

**PREPARATORY COMMITTEE
FOR THE
WORLD TRADE ORGANIZATION**

RESTRICTED

PC/R

31 December 1994

(94-2942)

**PREPARATORY COMMITTEE FOR THE
WORLD TRADE ORGANIZATION**

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REPORT TO THE WTO

1. This report of the Preparatory Committee for the World Trade Organization (WTO) to the WTO has been prepared in pursuance of paragraph 8(b)(iv) of the Marrakesh Ministerial Decision Establishing the Preparatory Committee (MTN/TNC/45(MIN), Annex IV).

2. In carrying out its task, the Preparatory Committee held 11 meetings during the period 29 April to 21 December 1994. The minutes of these meetings and those of the Sub-Committees, contained in documents PC/M/1-11, PC/BFA/M/1-2, PC/IPL/M/1-11, PC/SCS/M/1-6 and PC/SCTE/M/1-5, will remain the record of the Committee's work after the entry into force of the WTO Agreement.¹ Adoption of this report, which sets out the action taken by the Committee under its Ministerial mandate as outlined in paragraph 8 of the Marrakesh Ministerial Decision Establishing the Preparatory Committee and matters referred to the WTO for further action, constitutes approval by the Members of that action taken and of that referral.

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A. Introduction

(a) Establishment of the Preparatory Committee and its subsidiary bodies

(i) Preparatory Committee

4. The Preparatory Committee for the World Trade Organization (WTO) was established on 14 April 1994 by the Marrakesh Ministerial Decision Establishing the Preparatory Committee for the World Trade Organization (MTN/TNC/45(MIN), Annex IV).

5. In accordance with paragraph 4 of the Ministerial Decision, the Committee took decisions by consensus.

(ii) Subsidiary Bodies

6. The Ministerial Decision Establishing the Preparatory Committee provided for the establishment of Sub-Committees on Services (paragraphs 3 and 8(c)(ii)) and on Budget, Finance and Administration (paragraphs 3 and 8(a)(i)). At its first meeting, the Preparatory Committee established a Sub-Committee on Institutional, Procedural and Legal Matters (PC/M/1, paragraph 2).

7. The Ministerial Decision on Trade and Environment separately provided for a Sub-Committee on Trade and Environment to be set up under the Preparatory Committee "pending the first meeting of the General Council of the WTO" (MTN/TNC/45(MIN), Annex II).

8. In organizing their work, further *ad hoc* decisions were taken by the Sub-Committees mentioned below:

- The Sub-Committee on Services established an Interim Group on Financial Services (PC/SCS/M/2, paragraph 13) and monitored the activities of the Negotiating Groups on Maritime Transport, Basic Telecommunications and Movement of Natural Persons, which had been established under the relevant Ministerial Decisions adopted by the Trade Negotiations Committee on 15 December 1993 and contained in the Final Act embodying the results of the Uruguay Round Negotiations.
- The Sub-Committee on Institutional, Procedural and Legal Matters established four informal open-ended contact groups on Agriculture, TRIPS including TRIMs, Anti-Dumping and Subsidies, also charged with the question of Safeguards, and Textiles.
- The Sub-Committee on Budget, Finance and Administration established working groups to deal with specific parts of its mandate.

(b) Membership and Observers

(i) Membership

9. In keeping with paragraph 2 of the Decision Establishing the Preparatory Committee, membership of the Committee was open to all Signatories of the Final Act of the Uruguay Round of Multilateral Trade Negotiations and to any contracting party to the GATT 1947 eligible to become an original member of the WTO in accordance with Article XI of the WTO Agreement. In terms of paragraph 3 of the same Decision, membership of the Sub-Committees was open to all members of the Committee.

(ii) Observers

10. The Preparatory Committee decided (PC/M/1, paragraphs 14 and 15) to follow the practice adopted by the Uruguay Round Trade Negotiations Committee and to invite as observers the representatives of the so-called associated governments, i.e., States or separate customs territories that were currently negotiating accession to the GATT 1947, and representatives of the United Nations, UNCTAD, IMF and the World Bank.

