

**PREPARATORY COMMITTEE
FOR THE
WORLD TRADE ORGANIZATION**

RESTRICTED

PC/M/6

8 November 1994

(94-2340)

**PREPARATORY COMMITTEE FOR THE
WORLD TRADE ORGANIZATION**

MINUTES OF MEETING

Held on 25 October 1994

1. The Preparatory Committee for the World Trade Organization (WTO) held its sixth meeting under the Chairmanship of Mr. Peter D. Sutherland.
2. The Chairman welcomed Sudan as an observer in pursuance of its formal request to accede to the WTO. He then recalled that the programme outlined by him in July, and agreed by the Preparatory Committee, was based on the assumption that one should try and complete all work pertaining to the implementation of the Committee's mandate by the time of the Implementation Conference. The Chairmen of the Sub-Committees, and the Secretariat, were working with this end in view. He added that work under paragraph 8(b)(i), relating to the negotiation and approval of schedules on goods and services, might have to continue beyond the Implementation Conference since the concerned governments had until the entry into force of the WTO to complete the process. He trusted that delegations had geared themselves to an even more accelerated and action-oriented approach based on clear-cut priorities designed to have the WTO enter into force on 1 January 1995. There were roughly six weeks remaining, and less if one took into account the minimum time needed for the translation and advance circulation of documents in the three working languages before the Implementation Conference.
3. The Committee took note of the statement.
 - A. Implementation Conference
4. The Chairman said that, as indicated by the Chairman of the Trade Negotiations Committee in his concluding remarks at the Marrakesh Ministerial meeting (MTN.TNC/45(MIN)), the Implementation Conference would commence with a meeting of the Preparatory Committee at senior officials level to be followed immediately thereafter by the CONTRACTING PARTIES to GATT 1947 meeting in Special Session. His assumption was that the Implementation Conference did not mark the final meeting of the Preparatory Committee. He had already mentioned in his opening remarks the example of work under paragraph 8(b)(i) relating to the acceptance of, or accession to, the WTO Agreement. This, and other parts of its mandate, might require one or two further meetings of the Preparatory Committee. In any case, under the Ministerial Decision establishing the Preparatory Committee, the Committee remained in place until the WTO's entry into force.
5. He further proposed that the Conference should have a specific and action-oriented agenda designed for a business-like meeting. The Preparatory Committee part of the Conference would essentially deal with two items: first, the formal establishment of the date of entry into force of the WTO, which was the central element of the mandate of the Implementation Conference; and second, the consideration and approval of the draft report of the Preparatory Committee to the WTO. In so

doing, the Committee would take action, as appropriate, on the implementation of the Ministerial Decision on the Establishment of the Preparatory Committee and the Ministerial Decision on Trade and Environment. The Special Session of the CONTRACTING PARTIES to GATT 1947, to follow immediately after the Preparatory Committee, would essentially meet to act upon the specific recommendations made to it by the Preparatory Committee and which fell within the jurisdiction of the CONTRACTING PARTIES to the GATT 1947. The area that came immediately to mind here was that of transitional arrangements concerning the GATT 1947, including the Tokyo Round Agreements. The specific agenda did not call for general statements or speeches, and he did not, therefore, expect any. He added that the collective decision that all would take to confirm the WTO's entry into force on 1 January 1995 would entail final preparations in capitals and in Geneva to ensure that the WTO began with the maximum possible number of governments enrolled as fully participating members. For this reason, it was important for the Implementation Conference to be held as early as possible in December. Accordingly, he would propose that it be held on the morning of Thursday, 8 December.

6. The Committee took note of the statement and agreed to the date of the Conference and the provisional agenda outlined by the Chairman.

