field, in addition to

<sup>1</sup> The text appearing between brackets reflects a rectification of the English text effected by a procès-verbal of rectification drawn up by the Director-General to the Contracting Parties to the General Agreement on Tariffs and Trade dated 17 December 1979 in the absence of objections thereto by the Parties — Le texte entre crochets est une rectification du texte anglais effectuée par procès-verbal de rectification dressé par le Directeur général des Parties contractantes à l'Accord général sur les tarifs douaniers et le commerce en date du 17 décembre 1979, les Parties n'ayant pas formulé d'objections à cette rectification.

evaluating the essential internal objectives to be achieved, shall also weigh, as far as practicable, taking account of the nature of the particular case, possible adverse effects on trade. They shall also consider the conditions of world trade, production (e.g., price, capacity utilization, etc.) and supply in the product concerned.

3. Signatories recognize that the objectives mentioned in paragraph 1 above may be achieved, *inter alia*, by means of subsidies granted with the aim of giving an advantage to certain enterprises. Examples of possible forms of such subsidies are: government financing of commercial enterprises, including grants, loans or guarantees; government provision or government financed provision of utility, supply distribution and other operational or support services or facilities; government financing of research and development programmes; fiscal incentives, and government subscription to, or provision of, equity capital.

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.

Signatories note that the above forms of subsidies are normally granted either regionally or by sector. The enumeration of forms of subsidies set out above is illustrative and non-exhaustive, and reflects these currently granted by a number of signatories to this 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 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.

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 [VI].<sup>1</sup>

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 recommendations\*\* 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.

## PART III

*Article 14. DEVELOPING COUNTRIES*

1. Signatories recognize that subsidies are an integral part of economic development programmes of developing countries.

2. Accordingly, this Agreement shall not prevent developing country signatories from adopting measures and policies to assist their industries, including those in the export sector. In particular the commitment of Article 9 shall not apply to developing country signatories, subject to the provisions of paragraphs 5 through 8 below.

3. Developing country signatories agree that export subsidies on their industrial products shall not be used in a manner which causes serious prejudice to the trade or production of another signatory.

4. There shall be no presumption that export subsidies granted by developing country signatories result in adverse effects, as defined in this Agreement, to the trade or production of another signatory. Such adverse effects shall be demonstrated by positive evidence, through an economic examination of the impact on trade or production of another signatory.

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

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

<sup>1</sup> The text appearing between brackets reflects a rectification of the English text effected by a procès-verbal of rectification drawn up by the Director-General to the Contracting Parties to the General Agreement on Tariffs and Trade dated 17 December 1979 in the absence of objections thereto by the Parties — Le texte entre crochets est une rectification du texte anglais effectuée par procès-verbal de rectification dressé par le Directeur général des Parties contractantes à l'Accord général sur les tarifs douaniers et le commerce en date du 17 décembre 1979, les Parties n'ayant pas formulé d'objections à cette rectification.

5. A developing country signatory should endeavour to enter into a commitment\* to reduce or eliminate export subsidies when the use of such export subsidies is inconsistent with its competitive and development needs.

6. When a developing country has entered into a commitment to reduce or eliminate export subsidies, as provided in paragraph 5 above, countermeasures pursuant to the provisions of Parts II and VI of this Agreement against any export subsidies of such developing country shall not be authorized for other signatories of this Agreement, provided that the export subsidies in question are in accordance with the terms of the commitment referred to in paragraph 5 above.

7. With respect to any subsidy, other than an export subsidy, granted by a developing country signatory, action may not be authorized or taken under Parts II and VI of this Agreement, unless nullification or impairment of tariff concessions or other obligations under the General Agreement is found to exist as a result of such subsidy, in such a way as to displace or impede imports of like products into the market of the subsidizing country, or unless injury to domestic industry in the importing market of a signatory occurs in terms of Article VI of the General Agreement, as interpreted and applied by this Agreement. Signatories recognize that in developing countries, governments may play a large rôle in promoting economic growth and development. Intervention by such governments in their economy, for example through the practices enumerated in paragraph 3 of Article 11, shall not, *per se*, be considered subsidies.

8. The Committee shall, upon request by an interested signatory, undertake a review of a specific export subsidy practice of a developing country signatory to examine the extent to which the practice is in conformity with the objectives of this Agreement. If a developing country has entered into a commitment pursuant to paragraph 5 of this Article, it shall not be subject to such review for the period of that commitment.

9. The Committee shall, upon request by an interested signatory, also undertake similar reviews of measures maintained or taken by developed country signatories under the provisions of this Agreement which affect interests of a developing country signatory.

10. Signatories recognize that the obligations of this Agreement with respect to export subsidies for certain primary products apply to all signatories.

#### PART IV

##### Article 15. SPECIAL SITUATIONS

1. In cases of alleged injury caused by imports from a country described in Notes and Supplementary Provisions to the General Agreement (Annex I, Article VI, paragraph 1, point 2) the importing signatory may base its procedures and measures either:

- (a) On this Agreement, or, alternatively
- (b) On the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade.

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\* It is understood that after this Agreement has entered into force, any such proposed commitment shall be notified to the Committee in good time.

2. It is understood that in both cases (a) and (b) above the calculation of the margin of dumping or of the amount of the estimated subsidy can be made by comparison of the export price with:

- (a) The price at which a like product of a country other than the importing signatory or those mentioned above is sold, or
- (b) The constructed value\* of a like product in a country other than the importing signatory or those mentioned above.

3. If neither prices nor constructed value as established under (a) or (b) of paragraph 2 above provide an adequate basis for determination of dumping or subsidization then the price in the importing signatory, if necessary duly adjusted to reflect reasonable profits, may be used.

4. All calculations under the provisions of paragraphs 2 and 3 above shall be based on prices or costs ruling at the same level of trade, normally at the ex factory level, and in respect of operations made as nearly as possible at the same time. Due allowance shall be made in each case, on its merits, for the difference in conditions and terms of sale or in taxation and for the other differences affecting price comparability, so that the method of comparison applied is appropriate and not unreasonable.

#### 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.

#### 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.\*\*

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

\* "Constructed" value means cost of production plus a reasonable amount for administration, selling and any other costs and for profits.

\*\* In 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.

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.\* 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 therefor\*\* 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, preferably governmental, and the composition of panels should not give rise to delays in their establishment. It is understood that citizens of countries whose governments\*\*\* 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

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

\*\* The 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.

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



provisions of the General Agreement as interpreted and applied by this Agreement and the reasons and bases therefor.

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.

## PART VII

### Article 19. FINAL PROVISIONS

1. No specific action against a subsidy of another signatory can be taken except in accordance with the provisions of the General Agreement, as interpreted by this Agreement.\*

#### *Acceptance and accession*

2. (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 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.

(d) In regard to acceptance, the provisions of Article XXVI:5(a) and (b) of the General Agreement would be applicable.

#### *Reservations*

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

#### *Entry into force*

4. This Agreement shall enter into force on 1 January 1980 for the governments\*\* which have accepted or acceded to it by that date. For each other government it shall enter into force on the thirtieth day following the date of its acceptance or accession to this Agreement.

#### *National legislation*

5. (a) Each government accepting or acceding to this Agreement shall take all necessary steps, of a general or particular character, to ensure, not later than the date of entry into force of this Agreement for it, the conformity of its laws, regulations and administrative procedures with the provisions of this Agreement as they may apply to the signatory in question.

\* This paragraph is not intended to preclude action under other relevant provisions of the General Agreement, where appropriate.

\*\* The term "governments" is deemed to include the competent authorities of the European Economic Community.

(b) Each signatory shall inform the Committee of any changes in its laws and regulations relevant to this Agreement and in the administration of such laws and regulations.

#### *Review*

6. 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 reviews.\*

#### *Amendments*

7. The signatories may amend this Agreement having regard, *inter alia*, to the experience gained in its implementation. Such an amendment, once the signatories have concurred in accordance with procedures established by the Committee, shall not come into force for any signatory until it has been accepted by such signatory.

#### *Withdrawal*

8. Any signatory may withdraw from this Agreement. The withdrawal shall take effect upon the expiration of sixty days from the day on which written notice of withdrawal is received by the Director-General to the CONTRACTING PARTIES to the GATT. Any signatory may upon such notification request an immediate meeting of the Committee.

#### *Non-application of this Agreement between particular signatories*

9. This Agreement shall not apply as between any two signatories if either of the signatories, at the time either accepts or accedes to this Agreement, does not consent to such application.

#### *Annex*

10. The annex to this Agreement constitutes an integral part thereof.

#### *Secretariat*

11. This Agreement shall be serviced by the GATT secretariat.

#### *Deposit*

12. This Agreement shall be deposited with the Director-General to the CONTRACTING PARTIES to the GATT, who shall promptly furnish to each signatory and each contracting party to the GATT a certified copy thereof and of each amendment thereto pursuant to paragraph 7, and a notification of each acceptance thereof or accession thereto pursuant to paragraph 2, and of each withdrawal therefrom pursuant to paragraph 8 of this Article.

#### *Registration*

13. This Agreement shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

DONE at Geneva this twelfth day of April nineteen hundred and seventy-nine in a single copy, in the English, French and Spanish languages, each text being authentic.

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\* At the first such review, the Committee shall, in addition to its general review of the operation of the Agreement, offer all interested signatories an opportunity to raise questions and discuss issues concerning specific subsidy practices and the impact on trade, if any, of certain direct tax practices.

## ANNEX

## ILLUSTRATIVE LIST OF EXPORT SUBSIDIES

- (a) The provision by governments of direct subsidies to a firm or an industry contingent upon export performance.
- (b) Currency retention schemes or any similar practices which involve a bonus on exports.
- (c) Internal transport and freight charges on export shipments, provided or mandated by governments, on terms more favourable than for domestic shipments.
- (d) The delivery by governments or their agencies of imported or domestic products or services for use in the production of exported goods, on terms or conditions more favourable than for delivery of like or directly competitive products or services for use [in]<sup>1</sup> the production of goods for domestic consumption, if (in the case of products) such terms or conditions are more favourable than those commercially available on world markets to their exporters.
- (e) The full or partial exemption, remission, or deferral specifically related to exports, of direct taxes<sup>(1)</sup> or social welfare charges paid or payable by industrial or commercial enterprises.<sup>(2)</sup>
- (f) The allowance of special deductions directly related to exports or export performance, over and above those granted in respect to production for domestic consumption, in the calculation of the base on which direct taxes are charged.
- (g) The exemption or remission in respect of the production and distribution of exported products, of indirect taxes<sup>(1)</sup> in excess of those levied in respect of the production and distribution of like products when sold for domestic consumption.
- (h) The exemption, remission or deferral of prior stage cumulative indirect taxes<sup>(1)</sup> on goods or services used in the production of exported products in excess of the exemption, remission or deferral of like prior stage cumulative indirect taxes on goods or services used in the production of like products when sold for domestic consumption; provided, however, that prior stage cumulative indirect taxes may be exempted, remitted or deferred on exported products even when not exempted, remitted or deferred on like products when sold for domestic consumption, if the prior stage cumulative indirect taxes are levied on goods that are physically incorporated (making normal allowance for waste) in the exported product.<sup>(3)</sup>
- (i) The remission or drawback of import charges<sup>(1)</sup> in excess of those levied on imported goods that are physically incorporated (making normal allowance for waste) in the exported product; provided, however, that in particular cases a firm may use a quantity of home market goods equal to, and having the same quality and characteristics as, the imported goods as a substitute for them in order to benefit from this provision if the import and the corresponding export operations both occur within a reasonable time period, normally not to exceed two years.
- (j) The provision by governments (or special institutions controlled by governments) of export credit guarantee or insurance programmes, of insurance or guarantee programmes against increases in the costs of exported products<sup>(4)</sup> or of exchange risk

<sup>1</sup> The text appearing between brackets reflects a rectification of the English text effected by a procès-verbal of rectification drawn up by the Director-General to the Contracting Parties to the General Agreements on Tariffs and Trade dated 17 December 1979 in the absence of objections thereto by the Parties — Le texte entre crochets est une rectification du texte anglais effectuée par procès-verbal de rectification dressé par le Directeur général des Parties contractantes à l'Accord général sur les tarifs douaniers et le commerce en date du 17 décembre 1979, les Parties n'ayant pas formulé d'objections à cette rectification.

programmes, at premium rates, which are manifestly inadequate to cover the long-term operating costs and losses of the programmes.<sup>(5)</sup>

- (k) The grant by governments (or special institutions controlled by and/or acting under the authority of governments) of export credits at rates below those which they actually have to pay for the funds so employed (or would have to pay if they borrowed on international capital markets in order to obtain funds of the same maturity and denominated in the same currency as the export credit), or the payment by them of all or part of the costs incurred by exporters or financial institutions in obtaining credits, in so far as they are used to secure a material advantage in the field of export credit terms.

Provided, however, that if a signatory is a party to an international undertaking on official export credits to which at least twelve original signatories<sup>6</sup> to this Agreement are parties as of 1 January 1979 (or a successor undertaking which has been adopted by those original signatories), or if in practice a signatory applies the interest rates provisions of the relevant undertaking, an export credit practice which is in conformity with those provisions shall not be considered an export subsidy prohibited by this Agreement.

- (l) Any other charge on the public account constituting an export subsidy in the sense of Article XVI of the General Agreement.

#### NOTES

- <sup>(1)</sup> For the purpose of this Agreement:

The term "direct taxes" shall mean taxes on wages, profits, interest, rents, royalties, and all other forms of income, and taxes on the ownership of real property;

The term "import charges" shall mean tariffs, duties, and other fiscal charges not elsewhere enumerated in this note that are levied on imports;

The term "indirect taxes" shall mean sales, excise, turnover, value added, franchise, stamp, transfer, inventory and equipment taxes, border taxes and all taxes other than direct taxes and import charges;

"Prior stage" indirect taxes are those levied on goods or services used directly or indirectly in making the product;

"Cumulative" indirect taxes are multi-staged taxes levied where there is no mechanism for subsequent crediting of the tax if the goods or services subject to tax at one stage of production are used in a succeeding stage of production;

"Remission" of taxes includes the refund or rebate of taxes.

- <sup>(2)</sup> The signatories recognize that deferral need not amount to an export subsidy where, for example, appropriate interest charges are collected. The signatories further recognize that nothing in this text prejudices the disposition by the CONTRACTING PARTIES of the specific issues raised in GATT document L/4422.

The signatories reaffirm the principle that prices for goods in transactions between exporting enterprises and foreign buyers under their or under the same control should

for tax purposes be the prices which would be charged between independent enterprises acting at arm's length. Any signatory may draw the attention of another signatory to administrative or other practices which may contravene this principle and which result in a significant saving of direct taxes in export transactions. In such circumstances the signatories shall normally attempt to resolve their differences using the facilities of existing bilateral tax treaties or other specific international mechanisms, without prejudice to the rights and obligations of signatories under the General Agreement, including the right of consultation created in the preceding sentence.

Paragraph (e) is not intended to limit a signatory from taking measures to avoid the double taxation of foreign source income earned by its enterprises or the enterprises of another signatory.

Where measures incompatible with the provisions of paragraph (e) exist, and where major practical difficulties stand in the way of the signatory concerned bringing such measures promptly into conformity with the Agreement, the signatory concerned shall, without prejudice to the rights of other signatories under the General Agreement or this Agreement, examine methods of bringing these measures into conformity within a reasonable period of time.

In this connection the European Economic Community has declared that Ireland intends to withdraw by 1 January 1981 its system of preferential tax measures related to exports, provided for under the Corporation Tax Act of 1976, whilst continuing nevertheless to honour legally binding commitments entered into during the lifetime of this system.

- (3) Paragraph (h) does not apply to value-added tax systems and border-tax adjustment in lieu thereof; the problem of the excessive remission of value-added taxes is exclusively covered by paragraph (g).
- (4) The signatories agree that nothing in this paragraph shall prejudice or influence the deliberations of the panel established by the GATT Council on 6 June 1978 (C/M/126).
- (5) In evaluating the long-term adequacy of premium rates, costs and losses of insurance programmes, in principle only such contracts shall be taken into account that were concluded after the date of entry into force of this Agreement.
- (6) An original signatory to this Agreement shall mean any signatory which adheres *ad referendum* to the Agreement on or before 30 June 1979.