11. The Sub-Committees were left free to decide on the question of observership. The Sub-Committee on Budget, Finance and Administration decided not to invite observers. The Sub-Committees on Services and on Institutional, Procedural and Legal Matters followed the practice of the Preparatory Committee. The Sub-Committee on Trade and Environment invited the following organizations in addition to the four organizations mentioned in paragraph 10 above: EFTA, FAO, ITC, OECD, UN Commission on Sustainable Development, UNDP, and UNEP.

12. Certain international organizations were associated on an *ad hoc* basis with the work of the bodies established under Sub-Committees. The Contact Group on Agriculture established by the Sub-Committee on Institutional, Procedural and Legal Matters invited the FAO, the Codex Alimentarius Commission, the International Office of Epizootics, and the Secretariat of the International Plant Protection Convention. The Contact Group on TRIPS invited the WIPO, and the Contact Group on Textiles invited the ITCB.

(c) Chairmanship of the Preparatory Committee and its subsidiary bodies

(i) Preparatory Committee: Mr. Peter D. Sutherland

(ii) Subsidiary Bodies:

- Budget, Finance and Administration: Mr. A. Szepesi (Hungary)
Mr. Szepesi was assisted in his task by Mr. P. Gosselin (Canada), Chairman of the GATT 1947 Committee on Budget, Finance and Administration
- Services: Mr. C. Manhusen (Sweden)
- Institutional, Procedural and Legal Matters: Mr. K. Kesavapany (Singapore)
- Trade and Environment: Mr. L. Lampreia (Brazil)

(d) Derestriction of documents of the Preparatory Committee and its subsidiary bodies

13. The Preparatory Committee adopted the Decision in document PC/4 providing for the future derestriction of documents pertaining to the Committee and its subsidiary bodies.

B. Report on the individual items of the mandate of the Preparatory Committee
(Paragraph 8 of the Decision Establishing the Preparatory Committee²)

(a) Administrative, budgetary and financial matters³

(i) the Headquarters Agreement provided for in Article VIII:5 of the WTO Agreement

14. On 22 July, the Preparatory Committee approved Geneva, Switzerland, as the seat of the WTO (PC/M/4, Annex 1) subject to a satisfactory conclusion of the negotiation of a Headquarters Agreement with the Swiss Authorities.

15. Negotiations on a Headquarters Agreement with the Swiss authorities started in September 1994 and were carried out by a team composed of ten members - the Chairman of the Sub-Committee on Budget, Finance and Administration, the Chairman of the GATT Committee on Budget, Finance and Administration, Argentina, France, Indonesia, Japan, Morocco, Pakistan, Trinidad and Tobago, Zambia and four representatives of the Secretariat. The negotiations covered three areas: the physical facilities for the WTO (donation of the Centre William Rappard, the new conference room, car parks); the accommodation for the LLDCs; and the privileges and immunities for both the WTO and the Missions and their respective staff.

16. At its meeting on 21 December, the Committee agreed to the recommendations by the Sub-Committee on Budget, Finance and Administration that the mandate of the team negotiating on behalf of the WTO be extended, that a progress report be presented to the first meeting of the WTO's General Council, and that the overall results of the negotiations be transmitted for approval to a subsequent meeting thereof.

(ii) financial regulations, including guidelines for the assessment of WTO Members' budget contributions, in accordance with the criteria set out in Article VII of the WTO Agreement

17. As stipulated in Article VII:2 of the WTO Agreement "the financial regulations [of the WTO] shall be based, as far as practicable, on the regulations and practices of GATT 1947" which, in accordance with decisions of the CONTRACTING PARTIES to GATT 1947, are based on the Financial Regulations and Rules of the United Nations. The Preparatory Committee approved the recommendation of the Sub-Committee on Budget, Finance and Administration that the Secretariat be entrusted with the task of preparing draft Financial Rules and Regulations according to the above-mentioned principle so that they can be submitted for approval to the General Council early in 1995 and that pending this approval, the present GATT practice be maintained.