B. Ratification

7. The Chairman recalled that he had stressed the obvious need to ensure that the WTO began its life with the maximum possible number of governments actually participating as functioning members from day one. This would clearly make for an efficient start to the activities and facilitate the decisions immediately needed to begin work. Equally clearly, however, all this would become more difficult to manage if governments did not ensure timely ratification. He had used every occasion, public and private, to bring home the urgency of ratification to governments, and had written to Ministers of participating countries along these lines the previous month. Ten days earlier, he had written again to some of the Ministers to specially urge governments to try and complete their ratification processes by the time of the Implementation Conference. From replies to his communications, from bilateral contacts in capitals and from representatives in Geneva, he knew that a very substantial number of governments were in a position to do so and were making efforts in this direction. These trends had led to growing confidence that 1 January 1995 would be the date of entry into force of the WTO. He was also convinced that all participating governments were committed to this date and that its formal confirmation at the Implementation Conference would be quick and smooth. He would continue to monitor the overall picture regarding ratification and keep the Committee fully informed.

8. The Committee took note of the statement.

C. Review of Work Under the Sub-Committees

(i) Sub-Committee on Budget, Finance and Administration

9. Mr. Szepesi (Hungary), Chairman of the Sub-Committee, said that since the 22 September meeting of the Preparatory Committee, the Sub-Committee had met twice, formally on 29 September and informally on 14 October. In addition, a number of informal consultations had been held to consider specific elements of the Sub-Committee's work programme. At its formal meetings, the Sub-Committee had had a "policy debate" on some conceptual issues and had heard progress reports from the consultants on the Management Review. Also, the negotiating team for the WTO Headquarters Agreement had briefed Members about the preparation for the negotiations with the Swiss authorities, and progress reports had been presented on various issues included in the Sub-Committee's work programme.

10. With regard to the policy debate, as previously agreed by the Sub-Committee, four issues had been covered: economic research and analysis, technical cooperation, in-house expertise as against resources of other competent organizations and media relations. In addition, the debate had started with some general comments concerning the basic approach and expectation of Members vis-à-vis the new organization and the functions of its Secretariat. On each of the four topics, the Secretariat had prepared a short paper and the issue had been introduced by a member of the Management or, in the case of the media relations, by a senior staff member. The discussion had been attended also by the consultants on the Management Review as it was intended to form part of the contribution of Members to the Management Review. The purpose of the debate had not been to arrive at agreed conclusions, but rather to provide a forum for Members to have a structured discussion on these topics.

11. As to the progress reports of the consultants on the Management Review, he recalled that pending the presentation of a draft report by mid-November, and the final report by mid-December, the Sub-Committee had received, and would continue to receive, oral reports on a regular basis. At present, the process of interviews with the Members and Secretariat staff had not been fully completed and the consultants had recently started to reflect more in depth on the information received and on the issues and areas on which their further activity and possible proposals should be focused.

12. With regard to the negotiations of a Headquarters Agreement for the WTO, the negotiating team appointed by the Preparatory Committee had worked on the basis of instructions and guidance received from the Sub-Committee regarding the three main areas to be covered, namely, privileges and immunities, physical facilities, and living conditions. The Swiss delegation, led by Mr. Nordmann, was composed of representatives of the Bern central administration, the Canton of Geneva, the Swiss Permanent Mission and the FIPOI. The first negotiating session had been held on 19 and 20 October. After a brief exchange of views on the working methods and an introductory presentation of the two delegations' respective conceptual approaches to the broad area of immunities and privileges, the bulk of the discussion had been devoted to the physical facilities to be put at the disposal of the WTO. The first exchange of views had included the conditions of the proposed donation of the Centre William Rappard, details related to the refurbishing of its South Wing, different aspects of the project concerning the construction of the new conference room, and the location, access and security of the temporary and definitive car parks. As to the facilities to be provided to least-developed countries, a small working group consisting of representatives of these countries and the Swiss authorities had been set up, and would meet the following day. It would discuss all related issues, including the possibility of a decentralized solution, the size and number of offices, and details of the Swiss project concerning the construction of the so-called Universal House. The next negotiating session had been scheduled for 26 October, to pursue the discussion on facilities, and for 27 and 28 October, to tackle the question of privileges and immunities, as well as other aspects of the living conditions such as access to the labour market, and so on. He emphasized that although both sides wished to work as quickly as possible in the best spirit of cooperation, a lot of work remained to be done before a proposal could be presented to the Preparatory Committee through the Sub-Committee. The negotiating team was of the view that a good, mutually satisfactory agreement was better than a quickly-reached compromise that might leave important aspects unaddressed. After the next session of negotiations, the delegation would make a detailed report to the Sub-Committee and seek further guidance from Members.