For the Argentine  
Republic:

Pour la République  
argentine :

Por la República  
Argentina:

For the Commonwealth  
of Australia:

Pour le Commonwealth  
d'Australie :

Por el Commonwealth  
de Australia:

For the Republic  
of Austria:

Pour la République  
d'Autriche :

Por la República  
de Austria:

[R. WILLENPART  
17 December 1979]

Subject to ratification — Sous réserve de ratification]

For the People's Republic  
of Bangladesh:

Pour la République  
populaire du Bangladesh :

Por la República Popular  
de Bangladesh:

For Barbados:

Pour la Barbade :

Por Barbados:

For the Kingdom  
of Belgium:

Pour le Royaume  
de Belgique :

Por el Reino  
de Bélgica:

For the People's Republic  
of Benin:

Pour la République  
populaire du Bénin :

Por la República Popular  
de Benin:

For the Federative  
Republic of Brazil:

Pour la République  
fédérative du Brésil :  
[A. GURGEL DE ALENCAR  
28 December 1979]

Por la República  
Federativa del Brasil:

For the Socialist Republic  
of the Union  
of Burma:

Pour la République  
socialiste de l'Union  
birmane :

Por la República Socialista  
de la Unión  
Birmana:

For the Republic of Burundi:	Pour la République du Burundi :	Por la República de Burundi:
For the United Republic of Cameroon:	Pour la République-Unie du Cameroun :	Por la República Unida del Camerún:
For Canada:	Pour le Canada : [McPHAIL 17 December 1979]	Por el Canadá:
For the Central African Empire:	Pour l'Empire centrafricain :	Por el Imperio Centroafricano:
For the Republic of Chad:	Pour la République du Tchad :	Por la República del Chad:
For the Republic of Chile:	Pour la République du Chili : [MANUEL TRUCCO 25 October 1979 <i>ad referendum</i> ]	Por la República de Chile:
For the Republic of Colombia:	Pour la République de Colombie :	Por la República de Colombia:
For the People's Republic of the Congo:	Pour la République populaire du Congo :	Por la República Popular del Congo:
For the Republic of Cuba:	Pour la République de Cuba :	Por la República de Cuba:

For the Republic  
of Cyprus:

Pour la République  
de Chypre :

Por la República  
de Chipre:

For the Czechoslovak  
Socialist Republic:

Pour la République  
socialiste tchécoslovaque :

Por la República Socialista  
Checoslovaca:

For the Kingdom  
of Denmark:

Pour le Royaume  
du Danemark :

Por el Reino  
de Dinamarca:

For the Dominican  
Republic:

Pour la République  
dominicaine :

Por la República  
Dominicana:

For the Arab Republic  
of Egypt:

Pour la République  
arabe d'Égypte :

Por la República Árabe  
de Egipto:

For the Republic  
of Finland:

Pour la République  
de Finlande :

Por la República  
de Finlandia:

[PAAVO KAARLEHTO  
17 December 1979

Subject to ratification — Sous réserve de ratification]

For the French Republic:

Pour la République  
française :

Por la República Francesa:

For the Gabonese  
Republic:

Pour la République  
gabonaise :

Por la República  
Gabonesa:

For the Republic  
of the Gambia:

Pour la République  
de Gambie :

Por la República  
de Gambia:

For the Federal Republic  
of Germany:

Pour la République  
fédérale d'Allemagne :

Por la República Federal  
de Alemania:



For the Republic  
of Ghana:

Pour la République  
du Ghana :

Por la República  
de Ghana:

For the Hellenic Republic:

Pour la République  
hellénique :

Por la República Helénica:

For the Republic  
of Guyana:

Pour la République  
du Guyana :

Por la República  
de Guyana:

For the Republic  
of Haiti:

Pour la République  
d'Haïti :

Por la República  
de Haïti:

For the Hungarian People's  
Republic:

Pour la République  
populaire hongroise :

Por la República Popular  
Húngara:

For the Republic  
of Iceland:

Pour la République  
d'Islande :

Por la República  
de Islandia:

For the Republic  
of India:

Pour la République  
de l'Inde :

Por la República  
de la India:

For the Republic  
of Indonesia:

Pour la République  
d'Indonésie :

Por la República  
de Indonesia:

For Ireland:

Pour l'Irlande :

Por Irlanda:

For the State of Israel:

Pour l'Etat d'Israël :

Por el Estado de Israel:

For the Italian  
Republic:

Pour la République  
italienne :

Por la República  
Italiana:

For the Republic  
of the Ivory Coast:

Pour la République  
de Côte d'Ivoire :

Por la República  
de Costa de Marfil:

For Jamaica:

Pour la Jamaïque :

Por Jamaica:

For Japan:

Pour le Japon :

Por el Japón:

[MASAO SAWAKI  
17 December 1979]

Subject to completion of constitutional procedures —  
Sous réserve de l'accomplissement des procédures constitutionnelles]

For the Republic  
of Kenya:

Pour la République  
du Kenya :

Por la República  
de Kenya:

For the Republic  
of Korea:

Pour la République  
de Corée :  
[SHINYONG LHO  
10 June 1980]

Por la República  
de Corea:

For the State of Kuwait:

Pour l'Etat du Koweït :

Por el Estado de Kuwait:

For the Grand Duchy  
of Luxembourg:

Pour le Grand-Duché  
de Luxembourg :

Por el Gran Ducado  
de Luxemburgo:

For the Democratic  
Republic  
of Madagascar:

Pour la République  
démocratique  
de Madagascar :

Por la República  
Democrática  
de Madagascar:

For the Republic  
of Malawi:

Pour la République  
du Malawi :

Por la República  
de Malawi:

For Malaysia:

Pour la Malaisie :

Por Malasia:

For the Republic  
of Malta:

Pour la République  
de Malte :

Por la República  
de Malta:

For the Islamic Republic  
of Mauritania:

Pour la République  
islamique de Mauritanie :

Por la República Islámica  
de Mauritania:

For Mauritius:

Pour Maurice :

Por Mauricio:

For the United Mexican  
States:

Pour les Etats-Unis  
de Mexique :

Por los Estados Unidos  
Mexicanos:

For the Kingdom  
of the Netherlands:

Pour le Royaume  
des Pays-Bas :

Por el Reino  
de los Países Bajos:

For New Zealand:

Pour la Nouvelle-Zélande :

Por Nueva Zelandia:

For the Republic  
of Nicaragua:

Pour la République  
du Nicaragua :

Por la República  
de Nicaragua:

For the Republic  
of Niger:

Pour la République  
du Niger :

Por la República  
del Níger:

For the Federal Republic  
of Nigeria:

Pour la République  
fédérale du Nigéria :

Por la República Federal  
de Nigeria:

For the Kingdom  
of Norway:

Pour le Royaume  
de Norvège :

Por el Reino  
de Noruega:

[JOHAN CAPPELEN  
17 December 1979

Subject to acceptance — Sous réserve d'acceptation]

For the Islamic Republic  
of Pakistan:

Pour la République  
islamique du Pakistan :

[MUNIR AKRAM  
30 April 1980]

Por la República Islámica  
del Pakistán:

For the Republic  
of Peru:

Pour la République  
du Pérou :

Por la República  
del Perú:

For the Republic  
of the Philippines:

Pour la République  
des Philippines :

Por la República  
de Filipinas:

For the Polish People's  
Republic:

Pour la République  
populaire de Pologne :

Por la República Popular  
Polaca:

For the Portuguese  
Republic:

Pour la République  
portugaise :

Por la República  
Portuguesa:

For Rhodesia:

Pour la Rhodésie :

Por Rhodesia:

For the Socialist Republic  
of Romania:

Pour la République  
socialiste de Roumanie :

Por la República Socialista  
de Rumania:

For the Rwandese  
Republic:

Pour la République  
rwandaise :

Por la República  
Rwandesa:

For the Republic  
of Senegal:

Pour la République  
du Sénégal :

Por la República  
del Senegal:

For the Republic  
of Sierra Leone:

Pour la République  
de Sierra Leone:

Por la República  
de Sierra Leona:

For the Republic  
of Singapore:

Pour la République  
de Singapour :

Por la República  
de Singapur:

For the Republic  
of South Africa:

Pour la République  
sud-africaine :

Por la República  
de Sudáfrica:

For the Spanish State:

Pour l'Etat espagnol :

Por el Estado Español:

For the Democratic  
Socialist Republic  
of Sri Lanka:

Pour la République  
socialiste démocratique  
de Sri Lanka :

Por la República  
Socialista Democrática  
de Sri Lanka:

For the Republic  
of Suriname:

Pour la République  
du Suriname :

Por la República  
de Suriname:

For the Kingdom  
of Sweden:

Pour le Royaume  
de Suède :

Por el Reino  
de Suecia:

[M. LEMMEL

17 December 1979

Subject to ratification — Sous réserve de ratification]

For the Swiss  
Confederation:

Pour la Confédération  
suisse :

Por la Confederación  
Suiza:

[A. DUNKEL

17 December 1979]

For the United Republic  
of Tanzania:

Pour la République-Unie  
de Tanzanie :

Por la República Unida  
de Tanzania:

For the Togolese  
Republic:

Pour la République  
togolaise :

Por la República  
Togolesa:

For the Republic  
of Trinidad and Tobago:

Pour la République  
de Trinité-et-Tobago :

Por la República  
de Trinidad y Tabago:

For the Republic  
of Tunisia:

Pour la République  
tunisienne :

Por la República  
de Túnez:

For the Republic  
of Turkey:

Pour la République  
turque :

Por la República  
de Turquía:

For the Republic  
of Uganda:

Pour la République  
de l'Ouganda :

Por la República  
de Uganda:

For the United Kingdom  
of Great Britain  
and Northern Ireland:

Pour le Royaume-Uni  
de Grande-Bretagne  
et d'Irlande du Nord :

Por el Reino Unido  
de Gran Bretaña  
e Irlanda del Norte:

For the United States  
of America:

Pour les Etats-Unis  
d'Amérique :

Por los Estados Unidos  
de América:

[MICHAEL B. SMITH  
17 December 1979]

For the Republic  
of Upper Volta:

Pour la République  
de Haute-Volta :

Por la República  
del Alto Volta:

For the Eastern Republic  
of Uruguay:

Pour la République  
orientale de l'Uruguay :

Por la República Oriental  
del Uruguay:

For the Socialist  
Federal Republic  
of Yugoslavia:

Pour la République  
fédérative socialiste  
de Yougoslavie :

Por la República  
Federativa Socialista  
de Yugoslavia:

For the Republic  
of Zaïre:

Pour la République  
du Zaïre :

Por la República  
del Zaïre:

For the European  
Economic Community:

Pour la Communauté  
économique européenne :

Por la Comunidad  
Económica Europea:

[P. LUYTEN  
17 December 1979]

LXXXVII. AGREEMENT<sup>1</sup> ON TECHNICAL BARRIERS TO TRADE (WITH ANNEXES). DONE AT GENEVA ON 12 APRIL 1979

*Authentic texts: English, French and Spanish.*

*Registered by the Director-General to the Contracting Parties to the General Agreement on Tariffs and Trade acting on behalf of the Parties, on 1 July 1980.*

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<sup>2</sup> (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;

<sup>1</sup> Came into force on 1 January 1980 for the following States and organization, which had accepted or acceded to it by that date, in accordance with article 15 (6):

<i>State or organization</i>	<i>Date of definitive signature (s), acceptance by letter (l), or deposit of an instrument of acceptance (A) or of ratification</i>
Brazil .....	28 December 1979 s
Canada .....	17 December 1979 s
Denmark .....	21 December 1979
(Except as regards its application to the Faeroe Islands.)	
European Economic Community .....	17 December 1979 s
France .....	17 December 1979 s
Germany, Federal Republic of* .....	17 December 1979 s
(With a declaration of application to Berlin (West).)	
Ireland .....	17 December 1979 s
Italy .....	17 December 1979 s
Luxembourg .....	17 December 1979 s
New Zealand .....	17 December 1979 s
Norway .....	28 December 1979 A
Sweden .....	20 December 1979
Switzerland .....	17 December 1979 s
United Kingdom of Great Britain and Northern Ireland .....	17 December 1979 l
(In respect of the territories for which it has international responsibility, except for Antigua, Bermuda, Brunei, Cayman Islands, Montserrat, St. Kitts-Nevis, Sovereign Base Areas Cyprus and Virgin Islands.)	
United States of America .....	17 December 1979 s

Subsequently, the Agreement entered into force in respect of the following States on the thirtieth day following the date on which they accepted it or acceded to it, in accordance with article 15 (6):

<i>State</i>	<i>Date of definitive signature (s) or deposit of an instrument of acceptance (A) or of approval (AA) or of ratification</i>
United Kingdom of Great Britain and Northern Ireland .....	18 February 1980 AA
(With effect from 20 March 1980. In respect of its metropolitan territory.)	
Finland .....	13 March 1980
(With effect from 12 April 1980.)	
Hungary* .....	23 April 1980 s
(With effect from 23 May 1980.)	
Japan .....	25 April 1980 A
(With effect from 25 May 1980.)	
Austria .....	28 May 1980
(With effect from 27 June 1980.)	
Singapore .....	3 June 1980 s
(With effect from 3 July 1980.)	

\* See p. 342 of this volume for the texts of the declarations made upon signature.

<sup>2</sup> United Nations, *Treaty Series*, vol. 55, p. 187.



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.

1.2. However, for the purposes of this Agreement the meaning of the terms given in Annex 1 applies.

1.3. All products, including industrial and agricultural products, shall be subject to the provisions of this Agreement.

1.4. Purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies are not subject to the provisions of this Agreement but are addressed in the Agreement on Government Procurement, according to its coverage.

1.5. All references in this Agreement to technical regulations, standards, methods for assuring conformity with technical regulations or standards and certification systems shall be construed to include any amendments thereto and any additions to the rules or the product coverage thereof, except amendments and additions of an insignificant nature.

#### TECHNICAL REGULATIONS AND STANDARDS

#### *Article 2. ELABORATION, ADOPTION ET APPLICATION DE RÈGLEMENTS TECHNIQUES ET DE NORMES PAR DES INSTITUTIONS DU GOUVERNEMENT CENTRAL*

With respect to their central government bodies:

2.1. Parties shall ensure that technical regulations and standards are not prepared, adopted or applied with a view to creating obstacles to international trade. Furthermore,

products imported from the territory of any Party shall be accorded treatment no less favourable than that accorded to like products of national origin and to like products originating in any other country in relation to such technical regulations or standards. They shall likewise ensure that neither technical regulations nor standards themselves nor their application have the effect of creating unnecessary obstacles to international trade.

2.2. Where technical regulations or standards are required and relevant international standards exist or their completion is imminent, Parties shall use them, or the relevant parts of them, as a basis for the technical regulations or standards except where, as duly explained upon request, such international standards or relevant parts are inappropriate for the Parties concerned, for *inter alia* such reasons as national security requirements; the prevention of deceptive practices; protection for human health or safety, animal or plant life or health, or the environment; fundamental climatic or other geographical factors; fundamental technological problems.

2.3. With a view to harmonizing technical regulations or standards on as wide a basis as possible, Parties shall play a full part within the limits of their resources in the preparation by appropriate international standardizing bodies of international standards for products for which they either have adopted, or expect to adopt, technical regulations or standards.

2.4. Wherever appropriate, Parties shall specify technical regulations and standards in terms of performance rather than design or descriptive characteristics.

2.5. Whenever a relevant international standard does not exist or the technical content of a proposed technical regulation or standard is not substantially the same as the technical content of relevant international standards, and if the technical regulation or standard may have a significant effect on trade of other Parties, Parties shall:

- (2.5.1) Publish a notice in a publication at an early appropriate stage, in such a manner as to enable interested parties to become acquainted with it, that they propose to introduce a particular technical regulation or standard;
- (2.5.2) Notify other Parties through the GATT secretariat of the products to be covered by technical regulations together with a brief indication of the objective and rationale of proposed technical regulations;
- (2.5.3) Upon request, provide without discrimination, to other Parties in regard to technical regulations and to interested parties in other Parties in regard to standards, particulars or copies of the proposed technical regulation or standard and, whenever possible, identify the parts which in substance deviate from relevant international standards;
- (2.5.4) In regard to technical regulations allow, without discrimination, reasonable time for other Parties to make comments in writing, discuss these comments upon request, and take these written comments and the results of these discussions into account;
- (2.5.5) In regard to standards, allow reasonable time for interested parties in other Parties to make comments in writing, discuss these comments upon request with other Parties and take these written comments and the results of these discussions into account.

2.6. Subject to the provisions in the heading of Article 2, paragraph 5, where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for a Party, that Party may omit such of the steps enumerated in Article 2, paragraph 5 as it finds necessary provided that the Party, upon adoption of a technical regulation or standard, shall:

- (2.6.1) Notify immediately other Parties through the GATT secretariat of the particular technical regulation, the products covered, with a brief indication of the objective and the rationale of the technical regulation, including the nature of the urgent problems;
- (2.6.2) Upon request provide, without discrimination, other Parties with copies of the technical regulation and interested parties in other Parties with copies of the standard;
- (2.6.3) Allow, without discrimination, other Parties with respect to technical regulations and interested parties in other Parties with respect to standards, to present their comments in writing upon request, discuss these comments with other Parties and take the written comments and the results of any such discussion into account;
- (2.6.4) Take also into account any action by the Committee as a result of consultations carried out in accordance with the procedures established in Article 14.