18. With regard to guidelines for budget contributions by Members of the WTO, the Committee agreed (PC/BFA/M/1) that, in principle, the assessment should reflect shares in international trade in goods, services and intellectual property, but that, pending further study, the calculation of assessments

²Paragraph 8 reads: "The Committee shall perform such functions as may be necessary to ensure the efficient operation of the WTO immediately as of the date of its establishment, including the functions set out below"

³The introductory paragraph 8(a) reads: "To prepare recommendations for the consideration of the competent body of the WTO, or, to the extent necessary, take decisions or, as appropriate, provisional decisions in advance of the establishment of the WTO, with respect to the recommendations submitted to it by the Chairman of the Sub-Committee on Budget, Finance and Administration referred to in paragraph 3 above, in cooperation with the Chairman of the GATT Committee on Budget, Finance and Administration, assisted by proposals from the Secretariat on:"

for the 1995 budget of the WTO should follow existing practice under the GATT 1947. Changes to reflect the above-mentioned decision in principle would be introduced no later than one year after the creation of the WTO.

(iii) the budget estimates for the first year of operation of the WTO

19. On 8 December, the Implementation Conference approved the Budget Estimates for 1995. The relevant decisions that were approved by the Preparatory Committee and the Sixth Special Session of the CONTRACTING PARTIES to the GATT 1947, meeting on the occasion of the Implementation Conference, are contained in paragraph 15 on page 4, paragraph 6 on page 12 and paragraph 21 on page 13 of document PC/6, L/7577. These decisions concern the budget and its financing, the procedures for the WTO and the GATT 1947 Committees on Budget, Finance and Administration during the period in which the WTO Agreement is open for acceptance, and the contribution to the International Trade Centre, respectively.

20. Paragraph 6 of the transfer agreement (see (iv) below) also approved on 8 December stipulates that "there shall be a common budget for the GATT 1947 and the WTO from the date of entry into force of the WTO Agreement until the date as of which the legal instruments through which the contracting parties apply the GATT 1947 are terminated. During that period, the basis for assessment of the contracting parties to the GATT 1947, of the Members of the WTO and of contracting parties that are also Members of the WTO shall be the same, and a single payment to the WTO shall be due by all contracting parties to the GATT 1947 and Members of the WTO".

(iv) the transfer of the property, including financial assets, of the ICITO/GATT to the WTO

21. On 8 December, the Preparatory Committee and the Sixth Special Session of the CONTRACTING PARTIES to the GATT 1947, meeting on the occasion of the Implementation Conference, approved a transfer agreement between the Preparatory Committee, the Interim Commission of the International Trade Organization (ICITO) and the GATT CONTRACTING PARTIES to transfer all assets and liabilities other than staff contracts, from ICITO and the GATT CONTRACTING PARTIES to the WTO. The relevant decisions that were approved are contained in paragraphs 1, 4, 5, and 8 of document PC/9, L/7580.

22. The Committee also recommended that for the sake of legal certainty, the decisions it had adopted also be endorsed by the WTO's General Council, as stated in paragraph 8 of PC/9, L/7580.

(v) the transfer and the terms and conditions of the transfer of the GATT staff to the WTO Secretariat

23. The ICITO/GATT 1947 CONTRACTING PARTIES/WTO transfer agreement in document PC/9, L/7580 stipulates (paragraphs 2, 3 and 7) that, with effect from the entry into force of the WTO Agreement, as a transitional arrangement, the staff of ICITO shall perform the duties of the Secretariat of the WTO until the appointment of the staff of the Secretariat of the WTO and that the staff of the ICITO shall continue to perform the duties of the GATT 1947 Secretariat and those of the Secretariat of the bodies established under the Tokyo Round Agreements until the appointment of the staff of the Secretariat of the WTO; thereafter these duties shall be performed by the Secretariat of the WTO. It was understood that this would be effected on a reimbursable basis (PC/BFA/W/4, paragraph 14(b)). Accordingly, the Preparatory Committee decided in this respect that pending agreement by the WTO's General Council on the rules and regulations for the WTO staff, existing ICITO terms and conditions of service for staff shall apply.

(vi) the relationship between the International Trade Centre and the WTO

24. The future relationship between the International Trade Centre and the WTO was examined by a Working Group established under the Sub-Committee on Budget, Finance and Administration and the GATT 1947 Committee on Budget, Finance and Administration. The Working Group concluded that the matter should be further discussed early in 1995. The Preparatory Committee therefore forwarded this matter to the WTO for further consideration and action as appropriate.