13. Concerning the other elements of the work programme, such as the budget for 1995, the transfer of assets and liabilities, the contract of employment policy and the basis for the assessment of Members' contributions as from 1996 and so on, a number of informal consultations had taken place and others would take place in different settings. He stressed that a working group chaired by Mr. Gosselin (Canada), was preparing proposals on many of these issues. As a point of information, he mentioned that the GATT Budget Committee had just begun examination of the proposed 1995 Budget.

14. The Committee took note of the report by the Chairman of the Sub-Committee.

(ii) Sub-Committee on Institutional, Procedural and Legal Matters

15. Mr. Kesavapany (Singapore), Chairman of the Sub-Committee, said that since the 22 September meeting of the Preparatory Committee, the Sub-Committee had held three meetings. At these meetings, terms of reference for the WTO Committees on Agriculture, Balance-of-Payments Restrictions and Budget, Finance and Administration had been approved. In the case of the latter, a text on membership had also been agreed. He hoped to have agreement on terms of reference for the Committee on Trade and Development soon, and noted that, consequent to a proposal by the Community, work had begun on proposed terms of reference for a WTO Market Access Committee. As to the Contact Groups on Agriculture, Subsidies and TRIPS, work was well on schedule and it was expected that these bodies would be able to submit reports to the Sub-Committee by mid-November. Agreement had been reached in the Contact Group on Agriculture on notifications concerning the Agreement on Sanitary and Phytosanitary Measures. As regards TRIMs, the Contact Group on TRIPS had just begun consideration of this question.

16. With regard to rules of procedure, considerable progress had been made on draft rules for the Ministerial Conference and the General Council. More recently, it had been agreed that specific rules be envisaged for the General Council when it convened as the Trade Policy Review Body or the Dispute Settlement Body, and this was being considered. Work was also well advanced in the related area of guidelines for observer status for international organizations, which was now being considered under this part of the Sub-Committee's mandate because of the intention to include such guidelines as an annex to the rules of procedure when all the work had been completed on the package of rules. The Sub-Committee was also examining draft guidelines for observer status for governments, which would also be part of the same package. He was satisfied with the progress accomplished thus far in this area, and was confident that the work would be finalized soon. Still on this part of the Sub-Committee's mandate, he said that the Sub-Committee had requested the Secretariat to undertake some preliminary work in relation to the independent review entity mentioned in the Agreement on Preshipment Inspection. On relations with other international organizations, he recalled that the Sub-Committee had held an informal meeting at which the Chairman of the Preparatory Committee had reported on recent discussions with the Heads of the IMF and World Bank. At that informal meeting, it had been decided to request the Secretariat to prepare a note on the WTO's anticipated relations with these two organizations. This note was now ready and was being circulated to Members. The Sub-Committee would discuss this subject at its next meeting. In the meantime, a note was being prepared on the WTO's anticipated relations with the UN, and the UNCTAD in particular.

17. On transitional arrangements, his consultations were continuing. At the 21 October meeting of the Sub-Committee, one delegation had made known the intention of its authorities to proceed with plans to withdraw from the GATT 1947 and the Tokyo Round Codes effective upon entry into force of the WTO. Widespread concern had been expressed at this information. It was evident from the ensuing debate that the great majority of Members had a clear preference for coexistence of the WTO and the GATT 1947, a concept which had been the basis for his consultations thus far. He intended to intensify his bilateral and plurilateral contacts in the coming weeks. The question of transitional arrangements should be seen as a priority among the tasks before the Sub-Committee, since, for obvious reasons, solutions had to emerge in time for consideration and approval by the Implementation Conference. He would keep the Preparatory Committee regularly informed of developments in this respect.

18. As regards the Textiles Monitoring Body, the Contact Group on Textiles had held its first meeting the previous day under the Chairmanship of Mr. Abdel-Fattah (Egypt).