2.7. Parties shall ensure that all technical regulations and standards which have been adopted are published promptly in such a manner as to enable interested parties to become acquainted with them.

2.8. Except in those urgent circumstances referred to in Article 2, paragraph 6, Parties shall allow a reasonable interval between the publication of a technical regulation and its entry into force in order to allow time for producers in exporting countries, and particularly in developing countries, to adapt their products or methods of production to the requirements of the importing country.

2.9. Parties shall take such reasonable measures as may be available to them to ensure that regional standardizing bodies of which they are members comply with the provisions of Article 2, paragraphs 1 to 8. In addition Parties shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such bodies to act in a manner inconsistent with those provisions.

2.10. Parties which are members of regional standardizing bodies shall, when adopting a regional standard as a technical regulation or standard, fulfil the obligations of Article 2, paragraphs 1 to 8 except to the extent that the regional standardizing bodies have fulfilled these obligations.

*Article 3. PREPARATION, ADOPTION AND APPLICATION OF TECHNICAL REGULATIONS AND STANDARDS BY LOCAL GOVERNMENT BODIES*

3.1. Parties shall take such reasonable measures as may be available to them to ensure that local government bodies within their territories comply with the provisions of Article 2 with the exception of Article 2, paragraph 3, paragraph 5, sub-paragraph 2, paragraph 9 and paragraph 10, noting that provision of information regarding technical regulations referred to in Article 2, paragraph 5, sub-paragraph 3 and paragraph 6, sub-paragraph 2 and comment and discussion referred to in Article 2, paragraph 5, sub-paragraph 4 and paragraph 6, sub-paragraph 3 shall be through Parties. In addition, Parties shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such local government bodies to act in a manner inconsistent with any of the provisions of Article 2.

*Article 4. PREPARATION, ADOPTION AND APPLICATION OF TECHNICAL REGULATIONS AND STANDARDS BY NON-GOVERNMENTAL BODIES*

4.1. Parties shall take such reasonable measures as may be available to them to ensure that non-governmental bodies within their territories comply with the provisions of Article 2, with the exception of Article 2, paragraph 5, sub-paragraph 2 and provided that comment and discussion referred to in Article 2, paragraph 5, sub-paragraph 4 and paragraph 6, sub-paragraph 3 may also be with interested parties in other Parties. In addition, Parties shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such non-governmental bodies to act in a manner inconsistent with any of the provisions of Article 2.

CONFORMITY WITH TECHNICAL REGULATIONS AND STANDARDS

*Article 5. DETERMINATION OF CONFORMITY WITH TECHNICAL REGULATIONS OR STANDARDS BY CENTRAL GOVERNMENT BODIES*

5.1. Parties shall ensure that, in cases where a positive assurance is required that products conform with technical regulations or standards, central government bodies apply the following provisions to products originating in the territories of other Parties:

- (5.1.1) Imported products shall be accepted for testing under conditions no less favourable than those accorded to like domestic or imported products in a comparable situation;
- (5.1.2) The test methods and administrative procedures for imported products shall be no more complex and no less expeditious than the corresponding methods and procedures, in a comparable situation for like products of national origin or originating in any other country;
- (5.1.3) Any fees imposed for testing imported products shall be equitable in relation to any fees chargeable for testing like products of national origin or originating in any other country;
- (5.1.4) The results of tests shall be made available to the exporter or importer or their agents, if requested, so that corrective action may be taken if necessary;
- (5.1.5) The siting of testing facilities and the selection of samples for testing shall not be such as to cause unnecessary inconvenience for importers, exporters or their agents;
- (5.1.6) The confidentiality of information about imported products arising from or supplied in connection with such tests shall be respected in the same way as for domestic products.

5.2. However, in order to facilitate the determination of conformity with technical regulations and standards where such positive assurance is required, Parties shall ensure, whenever possible, that their central government bodies:

—Accept test results, certificates or marks of conformity issued by relevant bodies in the territories of other Parties; or rely upon self-certification by producers in the territories of other Parties,

even when the test methods differ from their own, provided they are satisfied that the methods employed in the territory of the exporting Party provide a sufficient means of determining conformity with the relevant technical regulations or standards. It is recognized that prior consultations may be necessary in order to arrive at a mutually

satisfactory understanding regarding self-certification, test methods and results, and certificates or marks of conformity employed in the territory of the exporting Party, in particular in the case of perishable products or of other products which are liable to deteriorate in transit.

5.3. Parties shall ensure that test methods and administrative procedures used by central government bodies are such as to permit, so far as practicable, the implementation of the provisions in Article 5, paragraph 2.

5.4. Nothing in this Article shall prevent Parties from carrying out reasonable spot checks within their territories.

*Article 6. DETERMINATION BY LOCAL GOVERNMENT BODIES AND NON-GOVERNMENTAL BODIES OF CONFORMITY WITH TECHNICAL REGULATIONS OR STANDARDS*

6.1. Parties shall take such reasonable measures as may be available to them to ensure that local government bodies and non-governmental bodies within their territories comply with the provisions of Article 5. In addition, Parties shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such bodies to act in a manner inconsistent with any of the provisions of Article 5.

CERTIFICATION SYSTEMS

*Article 7. CERTIFICATION SYSTEMS OPERATED BY CENTRAL GOVERNMENT BODIES*

With respect to their central government bodies:

7.1. Parties shall ensure that certification systems are not formulated or applied with a view to creating obstacles to international trade. They shall likewise ensure that neither such certification systems themselves nor their application have the effect of creating unnecessary obstacles to international trade.

7.2. Parties shall ensure that certification systems are formulated and applied so as to grant access for suppliers of like products originating in the territories of other Parties under conditions no less favourable than those accorded to suppliers of like products of national origin or originating in any other country, including the determination that such suppliers are able and willing to fulfil the requirements of the system. Access for suppliers is obtaining certification from an importing Party under the rules of the system. Access for suppliers also includes receiving the mark of the system, if any, under conditions no less favourable than those accorded to suppliers of like products of national origin or originating in any other country.

7.3. Parties shall:

- (7.3.1) Publish a notice in a publication at an early appropriate stage, in such a manner as to enable interested parties to become acquainted with it, that they propose to introduce a certification system;
- (7.3.2) Notify the GATT secretariat of the products to be covered by the proposed system together with a brief description of the objective of the proposed system;
- (7.3.3) Upon request provide, without discrimination, to other Parties particulars or copies of the proposed rules of the system;
- (7.3.4) Allow, without discrimination, reasonable time for other Parties to make comments in writing on the formulation and operation of the system, discuss the comments upon request and take them into account.

7.4. However, where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for a Party, that Party may omit such of the steps enumerated in Article 7, paragraph 3 as it finds necessary provided that the Party, upon adoption of the certification system, shall:

- (7.4.1) Notify immediately the other Parties through the GATT secretariat of the particular certification system and the products covered, with a brief indication of the objective and the rationale of the certification system including the nature of the urgent problems;
- (7.4.2) Upon request provide, without discrimination, other Parties with copies of the rules of the system;
- (7.4.3) Allow, without discrimination, other Parties to present their comments in writing, discuss these comments upon request and take the written comments and results of any such discussion into account.

7.5. Parties shall ensure that all adopted rules of certification systems are published.

*Article 8. CERTIFICATION SYSTEMS OPERATED BY LOCAL GOVERNMENT AND NON-GOVERNMENTAL BODIES*

8.1. Parties shall take such reasonable measures as may be available to them to ensure that local government bodies and non-governmental bodies within their territories when operating certification systems comply with the provisions of Article 7, except paragraph 3, sub-paragraph 2, noting that the provision of information referred to in Article 7, paragraph 3, sub-paragraph 3 and paragraph 4, sub-paragraph 2, the notification referred to in Article 7, paragraph 4, sub-paragraph 1, and the comment and discussion referred to in Article 7, paragraph 4, sub-paragraph 3, shall be through Parties. In addition, Parties shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such bodies to act in a manner inconsistent with any of the provisions of Article 7.

8.2. Parties shall ensure that their central government bodies rely on certification systems operated by local government and non-governmental bodies only to the extent that these bodies and systems comply with the relevant provisions of Article 7.

*Article 9. INTERNATIONAL AND REGIONAL CERTIFICATION SYSTEMS*

9.1. Where a positive assurance, other than by the supplier, of conformity with a technical regulation or standard is required, Parties shall, wherever practicable, formulate international certification systems and become members thereof or participate therein.

9.2. Parties shall take such reasonable measures as may be available to them to ensure that international and regional certification systems in which relevant bodies within their territories are members or participants comply with the provisions of Article 7, with the exception of paragraph 2 having regard to the provisions of Article 9, paragraph 3. In addition, Parties shall not take any measures which have the effect of, directly or indirectly, requiring or encouraging such systems to act in a manner inconsistent with any of the provisions of Article 7.

9.3. Parties shall take such reasonable measures as may be available to them to ensure that international and regional certification systems, in which relevant bodies within

their territories are members or participants, are formulated and applied so as to grant access for suppliers of like products originating in the territories of other Parties, under conditions no less favourable than those accorded to suppliers of like products originating in a member country, a participant country or in any other country, including the determination that such suppliers are able and willing to fulfil the requirements of the system. Access for suppliers is obtaining certification from an importing Party which is a member of or participant in the system, or from a body authorized by the system to grant certification, under the rules of the system. Access for suppliers also includes receiving the mark of the system, if any, under conditions no less favourable than those accorded to suppliers of like products originating in a member country or a participant country.

9.4. Parties shall ensure that their central government bodies rely on international or regional certification systems only to the extent that the systems comply with the provisions of Article 7 and Article 9, paragraph 3.

#### INFORMATION AND ASSISTANCE

##### *Article 10. INFORMATION ABOUT TECHNICAL REGULATIONS, STANDARDS AND CERTIFICATION SYSTEMS*

10.1. Each Party shall ensure that an enquiry point exists which is able to answer all reasonable enquiries from interested parties in other Parties regarding:

- (10.1.1) Any technical regulations adopted or proposed within its territory by central or local government bodies, by non-governmental bodies which have legal power to enforce a technical regulation, or by regional standardizing bodies of which such bodies are members or participants;
- (10.1.2) Any standards adopted or proposed within its territory by central or local government bodies, or by regional standardizing bodies of which such bodies are members or participants;
- (10.1.3) Any certification systems, or proposed certification systems, which are operated within its territory by central or local government bodies, or by non-governmental bodies which have legal power to enforce a technical regulation, or by regional certification bodies of which such bodies are members or participants;
- (10.1.4) The location of notices published pursuant to this Agreement, or the provision of information as to where such information can be obtained; and
- (10.1.5) The location of the enquiry points mentioned in Article 10, paragraph 2.

10.2. Each Party shall take such reasonable measures as may be available to it to ensure that one or more enquiry points exist which are able to answer all reasonable enquiries from interested parties in other Parties regarding:

- (10.2.1) Any standards adopted or proposed within its territory by non-governmental standardizing bodies, or by regional standardizing bodies of which such bodies are members or participants; and

- (10.2.2) Any certification systems, or proposed certification systems, which are operated within its territory by non-governmental certification bodies, or by regional certification bodies of which such bodies are members or participants.

10.3. Parties shall take such reasonable measures as may be available to them to ensure that where copies of documents are requested by other Parties, or by interested parties in other Parties in accordance with the provisions of this Agreement, they are supplied at the same price (if any) as to the nationals of the Party concerned.

10.4. The GATT secretariat will, when it receives notifications in accordance with the provisions of this Agreement, circulate copies of the notifications to all Parties and interested international standardizing and certification bodies and draw the attention of developing country Parties to any notifications relating to products of particular interest to them.

10.5. Nothing in this Agreement shall be construed as requiring:

- (10.5.1) The publication of texts other than in the language of the Party;  
(10.5.2) The provision of particulars or copies of drafts other than in the language of the Party; or  
(10.5.3) Parties to furnish any information the disclosure of which they consider contrary to their essential security interests.

10.6. Notifications to the GATT secretariat shall be in English, French or Spanish.

10.7. Parties recognize the desirability of developing centralized information systems with respect to the preparation, adoption and application of all technical regulations, standards and certification systems within their territories.

#### *Article 11. TECHNICAL ASSISTANCE TO OTHER PARTIES*

11.1. Parties shall, if requested, advise other Parties, especially the developing countries, on the preparation of technical regulations.

11.2. Parties shall, if requested, advise other Parties, especially the developing countries[,]¹ and shall grant them technical assistance on mutually agreed terms and conditions regarding the establishment of national standardizing bodies and participation in the international standardizing bodies and shall encourage their national standardizing bodies to do likewise.

11.3. Parties shall, if requested, take such reasonable measures as may be available to them to arrange for the regulatory bodies within their territories to advise other Parties, especially the developing countries, and shall grant them technical assistance on mutually agreed terms and conditions regarding:

- (11.3.1) The establishment of regulatory bodies, or certification bodies for providing a certificate or mark of conformity with technical regulations; and

¹ The text appearing between brackets reflects a rectification of the English text effected by a procès-verbal of rectification drawn up by the Director-General to the Contracting Parties to the General Agreement on Tariffs and Trade dated 17 December 1979 in the absence of objections thereto by the Parties — Le texte entre crochets est une rectification du texte anglais effectuée par procès-verbal de rectification dressé par le Directeur général des Parties contractantes à l'Accord général sur les tarifs douaniers et le commerce en date du 17 décembre 1979, les Parties n'ayant pas formulé d'objections à cette rectification.



(11.3.2) The methods by which their technical regulations can best be met.

11.4. Parties shall, if requested, take such reasonable measures as may be available to them to arrange for advice to be given to other Parties, especially the developing countries, and shall grant them technical assistance on mutually agreed terms and conditions regarding the establishment of certification bodies for providing a certificate or mark of conformity with standards adopted within the territory of the requesting Party.

11.5. Parties shall, if requested, advise other Parties, especially the developing countries, and shall grant them technical assistance on mutually agreed terms and conditions regarding the steps that should be taken by their producers, if they wish to take part in certification systems operated by governmental or non-governmental bodies within the territory of the Party receiving the request.

11.6. Parties which are members or participants of international or regional certification systems shall, if requested, advise other Parties, especially the developing countries, and shall grant them technical assistance on mutually agreed terms and conditions regarding the establishment of the institutions and legal framework which would enable them to fulfil the obligations of membership or participation in such systems.

11.7. Parties shall, if so requested, encourage certification bodies within their territories, if such bodies are members or participants of international or regional certification systems to advise other Parties, especially the developing countries, and should consider requests for technical assistance from them regarding the establishment of the institutions which would enable the relevant bodies within their territories to fulfil the obligations of membership or participation.

11.8. In providing advice and technical assistance to other Parties in terms of Article 11, paragraphs 1 to 7, Parties shall give priority to the needs of the least-developed countries.

#### *Article 12. SPECIAL AND DIFFERENTIAL TREATMENT OF DEVELOPING COUNTRIES*

12.1. Parties shall provide differential and more favourable treatment to developing country Parties to this Agreement, through the following provisions as well as through the relevant provisions of other Articles of this Agreement.

12.2. Parties shall give particular attention to the provisions of this Agreement concerning developing countries' rights and obligations and shall take into account the special development, financial and trade needs of developing countries in the implementation of this Agreement both nationally and in the operation of this Agreement's institutional arrangements.

12.3. Parties shall, in the preparation and application of technical regulations, standards, test methods and certification systems, take account of the special development, financial and trade needs of developing countries, with a view to ensuring that such technical regulations, standards, test methods and certification systems and the determination of conformity with technical regulations and standards do not create unnecessary obstacles to exports from developing countries.

12.4. Parties recognize that, although international standards may exist, in their particular technological and socio-economic conditions, developing countries adopt certain

technical regulations or standards, including test methods, aimed at preserving indigenous technology and production methods and processes compatible with their development needs. Parties therefore recognize that developing countries should not be expected to use international standards as a basis for their technical regulations or standards, including test methods, which are not appropriate to their development, financial and trade needs.

12.5. Parties shall take such reasonable measures as may be available to them to ensure that international standardizing bodies and international certification systems are organized and operated in a way which facilitates active and representative participation of relevant bodies in all Parties taking into account the special problems of developing countries.

12.6. Parties shall take such reasonable measures as may be available to them to ensure that international standardizing bodies, upon request of developing countries, examine the possibility of, and if practicable, prepare international standards concerning products of special interest to developing countries.

12.7. Parties shall, in accordance with the provisions of Article 11, provide technical assistance to developing countries to ensure that the preparation and application of technical regulations, standards, test methods and certification systems do not create unnecessary obstacles to the expansion and diversification of exports from developing countries. In determining the terms and conditions of the technical assistance, account shall be taken of the stage of development of the requesting country and in particular of the least-developed countries.