(vii) other budgetary, financial or administrative matters

25. At its meeting on 22 July, the Preparatory Committee mandated the Sub-Committee on Budget, Finance and Administration to decide on matters relating to the organizational structure, including a management review. The creation of twenty-one additional posts for 1994 was decided (PC/BFA/M/1, paragraph 8) and a Management Review (paragraph 6) was entrusted to the Management Consulting firm Deloitte and Touche, which submitted its report on 19 December 1994. At its meeting on 21 December, the Committee agreed, in accordance with the recommendations by the Sub-Committee on Budget, Finance and Administration, to take note that the report prepared by the consultants had been presented and to forward the report to the competent bodies of the WTO for consideration and action as appropriate.

26. On 8 December, the Committee, meeting on the occasion of the Implementation Conference, approved the recommendations in paragraphs 7(a), (b), (d) and (e) and 8 of document PC/7, L/7578 concerning administrative measures to be applied to Members with three years or more of unpaid contributions. The Committee agreed that the financial implication referred to in paragraphs 7(c) and (f) of the same document should be considered by the relevant WTO bodies in 1995.

27. On the same occasion, the Committee approved the recommendations in document PC/8, L/7579 concerning the financial obligations of States or separate customs territories which will be observers to the WTO. The introductory paragraph to the Decision stipulates that these financial obligations will not apply to States or separate customs territories which are GATT 1947 contracting parties, in the process of ratification of the WTO Agreement, but have not yet become Members. Paragraph 4 provides that "The General Council of the WTO shall take a decision under Guideline 8(b) of Annex 2 to the Rules of Procedure for Meetings of the General Council (PC/IPL/9) in respect of the extension of observer status only if the financial obligations as an observer have been fully discharged; and the Ministerial Conference shall take a decision under Article XII:2 of the WTO Agreement in respect of accession only if the financial obligations as an observer have been fully discharged".

28. The Committee forwarded to the WTO the question of the choice of a logo for the WTO for further consideration and action.

(b) Institutional, procedural and legal matters

(i) examination of and approval of the schedules submitted to it in accordance with the "Decision on Acceptance of and Accession to the Agreement Establishing the World Trade Organization" and proposals regarding terms of accession in accordance with paragraph 2 of that Decision

(1) Work on Market Access Schedules

29. The Preparatory Committee established a process (PC/M/2, paragraphs 17 to 24) to implement its mandate under this sub-paragraph. As agreed by the Committee, the Chairman informed the GATT 1947 Council of Representatives and the existing Working Parties on Accession to GATT 1947,

including the Working Party on China's status as a contracting party, of the details of the process, requesting them to take action as appropriate.

30. Pursuant to this process and as concerns the market access schedules on goods:

- the seven schedules provisionally annexed to the Marrakesh Protocol subject to verification, namely, those of Bangladesh, Benin, Congo, Mauritania, Niger, Tanzania, and Uganda, were verified;
- twelve schedules, including the French version of the Canadian schedule, were received after Marrakesh⁴. Of these, those of Burkina Faso, Mali and Slovenia, as well as the French version of the Canadian schedule, were also verified; and
- Cameroon, Côte d'Ivoire, Gabon and Senegal, whose schedules had been verified and annexed to the Marrakesh Protocol, were given until 15 April 1995 to complete missing information on "Other Duties and Charges".

31. Pursuant to this process and as concerns the market access schedules on services, the Committee noted the oral report of the Chairman of the Sub-Committee on Services that the schedules of Ecuador and Slovenia had been verified, and that those of Angola, Burundi, Mali, Qatar, St. Kitts and Nevis, and the United Arab Emirates were still subject to bilateral negotiations to be resumed in the new year.

32. The Committee noted that a number of governments, including Angola, Grenada, Mali, Qatar, St. Kitts and Nevis, and the United Arab Emirates had not concluded the verification of their schedules either on goods or services or both⁴. In this regard, the Committee, at its meeting on 21 December, invited the General Council to adopt the Decision Concerning the Finalization of Negotiations on Schedules on Goods and Services contained in document PC/17.⁵

(2) Working Parties on Accession to the WTO Agreement

33. The Preparatory Committee noted that the Working Party for Slovenia having completed its work, Slovenia was in a position to become original member under Article XI of the WTO. The Committee took note of Croatia's request to accede to the WTO Agreement under Article XII thereof and in keeping with Croatia's request, instructed the Working Party previously established to examine Croatia's request for accession to the GATT 1947 to conduct the necessary work and report to the Committee (PC/M/4, paragraph 40). The Committee further noted that as of 21 December 1994 Ecuador, the Russian Federation and Ukraine were pursuing accession to the WTO under Article XII in the context of the working parties which had been originally established to examine their requests for accession to the GATT 1947 in accordance with the process referred to in paragraph 29 above.