19. At its meetings on 7 and 21 October, the Sub-Committee had also discussed the question of the Standing Appellate Body referred to in the Dispute Settlement Understanding. The discussion had

focused on issues such as whether the appointment of members of the Appellate Body should be on a permanent or part-time basis, where its members should be located, the remuneration they should receive and the type and amount of support staff they should be provided with. Following an extensive discussion on this matter at the Sub-Committee's meeting on 21 October, he had been asked to produce a discussion paper. A number of delegations had indicated that they would submit their inputs on this subject which would then be incorporated into the paper. The paper would be considered at the next meeting of the Sub-Committee.

20. The Committee took note of the report by the Chairman of the Sub-Committee.

(iii) Sub-Committee on Services

21. Mr. Manhusen (Sweden), Chairman of the Sub-Committee, said that since his previous report to the Sub-Committee, further informal consultations had been held on the outstanding issues relating to the scope of the GATS, namely, measures relating to social security, measures relating to the settlement of disputes under bilateral investment agreements and measures relating to entry and temporary stay of certain categories of natural persons such as seasonal agricultural workers, university professors and school teachers under exchange programmes and working holidays and young workers programmes. On the basis of these consultations, he had issued, on his own responsibility, a progress report to the Members of the Sub-Committee which attempted, *inter alia*, to identify common ground where possible and explored options for possible courses of action by the Sub-Committee. He hoped that the report would be helpful in reaching consensus in future consultations on the outstanding issues.

22. As regards negotiations on Maritime Transport Services, the Negotiating Group on this matter had held its third meeting on 17 October. The number of participants in the negotiations had reached 37. The group had taken a decision to welcome Ecuador and Chinese Taipei, as well as the World Bank and the OECD, as observers. No decisions had been reached regarding requests from two non-governmental organizations, namely the Council of European and Japanese National Shipowners' Association (CENSA) and the American Institute of Merchant Shipping (AIMS). A discussion of the draft schedule on maritime transport services had confirmed the general view that it constituted a useful way of approaching the scheduling of commitments in this sector. It had been agreed that amendments to the draft schedule should be minimal, if at all necessary, and that those interested could submit written comments, including drafting suggestions, to the Secretariat. A final version of the questionnaire on maritime transport services had been approved by the Group, and the date of 15 January 1995 agreed as the deadline for the submission of responses. The next meeting of the Group had been scheduled for 9 February 1995.

23. With regard to negotiations on Movement of Natural Persons, the negotiating group on this matter had held its second meeting on 22 September. The Group had welcomed Ecuador and Chinese Taipei, as well as the World Bank and UNCTAD, as observers. No decision had been reached regarding the outstanding request from the International Organization for Migration. The Secretariat had prepared for that meeting a short analysis of the horizontal commitments on the fourth mode of supply. In broad terms, the paper categorized the commitments in terms of (a) market access limitations on the total number of natural persons supplying services and (b) a binding of measures affecting certain categories of defined persons. It had been pointed out that since the Marrakesh Ministerial meeting no bilateral negotiations had taken place and that further negotiations were necessary to achieve an improved level of commitment. To this end, several delegations had expressed their intention to hold a round of bilateral negotiations before the end of October in order to be in a position to report on progress at the next meeting, scheduled for 4 November.

24. With regard to Financial Services, the Interim Group on this matter had held its first meeting on 12 October. It was recalled that the group had been established in order to monitor the progress

of further negotiations in financial services pending the creation of the Committee on Trade in Financial Services. The group had approved requests for observer status from Chinese Taipei, Ecuador, Panama and Saudi Arabia and also from the World Bank, IMF and UNCTAD. Many participants had stressed that the objective of the continuing negotiations remained a multilateral, MFN-based agreement covering financial services. A number of delegations had given their assessment of the current situation and had expressed their interest in holding bilateral negotiations both in capitals and in Geneva during November in order to allow for a second meeting of the Interim Group to be held on 1 December. The Secretariat had been requested to circulate a compilation of the financial services commitments made at the end of the Uruguay Round for the information of all participants.