12.8. It is recognized that developing countries may face special problems, including institutional and infrastructural problems, in the field of preparation and application of technical regulations, standards, test methods and certification systems. It is further recognized that the special development and trade needs of developing countries, as well as 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.

## 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.

*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.

#### *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;
- 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.

#### 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.

*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.

15.2. 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.

15.3. 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 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.

15.4. In regard to acceptance, the provisions of Article XXVI:5(a) and (b) of the General Agreement would be applicable.

*Reservations*

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

*Entry into force*

15.6. This Agreement shall enter into force on 1 January 1980 for the governments\* which have accepted or acceded to it by that date. For each other government it shall enter into force on the thirtieth day following the date of its acceptance or accession to this Agreement.

\* The term "government" is deemed to include the competent authorities of the European Economic Community.

### *Review*

15.7. Each Party shall, promptly after the date on which this Agreement enters into force for the Party concerned, inform the Committee of measures in existence or taken to ensure the implementation and administration of this Agreement. Any changes of such measures thereafter shall also be notified to the Committee.

15.8. 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 reviews.

15.9. Not later than the end of the third year from the entry into force of this Agreement and at the end of each three-year period thereafter, the Committee shall review the operation and implementation of this Agreement, including the provisions relating to transparency, with a view to adjusting the rights and obligations of this Agreement where necessary to ensure mutual economic advantage and balance of rights and obligations, without prejudice to the provisions of Article 12, and where appropriate proposing amendments to the text of this Agreement having regard, *inter alia*, to the experience gained in its implementation.

### *Amendments*

15.10. The Parties may amend this Agreement having regard, *inter alia*, to the experience gained in its implementation. Such an amendment, once the Parties have concurred in accordance with procedures established by the Committee, shall not come into force for any Party until it has been accepted by such Party.

### *Withdrawal*

15.11. Any Party may withdraw from this Agreement. The withdrawal shall take effect upon the expiration of sixty days from the day on which written notice of withdrawal is received by the Director-General to the CONTRACTING PARTIES to the GATT. Any Party may upon such notification request an immediate meeting of the Committee.

### *Non-application of this Agreement between particular Parties*

15.12. This Agreement shall not apply as between any two Parties if either of the Parties, at the time either accepts or accedes to this Agreement, does not consent to such application.

### *Annexes*

15.13. The annexes to this Agreement constitute an integral part thereof.

### *Secretariat*

15.14. This Agreement shall be serviced by the GATT secretariat.

### *Deposit*

15.15. This Agreement shall be deposited with the Director-General to the CONTRACTING PARTIES to the GATT, who shall promptly furnish to each Party and each contracting party to the GATT a certified copy thereof and of each amendment thereto pursuant to Article 15, paragraph 10 and a notification of each acceptance thereof or accession thereto pursuant to Article 15, paragraphs 1 to 3 and of each withdrawal therefrom pursuant to Article 15, paragraph 11.

### *Registration*

15.16. This Agreement shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

DONE at Geneva this twelfth day of April nineteen hundred and seventy-nine in a single copy, in the English, French and Spanish languages, each text being authentic.

## ANNEX I

## TERMS AND THEIR DEFINITIONS FOR THE SPECIFIC PURPOSES OF THIS AGREEMENT

NOTE: References to the definitions of international standardizing bodies in the explanatory notes are made as they stood in March 1979.

1. *Technical specification.* A specification contained in a document which lays down characteristics of a product such as levels of quality, performance, safety or dimensions. It may include or deal exclusively with terminology, symbols, testing and test methods, packaging, marking or labelling requirements as they apply to a product.

*Explanatory Note.* This Agreement deals only with technical specifications relating to products. Thus the wording of the corresponding Economic Commission for Europe/International Organization for Standardization definition is amended in order to exclude services and codes of practice.

2. *Technical regulation.* A technical specification, including the applicable administrative provisions, with which compliance is mandatory.

*Explanatory Note.* The wording differs from the corresponding Economic Commission for Europe/International Organization for Standardization definition because the latter is based on the definition of regulation which is not defined in this Agreement. Furthermore the Economic Commission for Europe/International Organization for Standardization definition contains a normative element which is included in the operative provisions of this Agreement. For the purposes of this Agreement, this definition covers also a standard of which the application has been made mandatory not by separate regulation but by virtue of a general law.

3. *Standard.* A technical specification approved by a recognized standardizing body for repeated or continuous application, with which compliance is not mandatory.

*Explanatory Note.* The corresponding Economic Commission for Europe/International Organization for Standardization definition contains several normative elements which are not included in the above definition. Accordingly, technical specifications which are not based on consensus are covered by this Agreement. This definition does not cover technical specifications prepared by an individual company for its own production or consumption requirements. The word "body" covers also a national standardizing system.

4. *International body or system.* A body or system whose membership is open to the relevant bodies of at least all Parties to this Agreement.

5. *Regional body or system.* A body or system whose membership is open to the relevant bodies of only some of the Parties.

6. *Central government body.* Central government, its ministries and departments or any body subject to the control of the central government in respect of the activity in question.

*Explanatory Note.* In the case of the European Economic Community the provisions governing central government bodies apply. However, regional bodies or certification systems may be established within the European Economic Community, and in such cases would be subject to the provisions of this Agreement on regional bodies or certification systems.

7. *Local government body.* A government other than a central government (e.g., states, provinces, *Länder*, cantons, municipalities, etc.), its ministries or depart-



ments or any body subject to the control of such a government in respect of the activity in question.

8. *Non-governmental body.* A body other than a central government body or a local government body, including a non-governmental body which has legal power to enforce a technical regulation.

9. *Standardizing body.* A governmental or non-governmental body, one of whose recognized activities is in the field of standardization.

10. *International standard.* A standard adopted by an international standardizing body.

*Explanatory Note.* The wording differs from the corresponding Economic Commission for Europe/International Organization for Standardization definition in order to make it consistent with other definitions of this Agreement.

## ANNEX 2

### TECHNICAL EXPERT GROUPS

The following procedures shall apply to technical expert groups established in accordance with the provisions of Article 14.

1. Participation in technical expert groups shall be restricted to persons, preferably government officials, of professional standing and experience in the field in question.

2. Citizens of countries whose central governments are Parties to a dispute shall not be eligible for membership of the technical expert group concerned with that dispute. Members of technical expert groups 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 technical expert group.

3. The Parties to a dispute shall have access to all relevant information provided to a technical expert group, unless it is of a confidential nature. Confidential information provided to the technical expert group shall not be revealed without formal authorization from the government or person providing the information. Where such information is requested from the technical expert group but release of such information by the technical expert group is not authorized, a non-confidential summary of the information will be provided by the government or person supplying the information.

4. To encourage development of mutually satisfactory solutions between the Parties and with a view to obtaining their comments, each technical expert group 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.

## ANNEX 3

### PANELS

The following procedures shall apply to panels established in accordance with the provisions of Article 14.

1. 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 technical barriers to trade and experienced in the field of trade relations and eco-

conomic development. This list may also include persons other than government 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 governmental experts whom the Parties would be willing to make available for such work. When a panel is established under Article 14, paragraph 13 or Article 14, paragraph 14, the Chairman, within seven days shall propose the composition of the panel consisting of three or five members, 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 central 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.

2. 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. In case such consultation with competent bodies and experts is necessary it should be at the earliest possible stage of the dispute settlement procedure. 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 will be provided by the government or person supplying the information.

3. Where the Parties to a dispute have failed to come to a satisfactory solution, the panel shall submit its findings in a written form. Panel reports should normally set out the rationale behind any findings and recommendations that it makes. 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 has been reached.

4. To encourage development of mutually satisfactory solutions between the Parties 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.

For the Argentine  
Republic:

Pour la République  
argentine :

Por la República  
Argentina:

[G. O. MARTÍNEZ  
17 December 1979]

Subject to ratification — Sous réserve de ratification]

For the Commonwealth  
of Australia:

Pour le Commonwealth  
d'Australie :

Por el Commonwealth  
de Australia:

For the Republic  
of Austria:

Pour la République  
d'Autriche :

Por la República  
de Austria:

[R. WILLENPART  
17 December 1979]

Subject to ratification — Sous réserve de ratification]

For the People's Republic  
of Bangladesh:

Pour la République  
populaire du Bangladesh :

Por la República Popular  
de Bangladesh:

For Barbados:

Pour la Barbade :

Por Barbados:

For the Kingdom  
of Belgium:

Pour le Royaume  
de Belgique :

Por el Reino  
de Bélgica:

[A. ONKELINX  
17 December 1979]

Subject to ratification — Sous réserve de ratification]

For the People's Republic  
of Benin:

Pour la République  
populaire du Bénin :

Por la República Popular  
de Benin:

For the Federative  
Republic of Brazil:

Pour la République  
fédérative du Brésil :

Por la República  
Federativa del Brasil:

[A. GURGEL DE ALENCAR  
28 December 1979]

For the Socialist Republic  
of the Union  
of Burma:

Pour la République  
socialiste de l'Union  
birmane :

Por la República Socialista  
de la Unión  
Birmana:

For the Republic  
of Burundi:

Pour la République  
du Burundi :

Por la República  
de Burundi:

For the United Republic  
of Camêroon:

Pour la République-Unie  
du Cameroun :

Por la República Unida  
del Camerún:

For Canada:

Pour le Canada :  
[MCPHAIL  
17 December 1979]

Por el Canadá:

For the Central African  
Empire:

Pour l'Empire  
centrafricain :

Por el Imperio  
Centroafricano:

For the Republic  
of Chad:

Pour la République  
du Tchad :

Por la República  
del Chad:

For the Republic  
of Chile:

Pour la République  
du Chili :  
[MANUEL TRUCCO  
25 October 1979  
*ad referendum*]

Por la República  
de Chile:

For the Republic  
of Colombia:

Pour la République  
de Colombie :

Por la República  
de Colombia:

For the People's Republic  
of the Congo:

Pour la République  
populaire du Congo :

Por la República Popular  
del Congo:

For the Republic  
of Cuba:

Pour la République  
de Cuba :

Por la República  
de Cuba:

For the Republic  
of Cyprus:

Pour la République  
de Chypre :

Por la República  
de Chipre:

For the Czechoslovak  
Socialist Republic:

Pour la République  
socialiste tchécoslovaque :

Por la República Socialista  
Checoslovaca:

For the Kingdom  
of Denmark:

Pour le Royaume  
du Danemark :

Por el Reino  
de Dinamarca:

[H. E. KASTOFT  
17 December 1979]

Subject to ratification — Sous réserve de ratification]

For the Dominican  
Republic:

Pour la République  
dominicaine :

Por la República  
Dominicana:

For the Arab Republic  
of Egypt:

Pour la République  
arabe d'Egypte :

Por la República Árabe  
de Egipto:

For the Republic  
of Finland:

Pour la République  
de Finlande :

Por la República  
de Finlandia:

[PAAVO KAARLEHTO  
17 December 1979]

Subject to ratification — Sous réserve de ratification]

For the French Republic:

Pour la République  
française :

Por la República Francesa:

[FRANÇOIS MOUTON  
17 December 1979]

For the Gabonese  
Republic:

Pour la République  
gabonaise :

Por la República  
Gabonesa:

For the Republic  
of the Gambia:

Pour la République  
de Gambie :

Por la República  
de Gambia:

For the Federal Republic  
of Germany:

Pour la République  
fédérale d'Allemagne :  
[GRAF ZU RANTZAU  
17 December 1979]<sup>1</sup>

Por la República Federal  
de Alemania:

For the Republic  
of Ghana:

Pour la République  
du Ghana :

Por la República  
de Ghana:

For the Hellenic Republic:

Pour la République  
hellénique :

Por la República Helénica:

For the Republic  
of Guyana:

Pour la République  
du Guyana :

Por la República  
de Guyana:

For the Republic  
of Haiti:

Pour la République  
d'Haïti :

Por la República  
de Haití:

For the Hungarian  
People's Republic:

Pour la République  
populaire hongroise :  
[JANOS NYERGES  
23 April 1980]

Por la República  
Popular Húngara:

For the Republic  
of Iceland:

Pour la République  
d'Islande :

Por la República  
de Islandia:

<sup>1</sup> See p. 342 of this volume for the texts of the declarations made upon signature — Voir p. 342 du présent volume pour les textes des déclarations faites lors de la signature.

For the Republic  
of India:

Pour la République  
de l'Inde :

Por la República  
de la India:

For the Republic  
of Indonesia:

Pour la République  
d'Indonésie :

Por la República  
de Indonesia:

For Ireland:

Pour l'Irlande :  
[SEÁN GAYNOR  
17 December 1979]

Por Irlanda:

For the State of Israel:

Pour l'Etat d'Israël :

Por el Estado de Israel:

For the Italian  
Republic:

Pour la République  
italienne :  
[VITTORIO CORDERO DI MONTEZEMOLO  
17 December 1979]

Por la República  
Italiana:

For the Republic  
of the Ivory Coast:

Pour la République  
de Côte d'Ivoire :

Por la República  
de Costa de Marfil:

For Jamaica:

Pour la Jamaïque :

Por Jamaica:

For Japan:

Pour le Japon :  
[MASAO SAWAKI  
17 December 1979]

Por el Japón:

Subject to completion of constitutional procedures —  
Sous réserve de l'accomplissement des procédures constitutionnelles]

For the Republic  
of Kenya:

Pour la République  
du Kenya :

Por la República  
de Kenya:

For the Republic  
of Korea:

Pour la République  
de Corée :

Por la República  
de Corea:

For the State of Kuwait:

Pour l'Etat du Koweït :

Por el Estado de Kuwait:

For the Grand Duchy  
of Luxembourg:

Pour le Grand-Duché  
de Luxembourg :

Por el Gran Ducado  
de Luxemburgo:

[JEAN RETTEL  
17 December 1979]

For the Democratic  
Republic  
of Madagascar:

Pour la République  
démocratique  
de Madagascar :

Por la República  
Democrática  
de Madagascar:

For the Republic  
of Malawi:

Pour la République  
du Malawi :

Por la República  
de Malawi:

For Malaysia:

Pour la Malaisie :

Por Malasia:

For the Republic  
of Malta:

Pour la République  
de Malte :

Por la República  
de Malta:

For the Islamic Republic  
of Mauritania:

Pour la République  
islamique de Mauritanie :

Por la República Islámica  
de Mauritania:

For Mauritius:

Pour Maurice :

Por Mauricio:

For the United Mexican  
States:

Pour les Etats-Unis  
de Mexique :

Por los Estados Unidos  
Mexicanos:



For the Kingdom  
of the Netherlands:

Pour le Royaume  
des Pays-Bas :

Por el Reino  
de los Países Bajos:

[FEIN

17 December 1979

Subject to approval — Sous réserve de l'approbation]<sup>1</sup>

For New Zealand:

Pour la Nouvelle-Zélande :

Por Nueva Zelandia:

[E. FARNON

17 December 1979]

For the Republic  
of Nicaragua:

Pour la République  
du Nicaragua :

Por la República  
de Nicaragua:

For the Republic  
of Niger:

Pour la République  
du Niger :

Por la República  
del Níger:

For the Federal Republic  
of Nigeria:

Pour la République  
fédérale du Nigéria :

Por la República Federal  
de Nigeria:

For the Kingdom  
of Norway:

Pour le Royaume  
de Norvège :

Por el Reino  
de Noruega:

[JOHAN CAPPELEN

17 December 1979

Subject to acceptance — Sous réserve d'acceptation]

For the Islamic Republic  
of Pakistan:

Pour la République  
islamique du Pakistan :

Por la República Islámica  
del Pakistán:

For the Republic  
of Peru:

Pour la République  
du Pérou :

Por la República  
del Perú:

<sup>1</sup> See p. 342 of this volume for the texts of the declarations made upon signature — Voir p. 342 du présent volume pour les textes des déclarations faites lors de la signature.