34. At its meeting on 21 December, the Committee noted that the existing working parties for Bulgaria, Estonia, Latvia, Mongolia, Panama and Chinese Taipei had also conducted work on aspects of foreign trade regimes in respect of those governments who had expressed interest in seeking WTO membership.

⁴Papua New Guinea, which became contracting party to the GATT 1947 on 16 December 1994, subsequently submitted market access schedules on goods and services on 30 December.

⁵Burundi and Mozambique have until 15 April 1995 to complete the verification of their market access schedules in accordance with paragraph 1 of the Decision on Measures in Favour of Least Developed Countries.

35. Also at its meeting on 21 December, the Committee recommended that the WTO's General Council agree that, as and when requests for WTO accession under Article XII were made by States or separate customs territories for whom a GATT 1947 working party already existed, the existing working parties should continue their work as WTO accession working parties, with standard terms of reference and their respective current chairpersons.

36. The Committee took note of requests from the Kingdom of Cambodia (PC/W/19), the former Yugoslav Republic of Macedonia (PC/W/18), Sudan (PC/W/4) and the Republic of Uzbekistan (PC/W/20) to accede to the WTO Agreement under Article XII and agreed to establish working parties to examine these requests (see PC/M/6, paragraph 33, for Sudan, and PC/M/11, Section C, for the other three).

37. With regard to accession under Article XII:2 of the WTO Agreement, attention is drawn to paragraph 4 of the decision on financial obligations in document PC/8, L/7579 mentioned in paragraph 27 above.

38. The Committee took note of a statement by the Chairman of the Council of Representatives of the GATT 1947 on the "Management of Accession Negotiations" in document PC/2, and forwarded it to the WTO.

- (ii) proposals concerning terms of reference for the bodies of the WTO, in particular those established in Article IV of the WTO Agreement, and the rules of procedure which they are called upon to establish for themselves, bearing in mind paragraph 1 of Article XVI

(1) Terms of reference

39. Following an examination by the Sub-Committee on Institutional, Procedural and Legal Matters, the Preparatory Committee decided that no particular work was needed in respect of bodies whose mandates were sufficiently well defined by the respective WTO Agreements.

40. The terms of reference for certain WTO bodies, i.e., the Committees on Agriculture, on Budget, Finance and Administration (the terms of reference in this case are accompanied by a provision on membership), on Balance-of-Payments Restrictions (BOP) and on Trade and Development (CTD), and on Market Access resulting from the merging of the GATT 1947 Committee on Tariff Concessions and Technical Group on Quantitative Restrictions and Other Non-Tariff Barriers incorporated into GATT 1994, were agreed by the Committee and are contained in documents PC/IPL/1, 2, 3, 4 and 5, respectively. These terms of reference, along with the statement or understanding read out by the Chairman of the Sub-Committee on Institutional, Procedural and Legal Matters also agreed for some of these Committees at the time of the adoption of their terms of reference and which are reproduced in the minutes of the relevant meetings (Agriculture - PC/IPL/M/6, paragraphs 23 and 24; BOP - PC/IPL/M/7, paragraph 2; and CTD - PC/IPL/M/9, paragraphs 2, 3 and 4), were forwarded to the WTO.

(2) Rules of procedure

41. As approved by the Preparatory Committee, the rules of procedure for the Ministerial Conference, the General Council, the Trade Policy Review Body and the Dispute Settlement Body, including guidelines for observer status for governments of States or separate customs territories, are contained in document PC/IPL/9. These were forwarded to the WTO for further action, as appropriate.

42. With regard to the appointment of officers to WTO bodies (Rule 12 of the Rules of Procedure for the Ministerial Conference, Rule 12 of those for the General Council, Rule 3 of those for the Dispute Settlement Body and Rule 5 of those for the Trade Policy Review Body), attention is drawn to the Guidelines for Appointment of Officers to WTO Bodies submitted by the Chairman of the GATT 1947 CONTRACTING PARTIES contained in document PC/IPL/14 and mentioned in paragraph 51 below.