25. With regard to negotiations on Basic Telecommunications, the Negotiating Group on this matter had started its third meeting on 24 October and would continue until 26 October. The number of governments participating in the negotiations had reached twenty-four and the number of observer governments had reached twenty-six, following the decision by the Negotiating Group to grant observer status to three "associated" governments, namely, Panama, Ecuador and Chinese Taipei. The Group had also granted observer status to the OECD, the World Bank and the Asia-Pacific Telecommunity. The Group was currently discussing responses by participants to the questionnaire that had previously been circulated on regulatory issues and market structure. Nineteen responses to the questionnaire had been received thus far from the twenty-four governments participating in the negotiations. The Group would also be discussing outstanding technical issues on the basis of a document prepared by the Secretariat. It was expected that another meeting of the Negotiating Group would be scheduled before the end of the year. The Sub-Committee on Services itself would hold another meeting on 24 November.

26. The Committee took note of the report by the Chairman of the Sub-Committee.

(iv) Sub-Committee on Trade and Environment

27. Mr. Lampreia (Brazil), Chairman of the Sub-Committee, said that since the meeting of the Sub-Committee on 15-16 September, a report on which had been made to the Preparatory Committee on 22 September, he had been consulting informally with delegations on three issues, namely, exports of domestically prohibited goods, observer status for inter-governmental organizations in the Sub-Committee, and appropriate arrangements for relations with non-governmental organizations. With regard to the latter two issues, he would be cooperating closely with the Chairmen of both the Sub-Committee on Institutional, Procedural and Legal Matters and the Preparatory Committee in order to coordinate the outcome of the discussions in the Sub-Committee on Trade and Environment with their broader mandates.

28. The Sub-Committee would meet again on 26-27 October and would take up the first item of its work programme, namely, the relationship between the provisions of the multilateral trading system and trade measures for environmental purposes, including those pursuant to multilateral environmental agreements. In addition, the Sub-Committee would revert, as necessary, to the item on its work programme that was addressed at its last meeting, namely, the relationship between the provisions of the multilateral trading system and: (a) charges and taxes for environmental purposes; and (b) requirements for environmental purposes relating to products, including standards and technical regulations, packaging, labelling and recycling. The Sub-Committee would hold its final meeting for the year near the end of November. In deciding on the date, he would attempt not to have it conflict with the various meetings some delegations had pointed out to him that would be taking place in other international organizations at that time. He added that, in his view, work in the Sub-Committee was proceeding smoothly as a result of the seriousness with which Members were approaching its work and the adoption of a constructive and analytical approach in its deliberations.

29. The Committee took note of the report by the Chairman of the Sub-Committee.

D. Paragraph 8(b)(i) of the Decision establishing the Preparatory Committee

30. The Chairman said that since the 22 September meeting of the Committee, Burkina Faso had submitted its draft schedule on goods. The schedules on services of Mali, St. Kitts and Nevis and of the United Arab Emirates were also now ready for circulation to Members of the Committee. The verification of the pending schedules on goods would take place in early November. Work on the examination and verification of the pending schedules on services was simultaneously under way. Technical assistance was being intensified to help the governments concerned, particularly the least-developed countries, to complete the process as soon as possible. Since the 22 September meeting of the Committee, the Secretariat had received and circulated five notifications of additional commitments, and six rectifications and modifications of schedules annexed to the Marrakesh Protocol. As to the work in progress in GATT Working Parties on Accession, the Working Parties on the accessions of Ecuador and Mongolia to the GATT 1947 and the WTO would meet in November to continue the examination of these governments' requests. The Working Party on Slovenia was also scheduled to meet in early November to continue the examination of aspects of Slovenia's foreign trade regime relevant to WTO membership.

31. The Committee took note of the statement.

32. The Chairman recalled that, in pursuance of paragraph 2(a) of the Ministerial Decision on the Acceptance of and Accession to the Agreement Establishing the WTO, Sudan had requested the Preparatory Committee to initiate the process of its accession to the WTO under Article XII of the WTO Agreement. Sudan's application had been circulated as PC/W/4. He proposed that the Committee agree to establish a working party to examine Sudan's request.

33. The Committee took note of the statement, agreed to establish a working party to examine Sudan's request to accede to the WTO and authorized its Chairman to hold consultations on the terms of reference and chairmanship of the Working Party.