For the Republic  
of the Philippines:

Pour la République  
des Philippines :

Por la República  
de Filipinas:

For the Polish People's  
Republic:

Pour la République  
populaire de Pologne :

Por la República Popular  
Polaca:

For the Portuguese  
Republic:

Pour la République  
portugaise :

Por la República  
Portuguesa:

For Rhodesia:

Pour la Rhodésie :

Por Rhodesia:

For the Socialist Republic  
of Romania:

Pour la République  
socialiste de Roumanie :

Por la República Socialista  
de Rumania:

For the Rwandese  
Republic:

Pour la République  
rwandaïse :

Por la República  
Rwandesa:

For the Republic  
of Senegal:

Pour la République  
du Sénégal :

Por la República  
del Senegal:

For the Republic  
of Sierra Leone:

Pour la République  
de Sierra Leone :

Por la República  
de Sierra Leona:

For the Republic  
of Singapore:

Pour la République  
de Singapour :  
[G. KAI HEAN  
3 June 1980]

Por la República  
de Singapur:

For the Republic  
of South Africa:

Pour la République  
sud-africaine :

Por la República  
de Sudáfrica:

For the Spanish State:	Pour l'Etat espagnol :	Por el Estado Español:
[A. HIDALGO DE QUINTANA 9 May 1980 Subject to ratification — Sous réserve de ratification]		

For the Democratic Socialist Republic of Sri Lanka:	Pour la République socialiste démocratique de Sri Lanka :	Por la República Socialista Democrática de Sri Lanka:
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For the Republic of Suriname:	Pour la République du Suriname :	Por la República de Suriname:
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For the Kingdom of Sweden:	Pour le Royaume de Suède :	Por el Reino de Suecia:
[M. LEMMEL 17 December 1979 Subject to ratification — Sous réserve de ratification]		

For the Swiss Confederation:	Pour la Confédération suisse :	Por la Confederación Suiza:
[A. DUNKEL 17 December 1979]		

For the United Republic of Tanzania:	Pour la République-Unie de Tanzanie :	Por la República Unida de Tanzania:
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For the Togolese Republic:	Pour la République togolaise :	Por la República Togolesa:
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For the Republic of Trinidad and Tobago:	Pour la République de Trinité-et-Tobago :	Por la República de Trinidad y Tabago:
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For the Republic of Tunisia:	Pour la République tunisienne :	Por la República de Túnez:
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For the Republic of Turkey:	Pour la République turque :	Por la República de Turquía:
For the Republic of Uganda:	Pour la République de l'Ouganda :	Por la República de Uganda:
For the United Kingdom of Great Britain and Northern Ireland:	Pour le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord : [PETER MARSHALL 17 December 1979 Subject to approval in respect of its metropolitan territory — Sous réserve d'approbation à l'égard du territoire métropolitain]	Por el Reino Unido de Gran Bretaña e Irlanda del Norte:
For the United States of America:	Pour les Etats-Unis d'Amérique : [MICHAEL B. SMITH 17 December 1979]	Por los Estados Unidos de América:
For the Republic of Upper Volta:	Pour la République de Haute-Volta :	Por la República del Alto Volta:
For the Eastern Republic of Uruguay:	Pour la République orientale de l'Uruguay :	Por la República Oriental del Uruguay:
For the Socialist Federal Republic of Yugoslavia:	Pour la République fédérative socialiste de Yougoslavie :	Por la República Federativa Socialista de Yugoslavia:
For the Republic of Zaïre:	Pour la République du Zaïre :	Por la República del Zaïre:
For the European Economic Community:	Pour la Communauté économique européenne : [P. LUYTEN 17 December 1979]	Por la Comunidad Económica Europea:

DECLARATIONS MADE  
UPON SIGNATUREFEDERAL REPUBLIC  
OF GERMANY

“The Agreement on Technical Barriers to Trade shall also apply to Berlin (West) with effect from the date on which it enters into force for the Federal Republic of Germany, provided that the Government of the Federal Republic of Germany does not make a contrary declaration to the GATT secretariat within three months of the date of entry into force of the Agreement.”

## NETHERLANDS

“The Kingdom of the Netherlands shall, in respect of the Kingdom in Europe only, apply the Agreement provisionally as from the date on which it will enter [into] force.”<sup>1</sup>

DÉCLARATIONS FAITES  
LORS DE LA SIGNATURERÉPUBLIQUE FÉDÉRALE  
D'ALLEMAGNE

[TRANSDUCTION — TRANSLATION]

L'Accord relatif aux obstacles techniques au commerce s'appliquera également à Berlin-Ouest avec effet à compter de la date à laquelle il entrera en vigueur à l'égard de la République fédérale d'Allemagne, sauf déclaration contraire adressée par le Gouvernement de la République fédérale d'Allemagne au secrétariat du GATT dans le délai de trois mois à compter de la date de ladite entrée en vigueur.

## PAYS-BAS

[TRANSDUCTION — TRANSLATION]

Le Royaume des Pays-Bas appliquera les dispositions de l'Accord à l'égard du Royaume en Europe seulement, à titre provisoire à compter de la date à laquelle il entre en vigueur<sup>1</sup>.

<sup>1</sup> On 19 September 1980, the Government of the Netherlands further deposited the following declaration: “The Netherlands Antilles will apply the said Agreement provisionally so that from now on the Agreement will be applied provisionally by the Kingdom as a whole.”

<sup>1</sup> Le 19 septembre 1980, le Gouvernement des Pays-Bas a ensuite déposé la déclaration suivante : « Les Antilles néerlandaises appliqueront ledit Accord provisoirement afin que l'Accord soit à partir de maintenant appliqué provisoirement par le Royaume dans son entier. »

DECLARATION relating to the declaration made by the Federal Republic of Germany upon definitive signature<sup>1</sup>

*Notification addressed to the Director-General to the Contracting Parties to the General Agreement on Tariffs and Trade on:*

23 April 1980

HUNGARY

“This Agreement deals exclusively with technical barriers to trade. Nothing in this Agreement affects and can affect the Quadripartite Agreement of 3 September 1971.”<sup>2</sup>

DÉCLARATION relative à la déclaration faite par la République fédérale d'Allemagne lors de sa signature définitive<sup>1</sup>

*Notification adressée au Directeur général des Parties contractantes à l'Accord général sur les tarifs douaniers et le commerce le :*

23 avril 1980

HONGRIE

[TRADUCTION — TRANSLATION]

Le présent Accord traite exclusivement des obstacles techniques au commerce. Il ne modifie et ne peut en rien modifier l'Accord quadripartite du 3 septembre 1971<sup>2</sup>.

<sup>1</sup> See p. 342 of this volume.

<sup>2</sup> United Nations, *Treaty Series*, vol. 880, p. 115.

<sup>1</sup> Voir p. 342 du présent volume.

<sup>2</sup> Nations Unies, *Recueil des Traités*, vol. 880, p. 115.

LXXXVIII. ARRANGEMENT<sup>1</sup> REGARDING BOVINE MEAT. DONE AT GENEVA ON 12 APRIL 1979

*Authentic texts: English, French and Spanish.*

*Registered by the Director-General to the Contracting Parties to the General Agreement on Tariffs and Trade, acting on behalf of the Parties, on 1 July 1980.*

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<sup>2</sup> (hereinafter referred to as "General Agreement" or "GATT")\*;

Determined, in carrying out the aims of this Agreement, to implement the principles and objectives agreed upon in the Tokyo Declaration of Ministers, dated 14 September

\* This provision applies only among GATT contracting parties.

<sup>1</sup> Came into force on 1 January 1980 in respect of the following States and organization, which had accepted it by that date, in accordance with article VI (3):

<i>State or organization</i>	<i>Date of definitive signature (s), acceptance by letter (l) or deposit of an instrument of acceptance (A) or of ratification</i>
Brazil .....	28 December 1979 s
Bulgaria .....	26 December 1979 s
Canada .....	17 December 1979 s
European Economic Community .....	17 December 1979 s
Hungary .....	17 December 1979 s
Japan .....	17 December 1979 s
New Zealand .....	17 December 1979 s
Norway .....	28 December 1979 A
South Africa .....	18 December 1979 s
Sweden .....	20 December 1979
Switzerland .....	17 December 1979 s
United Kingdom of Great Britain and Northern Ireland .....	17 December 1979 l
(In respect of Belize.)	
United States of America .....	17 December 1979 s

Subsequently, the Arrangement entered into force in respect of the following States on the date of their acceptance, in accordance with article VI (3):

<i>State</i>	<i>Date of definitive signature (s), acceptance by letter (l) or deposit of an instrument of ratification</i>
Australia .....	1 February 1980 l
Finland .....	13 March 1980
Austria .....	28 May 1980
Uruguay .....	16 June 1980 s

<sup>2</sup> United Nations, *Treaty Series*, vol. 55, p. 187.

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;
- (2) To encourage greater international co-operation in all aspects affecting the trade in bovine meat and live animals with a view in particular to greater rationalization and more efficient distribution of resources in the international meat economy;
- (3) To secure additional benefits for the international trade of developing countries in bovine meat and live animals through an improvement in the possibilities for these countries to participate in the expansion of world trade in these products by means of, *inter alia*:
  - (a) Promoting long-term stability of prices in the context of an expanding world market for bovine meat and live animals; and
  - (b) Promoting the maintenance and improvement of the earnings of developing countries that are exporters of bovine meat and live animals;

the above with a view thus to deriving additional earnings, by means of securing long-term stability of markets for bovine meat and live animals;
- (4) To further expand trade on a competitive basis taking into account the traditional position of efficient producers.

### Article II. PRODUCT COVERAGE

This Arrangement applies to bovine meat. For the purpose of this Arrangement, the term "bovine meat" is considered to include:

	CCCN
(a) Live bovine animals .....	01.02
(b) Meat and edible offals of bovine animals, fresh, chilled or frozen .....	ex 02.01
(c) Meat and edible offals of bovine animals, salted, in brine, dried or smoked .....	ex 02.06
(d) Other prepared or preserved meat or offal of bovine animals .....	ex 16.02

and any other product that may be added by the International Meat Council, as established under the terms of Article V of this Arrangement, in order to accomplish the objectives and provisions of this Arrangement.



*Article III. INFORMATION AND MARKET MONITORING*

1. All participants agree to provide regularly and promptly to the Council, the information which will permit the Council to monitor and assess the overall situation of the world market for meat and the situation of the world market for each specific meat.

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;
- (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 matter\* 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 matter\* affecting the present Arrangement.

## 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.

\* NOTE. 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.

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.

### PART THREE

#### *Article VI. FINAL PROVISIONS*

1. *Acceptance.\** (a) This Arrangement is open for acceptance, by signature or otherwise, by governments members of the United Nations, or of one of its specialized agencies and by the European Economic Community.

(b) Any government\*\* accepting this Arrangement may at the time of acceptance make a reservation with regard to its acceptance of any of the provisions in the present Arrangement. This reservation is subject to the approval of the participants.

(c) This Arrangement shall be deposited with the Director-General to the CONTRACTING PARTIES to the GATT who shall promptly furnish a certified copy thereof and a notification of each acceptance thereof to each participant. The texts of this Arrangement in the English, French and Spanish languages shall all be equally authentic.

(d) The entry into force of this Arrangement shall entail the abolition of the International Meat Consultative Group.

2. *Provisional application.* Any government may deposit with the Director-General to the CONTRACTING PARTIES to the GATT a declaration of provisional application of this Arrangement. Any government depositing such a declaration shall provisionally apply this Arrangement and be provisionally regarded as participating in this Arrangement.

3. *Entry into force.* This Arrangement shall enter into force, for those participants having accepted it, on 1 January 1980. For participants accepting this Arrangement after that date, it shall be effective from the date of their acceptance.

4. *Validity.* This Arrangement shall remain in force for three years. The duration of this Arrangement shall be extended for further periods of three years at a time, unless the Council, at least eighty days prior to each date of expiry, decides otherwise.

5. *Amendment.* Except where provision for modification is made elsewhere in this Arrangement, the Council may recommend an amendment to the provisions of this Arrangement. The proposed amendment shall enter into force upon acceptance by the governments of all participants.

6. *Relationship between the Arrangement and the GATT.* Nothing in this Arrangement shall affect the rights and obligations of participants under the GATT.\*\*\*

7. *Withdrawal.* Any participant may withdraw from this Arrangement. Such withdrawal shall take effect upon the expiration of sixty days from the date on which written notice of withdrawal is received by the Director-General to the CONTRACTING PARTIES to the GATT.

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\* The terms "acceptance" or "accepted" as used in this Article include the completion of any domestic procedures necessary to implement the provisions of this Arrangement.

\*\* For the purpose of this Arrangement, the term "government" is deemed to include the competent authorities of the European Economic Community.

\*\*\* This provision applies only among GATT contracting parties.

For the People's  
Democratic Republic  
of Algeria:

Pour la République  
algérienne démocratique  
et populaire :

Por la República  
Argelina Democrática  
y Popular:

For the Argentine  
Republic:

Pour la République  
argentine :

Por la República  
Argentina:

[G. O. MARTÍNEZ  
17 December 1979

Subject to ratification — Sous réserve de ratification]

For the Commonwealth  
of Australia:

Pour le Commonwealth  
d'Australie :

Por el Commonwealth  
de Australia:

For the Republic  
of Austria:

Pour la République  
d'Autriche :

Por la República  
de Austria:

[R. WILLENPART  
17 December 1979

Subject to ratification — Sous réserve de ratification]

For the People's Republic  
of Bangladesh:

Pour la République  
populaire du Bangladesh :

Por la República Popular  
de Bangladesh:

For Barbados:

Pour la Barbade :

Por Barbados:

For the Kingdom  
of Belgium:

Pour le Royaume  
de Belgique :

Por el Reino  
de Bélgica:

For the People's Republic  
of Benin:

Pour la République  
populaire du Bénin :

Por la República Popular  
de Benin:

For the Republic  
of Bolivia:

Pour la République  
de Bolivie :

Por la República  
de Bolivia:

For the Republic  
of Botswana:

Pour la République  
du Botswana :

Por la República  
de Botswana:

For the Federative  
Republic of Brazil:

Pour la République  
fédérative du Brésil :  
[A. GURGEL DE ALENCAR  
28 December 1979]

Por la República  
Federativa del Brasil:

For the People's Republic  
of Bulgaria:

Pour la République  
populaire de Bulgarie :  
[I. ANASTASSOV  
26 December 1979]

Por la República Popular  
de Bulgaria:

For the Socialist Republic  
of the Union  
of Burma:

Pour la République  
socialiste de l'Union  
birmane :

Por la República Socialista  
de la Unión  
Birmana:

For the Republic  
of Burundi:

Pour la République  
du Burundi :

Por la República  
de Burundi:

For the United Republic  
of Cameroon:

Pour la République-Unie  
du Cameroun :

Por la República Unida  
del Camerún:

For Canada:

Pour le Canada :  
[McPHAIL  
17 December 1979]

Por el Canadá:

For the Central African  
Empire:

Pour l'Empire  
centrafricain :

Por el Imperio  
Centroafricano:

For the Republic of Chad:	Pour la République du Tchad :	Por la República del Chad:
For the Republic of Chile:	Pour la République du Chili :	Por la República de Chile:
For the Republic of Colombia:	Pour la République de Colombie :	Por la República de Colombia:
For the People's Republic of the Congo:	Pour la République populaire du Congo :	Por la República Popular del Congo:
For the Republic of Costa Rica:	Pour la République du Costa Rica :	Por la República de Costa Rica:
For the Republic of Cuba:	Pour la République de Cuba :	Por la República de Cuba:
For the Republic of Cyprus:	Pour la République de Chypre :	Por la República de Chipre:
For the Czechoslovak Socialist Republic:	Pour la République socialiste tchécoslovaque :	Por la República Socialista Checoslovaca:
For the Kingdom of Denmark:	Pour le Royaume du Danemark :	Por el Reino de Dinamarca:
For the Dominican Republic:	Pour la République dominicaine ;	Por la República Dominicana:

For the Republic  
of Ecuador:

Pour la République  
de l'Equateur :

Por la República  
del Ecuador:

For the Arab Republic  
of Egypt:

Pour la République  
arabe d'Egypte :

Por la República Árabe  
de Egipto:

For the Republic  
of El Salvador:

Pour la République  
d'El Salvador :

Por la República  
de El Salvador:

For Ethiopia:

Pour l'Ethiopie :

Por Etiopía:

For the Republic  
of Finland:

Pour la République  
de Finlande :

Por la República  
de Finlandia:

[PAAVO KAARLEHTO  
17 December 1979

Subject to ratification — Sous réserve de ratification]

For the French Republic:

Pour la République  
française :

Por la República Francesa:

For the Gabonese  
Republic:

Pour la République  
gabonaise :

Por la República  
Gabonesa:

For the Republic  
of the Gambia:

Pour la République  
de Gambie :

Por la República  
de Gambia:

For the Federal Republic  
of Germany:

Pour la République  
fédérale d'Allemagne :

Por la República Federal  
de Alemania:

For the Republic  
of Ghana:

Pour la République  
du Ghana :

Por la República  
de Ghana:

For the Hellenic Republic:

Pour la République  
hellénique :

Por la República Helénica:

For the Republic  
of Guatemala:

Pour la République  
du Guatemala :

Por la República  
de Guatemala:

For the Republic  
of Guyana:

Pour la République  
du Guyana :

Por la República  
de Guyana:

For the Republic  
of Haiti:

Pour la République  
d'Haïti :

Por la República  
de Haïti:

For the Republic  
of Honduras:

Pour la République  
du Honduras :

Por la República  
de Honduras:

For the Hungarian People's  
Republic:

Pour la République  
populaire hongroise :  
[JANOS NYERGES  
17 December 1979]

Por la República Popular  
Húngara:

For the Republic  
of Iceland:

Pour la République  
d'Islande :

Por la República  
de Islandia:

For the Republic  
of India:

Pour la République  
de l'Inde :

Por la República  
de la India:



For the Republic  
of Indonesia:

Pour la République  
d'Indonésie :

Por la República  
de Indonesia:

For Iran:

Pour l'Iran :

Por el Irán:

For the Republic of Iraq:

Pour la République d'Irak :

Por la República del Iraq:

For Ireland:

Pour l'Irlande :

Por Irlanda:

For the State of Israel:

Pour l'Etat d'Israël :

Por el Estado de Israel:

For the Italian Republic:

Pour la République  
italienne :

Por la República Italiana:

For the Republic  
of the Ivory Coast:

Pour la République  
de Côte d'Ivoire :

Por la República  
de Costa de Marfil:

For Jamaica:

Pour la Jamaïque :

Por Jamaica:

For Japan:

Pour le Japon :  
[MASAO SAWAKI  
17 December 1979]

Por el Japón:

For the Republic  
of Kenya:

Pour la République  
du Kenya :

Por la República  
de Kenya:

For the Republic  
of Korea:

Pour la République  
de Corée :

Por la República  
de Corea:

For the State of Kuwait:

Pour l'Etat du Koweït :

Por el Estado de Kuwait:

For the Grand Duchy  
of Luxembourg:

Pour le Grand-Duché  
de Luxembourg :

Por el Gran Ducado  
de Luxemburgo:

For the Democratic  
Republic  
of Madagascar:

Pour la République  
démocratique  
de Madagascar :

Por la República  
Democrática  
de Madagascar:

For the Republic  
of Malawi:

Pour la République  
du Malawi :

Por la República  
de Malawi:

For Malaysia:

Pour la Malaisie :

Por Malasia:

For the Republic  
of Mali:

Pour la République  
du Mali :

Por la República  
de Malí:

For the Republic  
of Malta:

Pour la République  
de Malte :

Por la República  
de Malta:

For the Islamic Republic  
of Mauritania:

Pour la République  
islamique de Mauritanie :

Por la República Islámica  
de Mauritania:

For Mauritius:

Pour Maurice :

Por Mauricio:

For the United Mexican  
States:

Pour les États-Unis  
du Mexique :

Por los Estados Unidos  
Mexicanos:

For the Kingdom  
of the Netherlands:

Pour le Royaume  
des Pays-Bas :

Por el Reino  
de los Países Bajos:

For New Zealand:

Pour la Nouvelle-Zélande :  
[E. FARNON  
17 December 1979]

Por Nueva Zelandia:

For the Republic  
of Nicaragua:

Pour la République  
du Nicaragua :

Por la República  
de Nicaragua:

For the Republic  
of Niger:

Pour la République  
du Niger :

Por la República  
del Níger:

For the Federal Republic  
of Nigeria:

Pour la République  
fédérale du Nigéria :

Por la República Federal  
de Nigeria:

For the Kingdom  
of Norway:

Pour le Royaume  
de Norvège :  
[JOHAN CAPPELEN  
17 December 1979  
Subject to acceptance — Sous réserve d'acceptation]

Por el Reino  
de Noruega:

For the Islamic Republic  
of Pakistan:

Pour la République  
islamique du Pakistan :

Por la República Islámica  
del Pakistán:

For the Republic  
of Panama:

Pour la République  
du Panama :

Por la República  
de Panamá:

For Papua New Guinea:	Pour la Papouasie-Nouvelle-Guinée :	Por Papua Nueva Guinea:
For the Republic of Paraguay:	Pour la République du Paraguay :	Por la República del Paraguay:
For the Republic of Peru:	Pour la République du Pérou :	Por la República del Perú:
For the Republic of the Philippines:	Pour la République des Philippines :	Por la República de Filipinas:
For the Polish People's Republic:	Pour la République populaire de Pologne :	Por la República Popular Polaca:
For the Portuguese Republic:	Pour la République portugaise :	Por la República Portuguesa:
For Rhodesia:	Pour la Rhodésie :	Por Rhodesia:
For the Socialist Republic of Romania:	Pour la République socialiste de Roumanie :	Por la República Socialista de Rumania:
For the Rwandese Republic:	Pour la République rwandaise :	Por la República Rwandesa:
For the Republic of Senegal:	Pour la République du Sénégal :	Por la República del Senegal:

For the Republic  
of Sierra Leone:

Pour la République  
de Sierra Leone :

Por la República  
de Sierra Leona:

For the Republic  
of Singapore:

Pour la République  
de Singapour :

Por la República  
de Singapur:

For the Somali  
Democratic Republic:

Pour la République  
démocratique somalie :

Por la República  
Democrática Somalí:

For the Republic  
of South Africa:

Pour la République  
sud-africaine :  
[D. F. TOTHILL  
18 December 1979]

Por la República  
de Sudáfrica:

For the Spanish State:

Pour l'Etat espagnol :

Por el Estado Español:

For the Democratic  
Socialist Republic  
of Sri Lanka:

Pour la République  
socialiste démocratique  
de Sri Lanka :

Por la República Socialista  
Democrática  
de Sri Lanka:

For the Democratic  
Republic of Sudan:

Pour la République  
démocratique du Soudan :

Por la República  
Democrática del Sudán:

For the Republic  
of Suriname:

Pour la République  
du Suriname :

Por la República  
de Suriname:

For the Kingdom  
of Swaziland:

Pour le Royaume  
du Swaziland :

Por el Reino  
de Swazilandia:

For the Kingdom  
of Sweden:

Pour le Royaume  
de Suède :

Por el Reino  
de Suecia:

[M. LEMMEL  
17 December 1979]

Subject to ratification — Sous réserve de ratification]

For the Swiss  
Confederation:

Pour la Confédération  
suisse :

Por la Confederación  
Suiza:

[A. DUNKEL  
17 December 1979]

For the United Republic  
of Tanzania:

Pour la République-Unie  
de Tanzanie :

Por la República Unida  
de Tanzania:

For the Kingdom  
of Thailand:

Pour le Royaume  
de Thaïlande :

Por el Reino  
de Tailandia:

For the Togolese  
Republic:

Pour la République  
togolaise :

Por la República  
Togolesa:

For the Kingdom  
of Tonga:

Pour le Royaume  
des Tonga :

Por el Reino  
de Tonga:

For the Republic  
of Trinidad and Tobago:

Pour la République  
de Trinité-et-Tobago :

Por la República  
de Trinidad y Tabago:

For the Republic  
of Tunisia:

Pour la République  
tunisienne :

Por la República  
de Túnez:

For the Republic  
of Turkey:

Pour la République  
turque :

Por la República  
de Turquía:

For the Republic  
of Uganda:

Pour la République  
de l'Ouganda :

Por la República  
de Uganda:

For the United Kingdom  
of Great Britain  
and Northern Ireland:

Pour le Royaume-Uni  
de Grande-Bretagne  
et d'Irlande du Nord :

Por el Reino Unido  
de Gran Bretaña  
e Irlanda del Norte:

For the United States  
of America:

Pour les Etats-Unis  
d'Amérique :

Por los Estados Unidos  
de América:

[MICHAEL B. SMITH  
17 December 1979]

For the Republic  
of Upper Volta:

Pour la République  
de Haute-Volta :

Por la República  
del Alto Volta:

For the Eastern Republic  
of Uruguay:

Pour la République  
orientale de l'Uruguay :

Por la República Oriental  
del Uruguay:

[JUAN JOSÉ REAL  
16 June 1980]

For the Republic  
of Venezuela:

Pour la République  
du Venezuela :

Por la República  
de Venezuela:

For the Socialist Republic  
of Viet Nam:

Pour la République  
socialiste du Viet Nam :

Por la República Socialista  
de Viet Nam:

For the People's  
Democratic Republic  
of Yemen:

Pour la République  
démocratique populaire  
du Yémen :

Por la República  
Democrática Popular  
del Yemen:

For the Socialist  
Federal Republic  
of Yugoslavia:

Pour la République  
fédérative socialiste  
de Yougoslavie :

Por la República  
Federativa Socialista  
de Yugoslavia:

For the Republic  
of Zaïre:

Pour la République  
du Zaïre :

Por la República  
del Zaïre:

For the Republic  
of Zambia:

Pour la République  
de Zambie :

Por la República  
de Zambia:

For the European  
Economic Community:

Pour la Communauté  
économique européenne :  
[P. LUYTEN  
17 December 1979]

Por la Comunidad  
Económica Europea:



LXXXIX. AGREEMENT<sup>1</sup> ON IMPORT LICENSING PROCEDURES. DONE AT GENEVA ON 12 APRIL 1979

*Authentic texts: English, French and Spanish.*

*Registered by the Director-General to the Contracting Parties to the General Agreement on Tariffs and Trade, acting on behalf of the Parties, on 1 July 1980.*

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<sup>2</sup> (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;

<sup>1</sup> Came into force on 1 January 1980 in respect of the following States and organization, which had accepted it or acceded to it by that date, in accordance with article 5 (3):

<i>State or organization</i>	<i>Date of definitive signature (s), acceptance by letter (l) or deposit of an instrument of ratification or of acceptance (A)</i>
Canada .....	17 December 1979 s
European Economic Community .....	17 December 1979 s
New Zealand .....	17 December 1979 s
Norway .....	28 December 1979 A
South Africa .....	18 December 1979 s
Sweden .....	20 December 1979
Switzerland .....	17 December 1979 s
United Kingdom of Great Britain and Northern Ireland .....	17 December 1979 l
(In respect of the territories for which it has international responsibility except for Antigua, Bermuda, Brunei, Cayman Islands, Montserrat, St. Kitts-Nevis, Sovereign Base Areas Cyprus and Virgin Islands.)	
United States of America .....	17 December 1979 s

Subsequently, the Agreement entered into force in respect of the following States on the thirtieth day following the date on which they accepted it or acceded to it, in accordance with article 5 (3):

<i>State</i>	<i>Date of definitive signature (s) or deposit of an instrument of ratification or acceptance (A)</i>
Hungary .....	21 January 1980 s
(With effect from 20 February 1980.)	
Australia .....	25 February 1980 A
(With effect from 26 March 1980.)	
Finland .....	13 March 1980
(With effect from 12 April 1980.)	
Japan .....	25 April 1980 A
(With effect from 25 May 1980.)	
Austria .....	28 May 1980
(With effect from 27 June 1980.)	

<sup>2</sup> United Nations, *Treaty Series*, vol. 55, p. 187.

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 procedures\* 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.

2. The Parties shall ensure that the administrative procedures used to implement import licensing regimes are in conformity with the relevant provisions of the GATT including its annexes and protocols, as interpreted by this Agreement, with a view to preventing trade distortions that may arise from an inappropriate operation of those procedures, taking into account the economic development purposes and financial and trade needs of developing countries.

3. The rules for import licensing procedures shall be neutral in application and administered in a fair and equitable manner.

4. The rules and all information concerning procedures for the submission of applications, including the eligibility of persons, firms and institutions to make such applications, and the lists of products subject to the licensing requirement shall be published promptly in such a manner as to enable governments and traders to become acquainted with them. Any changes in either the rules concerning licensing procedures or the list of products subject to import licensing shall also be promptly published in the same manner. Copies of these publications shall also be made available to the GATT Secretariat.

5. Application forms and, where applicable, renewal forms shall be as simple as possible. Such documents and information as are considered strictly necessary for the proper functioning of the licensing regime may be required on application.

6. Application procedures and, where applicable, renewal procedures shall be as simple as possible. Applicants shall have to approach only one administrative body previously specified in the rules referred to in paragraph 4 above in connexion with an application and shall be allowed a reasonable period therefor. In cases where it is strictly indispensable that more than one administrative body is to be approached in connexion with an application, these shall be kept to the minimum number possible.

7. No application shall be refused for minor documentation errors which do not alter basic data contained therein. No penalty greater than necessary to serve merely as a warning shall be imposed in respect of any omission or mistake in documentation or procedures which is obviously made without fraudulent intent or gross negligence.

8. Licensed imports shall not be refused for minor variations in value, quantity or weight from the amount designated on the licence due to differences occurring during

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

shipment, differences incidental to bulk loading and other minor differences consistent with normal commercial practice.

9. The foreign exchange necessary to pay for licensed imports shall be made available to licence holders on the same basis as to importers of goods not requiring import licences.

10. With regard to security exceptions, the provisions of Article XXI of the GATT apply.

11. The provisions of this Agreement shall not require any Party 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.

#### *Article 2. AUTOMATIC IMPORT LICENSING\**

1. Automatic import licensing is defined as import licensing where approval of the application is freely granted.

2. The following provisions,\*\* in addition to those in paragraphs 1 to 11 of Article 1 and paragraph 1 of Article 2 above, shall apply to automatic import licensing procedures:

- (a) Automatic licensing procedures shall not be administered in a manner so as to have restricting effects on imports subject to automatic licensing;
- (b) Parties recognize that automatic import licensing may be necessary whenever other appropriate procedures are not available. Automatic import licensing may be maintained as long as the circumstances which gave rise to its introduction prevail or as long as its underlying administrative purposes cannot be achieved in a more appropriate way;
- (c) Any person, firm or institution which fulfils the legal requirements of the importing country for engaging in import operations involving products subject to automatic licensing shall be equally eligible to apply for and to obtain import licences;
- (d) Applications for licences may be submitted on any working day prior to the customs clearance of the goods;
- (e) Applications for licences when submitted in appropriate and complete form shall be approved immediately on receipt, to the extent administratively feasible, but within a maximum of ten working days.

#### *Article 3. NON-AUTOMATIC IMPORT LICENSING*

The following provisions, in addition to those in paragraphs 1 to 11 of Article 1 above, shall apply to non-automatic import licensing procedures, that is, import licensing procedures not falling under paragraphs 1 and 2 of Article 2 above:

- (a) Licensing procedures adopted, and practices applied, in connexion with the issuance of licences for the administration of quotas and other import restrictions, shall not

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\* Those import licensing procedures requiring a security which have no restrictive effects on imports are to be considered as falling within the scope of paragraphs 1 and 2 of Article 2 below.

\*\* A developing country Party, which has specific difficulties with the requirements of sub-paragraphs (d) and (e) below may, upon notification to the Committee referred to in paragraph 1 of Article 4, delay the application of these sub-paragraphs by not more than two years from the date of entry into force of this Agreement for such Party.

- have trade restrictive effects on imports additional to those caused by the imposition of the restriction;
- (b) Parties shall provide, upon the request of any Party having an interest in the trade in the product concerned, all relevant information concerning:
    - (i) The administration of the restrictions;
    - (ii) The import licences granted over a recent period;
    - (iii) The distribution of such licences among supplying countries;
    - (iv) Where practicable, import statistics (i.e., value and/or volume) with respect to the products subject to import licensing. The developing countries would not be expected to take additional administrative or financial burdens on this account;
  - (c) Parties administering quotas by means of licensing shall publish the overall amount of quotas to be applied by quantity and/or value, the opening and closing dates of quotas, and any change thereof;
  - (d) In the case of quotas allocated among supplying countries, the Party applying the restrictions shall promptly inform all other Parties having an interest in supplying the product concerned of the shares in the quota currently allocated, by quantity or value, to the various supplying countries and shall give public notice thereof;
  - (e) Where there is a specific opening date for the submission of licensing applications, the rules and product lists referred to in paragraph 4 of Article 1 shall be published as far in advance as possible of such date, or immediately after the announcement of the quota or other measure involving an import licensing requirement;
  - (f) Any person, firm or institution which fulfils the legal requirements of the importing country shall be equally eligible to apply and to be considered for a licence. If the licence application is not approved, the applicant shall, on request, be given the reasons therefor and shall have a right of appeal or review in accordance with the domestic legislation or procedures of the importing country;
  - (g) The period for processing of applications shall be as short as possible;
  - (h) The period of licence validity shall be of reasonable duration and not be so short as to preclude imports. The period of licence validity shall not preclude imports from distant sources, except in special cases where imports are necessary to meet unforeseen short-term requirements;
  - (i) When administering quotas, Parties shall not prevent importation from being effected in accordance with the issued licences, and shall not discourage the full utilization of the quotas;
  - (j) When issuing licences, Parties shall take into account the desirability of issuing licences for products in economic quantities;
  - (k) In allocating licences, Parties should consider the import performance of the applicant, including whether licences issued to the applicant have been fully utilized, during a recent representative period;
  - (l) Consideration shall be given to ensuring a reasonable distribution of licences to new importers, taking into account the desirability of issuing licences for products in economic quantities. In this regard, special consideration should be given to those importers importing products originating in developing countries and, in particular, the least-developed countries;

- (m) In the case of quotas administered through licences which are not allocated among supplying countries, licence holders\* shall be free to choose the sources of imports. In the case of quotas 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. *Entry into force.* This Agreement shall enter into force on 1 January 1980 for the governments\*\* which have accepted or acceded to it by that date. For each other government it shall enter into force on the thirtieth day following the date of its acceptance or accession to this Agreement.