43. With regard to observer status for governments, attention is drawn to paragraph 4 of the Decision on financial obligations in document PC/8, L/7579 mentioned in paragraph 27 above.

44. On 8 December, the Committee, meeting on the occasion of the Implementation Conference, adopted the Decision in document PC/10, L/7581 on the participation in meetings of WTO bodies of certain signatories of the Final Act eligible to become original members of the WTO (see also paragraph 85 below).

(3) Notification formats and procedures

45. Additional working procedures concerning notification formats and requirements were developed in informal, open-ended Contact Groups established to deal with particular aspects of WTO Agreements which required attention to ensure that the WTO became fully operational from the entry into force of the WTO or as soon as possible thereafter, and by the GATT 1947 Committee on Technical Barriers to Trade. The Preparatory Committee approved the reports and the recommendations emanating from these groups, as contained in the following documents for:

- Agriculture, PC/IPL/12, attachment to the report.
- Sanitary and Phyto-Sanitary Measures, PC/IPL/6, paragraphs 1, 2, 3 and 4.
- Anti-Dumping, PC/IPL/11, Annex 7.
- Subsidies, PC/IPL/11, Annexes 1 to 6.
- TRIPS, PC/IPL/7, paragraph 9.
- TRIMs, PC/IPL/8, paragraphs 2, 4 and 5.
- Technical Barriers to Trade, PC/IPL/10 (Rev.1 for English only).

46. The Committee forwarded these recommendations, which have also to be seen in conjunction with the transitional arrangements, adopted on 8 December by the Committee meeting on the occasion of the Implementation Conference, relating to the avoidance of procedural and institutional duplication (PC/11, L/7582 referred to in paragraph 85 below), to the WTO to be noted and implemented, as appropriate.

47. At its meeting on 21 December, the Committee took note of the work done on procedures for arbitration under Article 8.5 of the Agreement on Subsidies and Countervailing measures (non-paper 3247) by the Informal Group on Anti-Dumping, Subsidies and Safeguards. It further agreed to forward this work to the WTO as a basis for further deliberation on this matter.

48. Also on 21 December, the Committee forwarded to the WTO, for appropriate action, the question of continued application under the WTO Customs Valuation Agreement of the invocation of provisions for developing countries relating to delayed application and reservations under the Tokyo Round Agreement on the Implementation of Article VII of the GATT 1947.

(4) Standing Appellate Body

49. The Preparatory Committee approved the recommendations on the establishment of the Appellate Body in document PC/IPL/13 and agreed to forward the same to the WTO for further action, as appropriate.

(5) Ethical Code of Conduct

50. The Preparatory Committee forwarded the work done on draft rules of conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes, as resulting from informal consultations held on this matter, to the WTO as a possible basis for further work.

(6) Appointment of Officers to WTO bodies

51. The Preparatory Committee approved the proposed guidelines for appointment of Officers to WTO Bodies submitted by the Chairman of the GATT 1947 CONTRACTING PARTIES and contained in document PC/IPL/14 and agreed to forward them to the WTO for further action, as appropriate.

(iii) recommendations to the General Council of the WTO on appropriate arrangements with respect to relations with other organizations referred to in Article V of the WTO Agreement

52. On the issue of observer status for international intergovernmental organizations, the draft guidelines in document PC/IPL/W/14 were forwarded to the WTO as a possible basis for future work. On the recommendation of the Sub-Committee on Institutional, Procedural and Legal Matters (PC/IPL/M/11, paragraphs 31 and 32), the Preparatory Committee recommended to the WTO's General Council that pending adoption of agreed guidelines by the WTO, representatives of the four international organizations which had been observers to the Committee, namely, the United Nations, UNCTAD, IMF and the World Bank, be invited as observers to the first meeting of the General Council.

53. The Committee took note of formal requests for observer status in the WTO received by the Chairman of the Committee from the following organizations: ACP, EBRD, EFTA, FAO, Gulf States Cooperation Council (GCC), OECD, ITCB, SELA, UNIDO and the World Tourism Organization, and agreed to forward these requests to the WTO.

54. As regards appropriate arrangements with respect to relations with other international intergovernmental and non-governmental organizations referred to in Article V of the WTO Agreement, the Sub-Committee on Institutional, Procedural and Legal Matters agreed on the need to focus first on organizations having functional links with the WTO arising specifically from their mention in various WTO Agreements. Those were identified as the following: the IMF, World Bank, WIPO, Customs Cooperation Council (since renamed World Customs Organization (WCO)), the Codex Alimentarius Commission, the International Office of Epizootics, and the Secretariat of the International Plant Protection Convention; and one non-governmental organization, namely the ISO. The Preparatory Committee saw no grounds for formal institutional links between the WTO and the United Nations, although the need for the establishment of cooperative ties between the two organizations was underscored; this latter aspect could be taken up by the WTO. The Committee felt that the WTO should establish arrangements with UNCTAD for effective cooperation at an early stage.

55. A work programme aimed at establishing close cooperation and mutually supportive relations between the WTO and the WIPO was initiated (PC/IPL/7, paragraphs 5, 6 and 7). The Committee approved the recommendation by the Sub-Committee on Institutional, Procedural and Legal Matters that, during 1995, pending the conclusion of these arrangements, WIPO be invited to attend meetings of the WTO's TRIPS Council in an observer capacity (PC/IPL/7, paragraph 8).

56. The Committee took note of the interest of the OECD, SELA and the World Tourism Organization to conclude formal cooperation arrangements with the WTO and agreed to transmit this matter to the WTO.

57. A number of non-governmental organizations (NGOs) have expressed their interest in following the WTO's work in specific areas, among which the International Chamber of Commerce (ICC). The Committee suggested that the approach to this question could take into account, *inter alia*, the deliberations that had been taking place in the Sub-Committee on Trade and Environment as described in paragraphs 73 and 74.

58. Discussions were held on the questions of (a) formalising, in writing, the understanding that the International Chamber of Commerce (ICC) and the International Federation of Inspection Agencies (IFIA) will, for the time being, be the organizations which are to constitute jointly the independent entity under Article 4 of the Agreement on Preshipment Inspection, and (b) clarifying the status of that independent entity to enable Article 4 of the PSI Agreement to be implemented. Proposals in this respect will be prepared by the Secretariat, in consultation with interested delegations and with the IFIA and the ICC. The Committee recommended that the matter be considered and acted upon by the appropriate WTO forum at the earliest possible date with a view to ensuring that the PSI Agreement is fully operational within two months of the entry into force of the WTO Agreement (PC/IPL/M/6 and PC/IPL/M/10).

59. The Committee forwarded the whole matter of appropriate arrangements with respect to relations with other international intergovernmental and non-governmental organizations referred to in Article V of the WTO Agreement, as well as all the work done so far, to the WTO for further consideration and action as appropriate. On a specific and more immediate matter, the Committee agreed that pending the establishment of a more formal agreement with the IMF, the letter it had approved (PC/IPL/M/10, paragraph 23) be sent by the Chairman of the GATT 1947 Committee on Balance-of-Payments Restrictions to the relevant authority of the IMF with a view to ensuring that the arrangements in place between GATT 1947 and the IMF would continue in 1995, and that these arrangements be extended to balance-of-payments matters in the area of services .

(c) Matters related to the entry into force of the WTO Agreement and to the activities of the WTO within the Committee's scope and functions

(i) Convening and preparing the Implementation Conference

60. On 22 July, the Preparatory Committee set 6 to 15 December 1994 as the target period for the Implementation Conference. It also agreed that the Conference would be composed of a meeting of the Committee at Senior Officials level to be followed immediately thereafter by the CONTRACTING PARTIES to GATT 1947 meeting in Special Session (PC/M/4, paragraphs 43-45)

61. On 25 October, the Committee set the date of 8 December 1994 for holding the Implementation Conference. The Committee also agreed to the provisional agenda for the Conference proposed by the Chairman (PC/M/6, paragraph 6), later issued as PC/AIR/40, GATT/AIR/3652.