4. *National legislation.* (a) Each government accepting or acceding to this Agreement shall ensure, not later than the date of entry into force of this Agreement for it, the conformity of its laws, regulations and administrative procedures with the provisions of this Agreement.

(b) Each Party shall inform the Committee of any changes in its laws and regulations relevant to this Agreement and in the administration of such laws and regulations.

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\* Sometimes referred to as "quota holders".

\*\* For the purpose of this Agreement, the term "governments" is deemed to include the competent authorities of the European Economic Community.

5. *Review.* The Committee shall review as necessary, but at least once every two years, the implementation and operation of this Agreement taking into account the objectives thereof and shall inform the CONTRACTING PARTIES to the GATT of developments during the period covered by such reviews.

6. *Amendments.* The Parties may amend this Agreement, having regard, *inter alia*, to the experience gained in its implementation. Such an amendment, once the Parties have concurred in accordance with procedures established by the Committee, shall not come into force for any Party until it has been accepted by such Party.

7. *Withdrawal.* Any Party may withdraw from this Agreement. The withdrawal shall take effect upon the expiration of sixty days from the day on which written notice of withdrawal is received by the Director-General to the CONTRACTING PARTIES to the GATT. Any Party may upon such notification request an immediate meeting of the Committee.

8. *Non-application of this Agreement between particular Parties.* This Agreement shall not apply as between any two Parties if either of the Parties, at the time either accepts or accedes to this Agreement, does not consent to such application.

9. *Secretariat.* This Agreement shall be serviced by the GATT secretariat.

10. *Deposit.* This Agreement shall be deposited with the Director-General to the CONTRACTING PARTIES to the GATT, who shall promptly furnish to each Party and each contracting party to the GATT a certified copy thereof and of each amendment thereto pursuant to paragraph 6, and a notification of each acceptance thereof or accession thereto pursuant to paragraph 1 and of each withdrawal therefrom pursuant to paragraph 7 of this Article.

11. *Registration.* This Agreement shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

DONE at Geneva this twelfth day of April, nineteen hundred and seventy-nine, in a single copy, in the English, French and Spanish languages, each text being authentic.

## [SPANISH TEXT — TEXTE ESPAGNOL]

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

## PREÁMBULO

Habida cuenta de las Negociaciones Comerciales Multilaterales, las Partes en el presente Acuerdo sobre procedimientos para el trámite de licencias de importación (denominados en adelante « Partes » y « presente Acuerdo »);

Deseando promover la realización de los objetivos del Acuerdo General sobre Aranceles Aduaneros y Comercio (denominado en adelante « Acuerdo General » o « GATT »);

Teniendo en cuenta las necesidades especiales de los países en desarrollo por lo que respecta a su comercio, su desarrollo y sus finanzas;

Reconociendo que las licencias automáticas de importación son útiles para ciertos fines, y que no deben utilizarse para limitar el comercio;

Reconociendo que las licencias de importación pueden emplearse para la administración de medidas tales como las adoptadas con arreglo a las disposiciones pertinentes del Acuerdo General;

Reconociendo asimismo que la utilización inadecuada de los procedimientos para el trámite de licencias de importación puede obstaculizar la corriente del comercio internacional;

Deseando simplificar los procedimientos y prácticas administrativos que se siguen en el comercio internacional y darles transparencia, y garantizar la aplicación y administración justa y equitativa de esos procedimientos y prácticas;

Deseando establecer un mecanismo consultivo y prever disposiciones para la solución rápida, eficaz y equitativa de las diferencias que puedan surgir en el marco del presente Acuerdo;

Convienen en lo siguiente:

*Artículo 1. DISPOSICIONES GENERALES*

1. A los efectos del presente Acuerdo, se entiende por trámite de licencias de importación el procedimiento administrativo\* utilizado para la aplicación de los regímenes de licencias de importación que requieren la presentación de una solicitud u otra documentación (distinta de la necesaria a efectos aduaneros) al órgano administrativo pertinente, como condición previa para efectuar la importación en el territorio aduanero del país importador.

2. Las Partes velarán por que los procedimientos administrativos utilizados para aplicar los regímenes de licencias de importación estén en conformidad con las disposiciones pertinentes del Acuerdo General incluidos sus anexos y protocolos, según se interpretan en el presente Acuerdo, con miras a evitar las perturbaciones del comercio que puedan derivarse de una aplicación impropia de esos procedimientos, teniendo en cuenta los objetivos de desarrollo económico y las necesidades financieras y comerciales de los países en desarrollo.

3. Las reglas a que se sometan los procedimientos de trámite de licencias de importación se aplicarán de manera neutral y se administrarán de manera justa y equitativa.

4. Las reglas y toda la información relativa a los procedimientos para la presentación de solicitudes, incluidas las condiciones que deban reunir las personas, empresas e instituciones para poder presentar esas solicitudes, así como las listas de los productos

\* El procedimiento llamado « trámite de licencias » y otros procedimientos administrativos semejantes.

licencias automáticas de importación podrá mantenerse mientras perduren las circunstancias que originaron su implantación o mientras los fines administrativos que persiga no puedan conseguirse de manera más adecuada;

- c) Todas las personas, empresas o instituciones que reúnan las condiciones legales del país importador para efectuar operaciones de importación referentes a productos sujetos al trámite de licencias automáticas tendrán igual derecho a solicitar y obtener las licencias de importación;
- d) Las solicitudes de licencias podrán ser presentadas en cualquier día hábil con anterioridad al despacho aduanero de las mercancías;
- e) Las solicitudes de licencias que se presenten en forma adecuada y completa se aprobarán en cuanto se reciban, en la medida en que sea administrativamente factible, y en todo caso dentro de un plazo máximo de diez días hábiles.

### *Artículo 3. TRÁMITE DE LICENCIAS NO AUTOMÁTICAS DE IMPORTACIÓN*

Además de lo dispuesto en los párrafos 1 a 11 del artículo 1, se aplicarán a los procedimientos de trámite de licencias no automáticas de importación, esto es, a aquellos procedimientos de trámite de licencias de importación no comprendidos en los párrafos 1 y 2 del artículo 2, las siguientes disposiciones:

- a) Los procedimientos adoptados para el trámite de licencias y las prácticas seguidas para la expedición de licencias destinadas a la administración de contingentes u otras restricciones a la importación no tendrán para las importaciones efectos restrictivos adicionales a los resultantes del establecimiento de la restricción;
- b) Las Partes proporcionarán, previa petición de cualquier Parte que tenga interés en el comercio del producto de que se trate, toda la información pertinente sobre:
  - i) La aplicación de las restricciones;
  - ii) Las licencias de importación concedidas durante un período reciente;
  - iii) La repartición de estas licencias entre los países abastecedores;
  - iv) Cuando sea factible, estadísticas de importación (en valor o volumen) de los productos sujetos al trámite de licencias de importación. No se esperará de los países en desarrollo que asuman cargas administrativas o financieras adicionales por ese concepto;
- c) Las Partes que administren contingentes mediante licencias publicarán el volumen total y/o el valor total de los contingentes que vayan a aplicarse, sus fechas de apertura y cierre, y cualquier cambio de ellos;
- d) Cuando se trate de contingentes repartidos entre los países abastecedores, la Parte que aplique la restricción informará sin demora a todas las demás Partes interesadas en el abastecimiento del producto de que se trate acerca de la parte del contingente, expresada en volumen o en valor, que haya sido asignada, para el período en curso, a los diversos países abastecedores, y publicará todas las informaciones pertinentes a este respecto;
- e) Cuando se haya fijado una fecha de apertura para la presentación de solicitudes de licencias, las reglas y las listas de productos a que se hace referencia en el párrafo 4 del artículo 1 se publicarán con la mayor antelación posible a esa fecha, o inmediatamente después del anuncio del contingente u otra medida que implique el requisito de obtener licencias de importación;
- f) Todas las personas, empresas o instituciones que reúnan las condiciones legales del país importador tendrán igual derecho a solicitar una licencia y a que se tenga en cuenta su solicitud. Si la solicitud de licencia no es aprobada, se darán al solicitante que las pida las razones de la denegación, contra la que tendrá derecho a recurrir con arreglo a la legislación o los procedimientos internos del país importador;



For the Argentine  
Republic:

Pour la République  
argentine :

Por la República  
Argentina:

[G. O. MARTÍNEZ  
17 December 1979

Subject to ratification — Sous réserve de ratification]

For the Commonwealth  
of Australia:

Pour le Commonwealth  
d'Australie :

Por el Commonwealth  
de Australia:

For the Republic  
of Austria:

Pour la République  
d'Autriche :

Por la República  
de Austria:

[R. WILLENPART  
17 December 1979

Subject to ratification — Sous réserve de ratification]

For the People's Republic  
of Bangladesh:

Pour la République  
populaire du Bangladesh :

Por la República Popular  
de Bangladesh:

For Barbados:

Pour la Barbade :

Por Barbados:

For the Kingdom  
of Belgium:

Pour le Royaume  
de Belgique :

Por el Reino  
de Bélgica:

For the People's Republic  
of Benin:

Pour la République  
populaire du Bénin :

Por la República Popular  
de Benin:

For the Federative  
Republic of Brazil:

Pour la République  
fédérative du Brésil :

Por la República  
Federativa del Brasil:

For the Socialist Republic  
of the Union  
of Burma:

Pour la République  
socialiste de l'Union  
birmane :

Por la República Socialista  
de la Unión  
Birmana:

For the Republic  
of Burundi:

Pour la République  
du Burundi :

Por la República  
de Burundi:

For the United Republic  
of Cameroon:

Pour la République-Unie  
du Cameroun :

Por la República Unida  
del Camerún:

For Canada:

Pour le Canada :  
[MCPHAIL  
17 December 1979]

Por el Canadá:

For the Central African  
Empire:

Pour l'Empire  
centrafricain :

Por el Imperio  
Centroafricano:

For the Republic of Chad:

Pour la République  
du Tchad :

Por la República del Chad:

For the Republic  
of Chile:

Pour la République  
du Chili :  
[MANUEL TRUCCO GAETE  
25 October 1979  
*ad referendum*]

Por la República  
de Chile:

For the Republic  
of Colombia:

Pour la République  
de Colombie :

Por la República  
de Colombia:

For the People's Republic  
of the Congo:

Pour la République  
populaire du Congo :

Por la República Popular  
del Congo:

For the Republic  
of Cuba:

Pour la République  
de Cuba :

Por la República  
de Cuba:

For the Republic  
of Cyprus:

Pour la République  
de Chypre :

Por la República  
de Chipre:

For the Czechoslovak  
Socialist Republic:

Pour la République  
socialiste tchécoslovaque :

Por la República Socialista  
Checoslovaca:

For the Kingdom  
of Denmark:

Pour le Royaume  
du Danemark :

Por el Reino  
de Dinamarca:

For the Dominican  
Republic:

Pour la République  
dominicaine :

Por la República  
Dominicana:

For the Arab Republic  
of Egypt:

Pour la République  
arabe d'Égypte :

Por la República Árabe  
de Egipto:

For the Republic  
of Finland:

Pour la République  
de Finlande :

Por la República  
de Finlandia:

[PAAVO KAARLEHTO  
17 December 1979

Subject to ratification — Sous réserve de ratification]

For the French Republic:

Pour la République  
française :

Por la República Francesa:

For the Gabonese  
Republic:

Pour la République  
gabonaise :

Por la República  
Gabonesa:

For the Republic  
of the Gambia:

Pour la République  
de Gambie :

Por la República  
de Gambia:

For the Federal Republic  
of Germany:

Pour la République  
fédérale d'Allemagne :

Por la República Federal  
de Alemania:

For the Republic  
of Ghana:

Pour la République  
du Ghana :

Por la República  
de Ghana:

For the Hellenic Republic:

Pour la République  
hellénique :

Por la República Helénica:

For the Republic  
of Guyana:

Pour la République  
du Guyana :

Por la República  
de Guyana:

For the Republic  
of Haiti:

Pour la République  
d'Haïti :

Por la República  
de Haïti:

For the Hungarian People's  
Republic:

Pour la République  
populaire hongroise :  
[JANOS NYERGES  
21 January 1980]

Por la República Popular  
Húngara:

For the Republic  
of Iceland:

Pour la République  
d'Islande :

Por la República  
de Islandia:

For the Republic  
of India:

Pour la République  
de l'Inde :

Por la República  
de la India:

For the Republic  
of Indonesia:

Pour la République  
d'Indonésie :

Por la República  
de Indonesia:

For Ireland:

Pour l'Irlande :

Por Irlanda:

For the State of Israel:

Pour l'Etat d'Israël :

Por el Estado de Israel:

For the Italian Republic:	Pour la République italienne :	Por la República Italiana:
For the Republic of the Ivory Coast:	Pour la République de Côte d'Ivoire :	Por la República de Costa de Marfil:
For Jamaica:	Pour la Jamaïque :	Por Jamaica:
For Japan:	Pour le Japon : [MASAO SAWAKI 17 December 1979 Subject to completion of constitutional procedures — Sous réserve de l'accomplissement des procédures constitutionnelles]	Por el Japón:
For the Republic of Kenya:	Pour la République du Kenya :	Por la República de Kenya:
For the Republic of Korea:	Pour la République de Corée :	Por la República de Corea:
For the State of Kuwait:	Pour l'Etat du Koweït :	Por el Estado de Kuwait:
For the Grand Duchy of Luxembourg:	Pour le Grand-Duché de Luxembourg :	Por el Gran Ducado de Luxemburgo:
For the Democratic Republic of Madagascar:	Pour la République démocratique de Madagascar :	Por la República Democrática de Madagascar:
For the Republic of Malawi:	Pour la République du Malawi :	Por la República de Malawi:

For Malaysia:

Pour la Malaisie :

Por Malasia:

For the Republic  
of Malta:Pour la République  
de Malte :Por la República  
de Malta:For the Islamic Republic  
of Mauritania:Pour la République  
islamique de Mauritanie :Por la República Islámica  
de Mauritania:

For Mauritius:

Pour Maurice :

Por Mauricio:

For the United Mexican  
States:Pour les Etats-Unis  
du Mexique :Por los Estados Unidos  
Mexicanos:For the Kingdom  
of the Netherlands:Pour le Royaume  
des Pays-Bas :Por el Reino  
de los Países Bajos:

For New Zealand:

Pour la Nouvelle-Zélande :  
[E. FARNON  
17 December 1979]

Por Nueva Zelandia:

For the Republic  
of Nicaragua:Pour la République  
du Nicaragua :Por la República  
de Nicaragua:For the Republic  
of Niger:Pour la République  
du Niger :Por la República  
del Níger:For the Federal Republic  
of Nigeria:Pour la République  
fédérale du Nigéria :Por la República Federal  
de Nigeria:

For the Kingdom  
of Norway:

Pour le Royaume  
de Norvège :

Por el Reino  
de Noruega:

[JOHAN CAPPELEN  
17 December 1979

Subject to acceptance — Sous réserve de l'acceptation]

For the Islamic Republic  
of Pakistan:

Pour la République  
islamique du Pakistan :

Por la República Islámica  
del Pakistán:

For the Republic  
of Peru:

Pour la République  
du Pérou :

Por la República  
del Perú:

For the Republic  
of the Philippines:

Pour la République  
des Philippines :

Por la República  
de Filipinas:

For the Polish People's  
Republic:

Pour la République  
populaire de Pologne :

Por la República Popular  
Polaca:

For the Portuguese  
Republic:

Pour la République  
portugaise :

Por la República  
Portuguesa:

For Rhodesia:

Pour la Rhodésie :

Por Rhodesia:

For the Socialist Republic  
of Romania:

Pour la République  
socialiste de Roumanie :

Por la República Socialista  
de Rumania:

For the Rwandese  
Republic:

Pour la République  
rwandaïse :

Por la República  
Rwandesá:

For the Republic  
of Senegal:

Pour la République  
du Sénégal :

Por la República  
del Senegal:

For the Republic  
of Sierra Leone:

Pour la République  
de Sierra Leone :

Por la República  
de Sierra Leona:

For the Republic  
of Singapore:

Pour la République  
de Singapour :

Por la República  
de Singapur:

For the Republic  
South Africa:

Pour la République  
sud-africaine :  
[F. D. TOTHILL  
18 December 1979]

Por la República  
de Sudáfrica:

For the Spanish State:

Pour l'Etat espagnol :

Por el Estado Español:

For the Democratic  
Socialist Republic  
of Sri Lanka:

Pour la République  
socialiste démocratique  
de Sri Lanka :

Por la República  
Socialista Democrática  
de Sri Lanka:

For the Republic  
of Suriname:

Pour la République  
du Suriname :

Por la República  
de Suriname:

For the Kingdom  
of Sweden:

Pour le Royaume  
de Suède :

Por el Reino  
de Suecia:

[M. LEMMEL  
17 December 1979]

Subject to ratification — Sous réserve de ratification]

For the Swiss  
Confederation:

Pour la Confédération  
suisse :

Por la Confederación  
Suiza:

[A. DUNKEL  
17 December 1979]

For the United Republic  
of Tanzania:

Pour la République-Unie  
de Tanzanie :

Por la República Unida  
de Tanzania:



For the Togolese  
Republic:

Pour la République  
togolaise :

Por la República  
Togolesa:

For the Republic  
of Trinidad and Tobago:

Pour la République  
de Trinité-et-Tobago :

Por la República  
de Trinidad y Tabago:

For the Republic  
of Tunisia:

Pour la République  
tunisienne :

Por la República  
de Túnez:

For the Republic  
of Turkey:

Pour la République  
turque :

Por la República  
de Turquía:

For the Republic  
of Uganda:

Pour la République  
de l'Ouganda :

Por la República  
de Uganda:

For the United Kingdom  
of Great Britain  
and Northern Ireland:

Pour le Royaume-Uni  
de Grande-Bretagne  
et d'Irlande du Nord :

Por el Reino Unido  
de Gran Bretaña  
e Irlanda del Norte:

For the United States  
of America:

Pour les Etats-Unis  
d'Amérique :  
[MICHAEL B. SMITH  
17 December 1979]

Por los Estados Unidos  
de América:

For the Republic  
of Upper Volta:

Pour la République  
de Haute-Volta :

Por la República  
del Alto Volta:

For the Eastern Republic  
of Uruguay:

Pour la République  
orientale de l'Uruguay :

Por la República Oriental  
del Uruguay:

For the Socialist  
Federal Republic  
of Yugoslavia:

Pour la République  
fédérative socialiste  
de Yougoslavie :

Por la República  
Federativa Socialista  
de Yugoslavia:

For the Republic  
of Zaire:

Pour la République  
du Zaïre :

Por la República  
del Zaire:

For the European  
Economic Community:

Pour la Communauté  
économique européenne :

Por la Comunidad  
Económica Europea:

[P. LUYTEN  
17 December 1979]

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## [TRANSLATION — TRADUCTION]

No. 14696. AGREEMENT CONCERNING THE LATIN AMERICAN FACULTY OF SOCIAL SCIENCES (FLACSO) CONSTITUTING MODIFICATION OF THE AGREEMENT OF 18 JUNE 1971. CONCLUDED AT QUITO ON 30 APRIL 1975<sup>1</sup>

PROTOCOL<sup>2</sup> OF AMENDMENT OF THE ABOVE-MENTIONED AGREEMENT. SIGNED AT SAN JOSÉ ON 8 JUNE 1979

*Authentic text: Spanish.*

*Registered by the United Nations Educational, Scientific and Cultural Organization on 1 July 1980.*

The Plenipotentiaries accredited to the Second Special General Assembly of the Latin American Faculty of Social Sciences (FLACSO) held at San José, Costa Rica, on 5 to 8 June 1979, having decided to amend the Constitutive Agreement of the Faculty in force to date, have adopted the following amendments:

*Clause I.* Paragraph 2 of the preamble shall read as follows:

Stressing the importance of the contribution of this institution through its Academic Offices, Programmes and Projects to the development in all Latin America of teaching and research in the social sciences since its inception to date;

*Clause II.* Paragraphs 3, 4 and 5 of article I shall read as follows:

3. The authentic regional and autonomous nature of FLACSO is ensured by the recruitment of an international staff of teachers and administrators composed of Latin American specialists, as far as possible on the basis of appropriate regional geographical representation; by its teaching and research programme, which will take into account the scientific and social needs of the region; by the selection of its regular students principally from among Latin American graduates of Latin American universities; by the scholarships granted, as far as possible, according to an appropriate cultural and geographical representation of the whole region, and by the support, participation and financing given to it by the Latin American Governments.

4. Latin American States may be members of FLACSO if they are members of UNESCO. Latin American States that have acceded to this Agreement according to the provisions of article XVI are members of FLACSO.

5. To ensure its regional function, FLACSO may carry out its activities in any of the Latin American countries and, to such end, it is authorized to establish Academic Offices, Programmes and Projects.

*Clause III.* Subparagraphs (b) and (c) of paragraph 1, article II, shall read as follows:

(b) To carry out research in the area of the social sciences on matters relating to Latin American problems;

<sup>1</sup> United Nations, *Treaty Series*, vol. 1001, p. 129, and annex A in volumes 1007, 1079, 1128, 1138 and 1175.

<sup>2</sup> Came into force on 8 June 1979, the date on which it was approved by two thirds of the member States during the Second Extraordinary Session of the General Assembly of the FLACSO held in San José from 5 to 8 June 1979, in accordance with article XIII. The Protocol was approved by the following States: Bolivia, Costa Rica, Cuba, Ecuador, Mexico and Panama.

- (c) To spread by all means and with Government and/or institutional support in the Latin American region knowledge of the social sciences, especially the results of its own research.

*Clause IV.* Article III shall read as follows:

GOVERNING BODIES OF FLACSO

1. The governing bodies of FLACSO are:

- (a) The General Assembly;
- (b) The Higher Council;
- (c) The Directive Committee; and
- (d) The Academic Councils.

*Clause V.* Paragraphs 1, 2, 3 and subparagraphs (b), (e), (f), (g), (h), (i) and (j) of paragraph 4 shall read as follows:

1. The General Assembly is the highest organ of FLACSO and it is made up of one representative from each Member State, designated by the Government of that State, with the right of voice and vote. Latin American States that have not yet acceded to the present Agreement may participate as observers. The States, institutions, organizations and centres that co-operate with FLACSO, as well as social scientists who have served as President, Secretary-General, or Director of a school, institution, office or programme of FLACSO, may also be invited to participate as observers.

2. The General Assembly must hold a regular session every two years, and the Higher Council of FLACSO shall notify the Member States, of the place and date, and send them the provisional agenda for the meeting, four months in advance. The other Latin American States shall likewise be notified.

3. The General Assembly may meet in a special session at the request of a majority of the Member States, or when so decided by the Higher Council by a majority of votes or the unanimous vote of the Member States represented thereon.

- 4. (b) To consider and, where applicable, approve the periodic reports submitted by the Higher Council on the activities and financial management of FLACSO, as well as the programme of activities and its overall budget;
- (e) To authorize the Higher Council and the Secretary-General of FLACSO to take decisions on such specific matters as the Assembly may deem appropriate;
- (f) To elect, from among the candidates presented by the Higher Council, the Office Directors, who shall hold office for a period of four years and be eligible for an additional term;
- (g) To elect, from among the candidates presented by the Higher Council, the Secretary-General of FLACSO for a term of four years, and, where necessary, to remove him. He may be designated for an additional term; the person designated must be a Latin American social scientist;
- (h) To approve the establishment in Member States of Academic Offices on the proposal of the Higher Council;
- (i) To establish the Office of the Secretary-General in a Member State on the basis of an agreement signed between FLACSO and the corresponding Government;
- (j) To draw up its own by-laws.

*Clause VI.* Article V shall read as follows:

#### THE HIGHER COUNCIL

1. The Higher Council is an auxiliary organ of the General Assembly, acting as a liaison instrument between FLACSO and the Member States.

It is composed of :

- (a) The representatives designated by the Governments of the Member States elected by the General Assembly, including those in which FLACSO has Academic Offices. The number of States represented is determined by the General Assembly, but will never be less than four and will always be greater than the number of social scientists elected in a personal capacity;
- (b) Latin American social scientists of different nationalities and of high academic standing, appointed in a personal capacity by the General Assembly. Their number will be determined by the General Assembly and will not be less than three;
- (c) The current President of the Directive Committee, who has the right of voice.

2. The Higher Council holds regular meetings once a year, on the date and at the place determined by its President. It may also hold special meetings with the approval of a majority of its members, at the request of a Member State or of the President of the Council.

3. The Higher Council has the following specific duties:

- (a) To elect from among its members the President of the Higher Council for a period of two years. The person elected must be a Latin American social scientist of recognized academic standing;
- (b) To determine the academic policy of FLACSO in accordance with the guidelines established by the General Assembly;
- (c) To consider and, where applicable, approve the annual report on the academic and other activities of FLACSO and its yearly effective programme budget as submitted by the Directive Committee;
- (d) To review the relations of FLACSO with the Member States, and the agreements and programmes entered into by FLACSO with national and international governmental agencies, and with the social science institutions and centres of the region;
- (e) To settle any conflicts that may arise concerning responsibility, pursuant to the provisions of the corresponding by-law;
- (f) To propose to the General Assembly the establishment of Academic Offices;
- (g) To propose to the General Assembly the candidates for the post of Office Director, after prior consultation with the respective Academic Council; the candidate designated must be a social scientist of recognized standing;
- (h) To propose to the General Assembly the candidates for the post of Secretary-General; the candidate must be a social scientist of recognized standing;
- (i) To authorize the Directive Committee to conduct negotiations with Governments of other regions, either directly or by mandate, and with national and international institutions with a view to obtaining their institutional and financial support for the activities of FLACSO;
- (j) To appoint, until the next General Assembly, interim Office Directors, a Secretary-General or social scientists members of the Council in the event that these posts become vacant;

- (k) To establish programmes in any country of the region and designate their directors from among the candidates proposed by the Directive Committee. The person elected must be a Latin American social scientist. The Director shall hold this post for a period of four years and the same person may be designated for an additional term;
- (l) To establish, on the proposal of the Directive Committee, the titles, degrees, diplomas and certificates to be awarded by FLACSO;
- (m) To submit, every two years, to the General Assembly a progress report on the work of the Faculty;
- (n) To approve the by-laws of the Directive Committee and the Academic Councils, and other by-laws of the Faculty;
- (o) To carry out all the tasks assigned to it by the General Assembly; and
- (p) To draw up its own by-laws.

4. The President of the Higher Council has the following duties:

- (a) To preside over the Higher Council of FLACSO, organizing its work;
- (b) To convene the regular and special general assemblies of FLACSO;
- (c) To perform the duties entrusted to him by the General Assembly or the Higher Council.

*Clause VII.* Article VI shall read as follows:

#### THE DIRECTIVE COMMITTEE

1. The Directive Committee is responsible for co-ordinating the teaching, research and technical co-operation activities of FLACSO. It is composed of:

- (a) The Directors of the Academic Offices of the Faculty, who shall preside over it on a rotating basis for one year;
- (b) A professor on the staff of FLACSO who shall be elected on a rotating basis by the various Offices for a term of one year;
- (c) A representative of the programmes designated by the Higher Council on a rotating basis for one year;
- (d) The Secretary-General.

2. The Directive Committee shall meet at least four times a year as convened by its presiding officer.

3. The specific functions of the Directive Committee are:

- (a) To draw up academic plans and programmes in accordance with the academic policy established by the Higher Council;
- (b) To submit to the Higher Council the annual reports and programme budgets referred to in article V (3) (c);
- (c) To authorize the appointments of the international academic and administrative staff of the Offices and Programmes, on the proposal of their Directors, maintaining as far as possible appropriate regional geographical distribution;
- (d) To propose the establishment of programmes and the designation of their Directors;
- (e) To formulate the various by-laws of the Faculty not provided for in other sections of this Agreement for their approval by the Higher Council;
- (f) To authorize minor changes in the yearly effective budget, according to the corresponding by-laws;

- (g) To propose and consider relations, conventions and agreements maintained with Governments and various national and international institutions by the Secretary-General and the Directors of the Academic Offices, in accordance with the guidelines established by the General Assembly and the Higher Council;
- (h) To propose to the Higher Council the titles, degrees, diplomas and certificates to be awarded by FLACSO.

*Clause VIII.* Article VII shall read as follows:

#### THE SECRETARY GENERAL

1. The Secretary General is responsible for executing the mandates entrusted to him by the General Assembly, the Higher Council and the Directive Committee.

2. The Secretary General has the following essentially regional duties:

- (a) To represent FLACSO generally and legally;
- (b) To act as Secretary of the General Assembly, the Higher Council and the Directive Committee;
- (c) To prepare the annual reports, budgets and statements of account of the Faculty for the Directive Committee;
- (d) To conduct negotiations with universities and other cultural institutions with a view to negotiating academic exchange agreements to be approved by the Directive Committee;
- (e) To maintain co-ordination with the Directive Committee and contacts with the Governments of the Member States and also with other Latin American countries to ensure their effective participation in the life of the Faculty and to obtain from them all institutional and financial support for the work of FLACSO;
- (f) To conduct the negotiations referred to in article VI (3) (g) and to propose, where applicable, the respective draft agreements;
- (g) To engage in negotiations conducive to the creation of Offices and Programmes, subject to prior approval of the Higher Council and in consultation with the Directive Committee; and
- (h) To co-ordinate academic and scientific co-operation activities at the regional level.

3. The Directive Committee shall authorize the appointment of the technical and administrative staff needed to carry out these duties.

*Clause IX.* Article VIII shall read as follows:

#### ACADEMIC OFFICES, PROGRAMMES AND PROJECTS

1. An Office is the institutional base in a member State, established through the signing of an agreement between FLACSO and the relevant Government, in which the following are carried out:

- (a) Advanced and permanent teaching activities leading to the awarding of an advanced degree;
- (b) Research and other activities as stipulated in article II (1).

Programmes are a series of advanced academic activities, carried out by FLACSO in any country of the region, whose characteristics are determined in each case by the corresponding directive bodies.

Projects are specific academic activities which may be carried out over a limited period of time in any Latin American country, and whose characteristics are determined in each case by the corresponding directive bodies.

2. The teaching and research activities of FLACSO shall be carried out in the Academic Offices and Programmes. They shall be established when, in the view of the General Assembly and/or the Higher Council, they become necessary.

3. Each Academic Office shall have a Director elected by the General Assembly and each Programme shall have a Director designated by the Higher Council, each of whom shall be responsible for the academic and administrative direction of his Office or Programme.

4. The Directors of the Academic Offices and the Directors of the Programmes shall submit for the consideration of the Directive Committee the names of the candidates for the international academic and administrative staff posts, and shall designate the remaining staff in accordance with the corresponding by-law.

5. The Directors of the Academic Offices shall come to an agreement with the Higher Council and the Directive Committee on an appropriate instrument of liaison with the Government of the respective country.

6. The Directors of the Academic Offices and the Directors of the Programmes shall prepare and implement the annual budgets of the Offices and Programmes, with the authorization of the Directive Committee and the Higher Council.

*Clause X.* Article IX shall read as follows:

#### ACADEMIC COUNCILS

1. In each Academic Office an Academic Council shall function, composed of:

- (a) The Office Director, who shall preside over it;
- (b) The area co-ordinators;
- (c) A professor elected by the academic staff, who shall be the representative referred to in article VI (1) (b);
- (d) A representative of the students.

2. Its functions are:

- (a) To propose and evaluate the academic activities of the respective Offices;
- (b) To advise the Office Director in matters on which he requests the view of the Academic Council.

*Clause XI.* Article X shall read as follows:

#### OFFICERS, EMPLOYEES AND STUDENTS

1. FLACSO organizes its staff in accordance with the categories and standards established by the pertinent by-laws approved by the Higher Council.

2. The Directive Committee shall establish a suitable system for regional representation of staff at both teaching and administrative levels.

3. The students of FLACSO are an integral part thereof. Their representation is governed by special by-laws established by the Directive Committee.

4. All the staff of FLACSO are responsible under the provisions of this Agreement and the terms of their respective work contracts. Such responsibility shall be exacted as follows:

- (a) The Directors of the Academic Offices, the Secretary General and the Directors of Programmes are answerable to the authorities by whom they were appointed;



- (b) The professors, research workers and students are answerable to the Director of the Academic Office; and the staff of the Programmes to the respective Director;
- (c) Administrative staff are answerable to the Director of the Academic Office or Director of the programme to which they have been assigned;
- (d) Support staff for the Secretary General are answerable to him.

*Clause XII.* As a result of the renumbering of articles, article X becomes article XI, article XI becomes article XII and article XII becomes article XIII, all of which retain the wording of the Agreement in force.

*Clause XIII.* As a result of the renumbering of articles, article XIII becomes article XIV, and the word "full" in paragraph 1 is deleted.

*Clause XIV.* As a result of the renumbering of articles, article XIV becomes article XV, and the word "full" in subparagraphs 2 (b) and (e) is deleted.

Bolivia:

[Signed]

MARÍA INÉS CASTAÑOS

Costa Rica:

[Signed]

LUIS FERNANDO MAYORGA

Cuba:

[Signed]

RITA SOLÍS

Ecuador:

[Signed]

FRANCISCO PAREJA

Mexico:

[Signed]

MANUEL MADRAZO CARAMENDI

*Ad referendum*

Panama:

[Signed]

HUGO GUIRAUD