62. On 8 December, the Committee, meeting on the occasion of the Implementation Conference:

- confirmed 1 January 1995 as the date of entry into force of the WTO Agreement. The Committee's understanding in so doing is recorded in the Minutes of the meeting contained in document PC/M/10, paragraph 4;
- adopted the WTO's Budget for 1995 (PC/6, L/7577) and two other budget-related Decisions on unpaid contributions (PC/7, L/7578) and on observers' financial obligations (PC/8, L/7579);
- adopted the ICITO/GATT/WTO Transfer Agreement (PC/9, L/7580), which was also adopted by the Executive Committee of the ICITO which met later the same day;
- adopted transitional arrangements for the coexistence of:
 - GATT 1947 and the WTO Agreement on the one hand (PC/12, L/7583); and
 - the Tokyo Round Agreements on anti-dumping (PC/13, L/7584 and PC/14, L/7585) and on subsidies (PC/15, L/7586 and PC/16, L/7587) and the WTO Agreement on the other. These last four Decisions were subsequently adopted the same day by the respective Code Committees and issued as documents ADP/131 and 132 and SCM/186 and 187, respectively;
- adopted two Decisions on the Participation in meetings of WTO bodies by certain signatories (PC/10, L/7581) and on avoidance of procedural and institutional duplication (PC/11, L/7582).

63. All the above-mentioned Decisions were also adopted or noted by the CONTRACTING PARTIES either at their Sixth Special Session (6SS/SR/1) or their Fiftieth Session (SR.50/2).

- (ii) Initiating the work programme arising from the Uruguay Round results as set out in the Final Act, such as overseeing, in the Sub-Committee on Services referred to in paragraph 3 of the Decision Establishing the Preparatory Committee, negotiations in specific services sectors, and also undertaking work resulting from Decisions of the Marrakesh meeting

(1) Services

64. The Preparatory Committee's mandate in the area on trade in services was conducted by the Sub-Committee on Services. The Sub-Committee on Services held six meetings during the period 19 May 1994 to 16 December 1994 and addressed the following matters:

I. Overseeing on-going negotiations

65. The Negotiating Group on Basic Telecommunications held four meetings in 1994. The Group approved a questionnaire on regulatory issues and market structure (TS/NGBT/W/3). The majority of governments participating in the negotiations have communicated their responses to the questionnaire for further discussion and examination. Discussions, based on a Note prepared by the Secretariat (TS/NGBT/W/2) are also under way on technical and conceptual issues related to the conduct of negotiations and the scheduling of commitments on basic telecommunications. The participants have been urged to put forward initial offers by March or April 1995.

66. The Negotiating Group on Maritime Transport Services held three meetings in 1994. The Group approved a questionnaire on maritime transport services (S/NGMTS/W/2). 15 January 1995 was agreed as the deadline for the submission of responses to the questionnaire. Discussions in the Group on a draft schedule on maritime transport services have confirmed the general view that would be a useful way of approaching the scheduling of commitments in this sector.

67. The Negotiating Group on Movement of Natural Persons held three meetings in 1994. Preliminary multilateral discussions were held on horizontal commitments in this area. To facilitate work, the Secretariat prepared an informal note dated 15 September 1994 which analyzed the nature of the various possible types of horizontal commitments. The Group heard preliminary reports from certain delegations on bilateral consultations aimed at improving the level of commitments in this area.

68. The Interim Group on Financial Services established by the Sub-Committee on Services on 15 July 1994 (PC/SCS/M/2, paragraph 13) was mandated to monitor progress in the negotiations under paragraph 1 of the Decision on Financial Services adopted at Marrakesh until the entry into force of the WTO Agreement and the establishment of the Committee on Trade in Financial Services. The Interim Group has, so far, held two meetings. Participants stressed their commitment to achieving a broad, MFN-based package of liberalization commitments and reported on preliminary bilateral consultations and negotiations.

II. Issues relating to the scope of the GATS

69. To deal with certain unresolved issues raised during the final stages of the Uruguay Round negotiations, the then Chairman of the Uruguay Round Group on Negotiations in Services had provided participants with an additional period up to 15 December 1994 to consult on such matters and report the results to the Council for Trade in Services under the WTO for appropriate action (Chairman's statement dated 14 December 1993 (MTN.GNS/W/260)). The Sub-Committee on Services agreed that it would provide the forum for such discussions. At its meeting on 21 December, the Preparatory Committee took note of the intention of the Chairman of the Sub-Committee to report on this matter on his own responsibility to the WTO's Council for Trade in Services. The Committee also took note of the statements made from the floor in this connection.

III. Guidelines for notifications under the GATS

70. As requested by Members, the Secretariat prepared draft guidelines for notifications required under different provisions of the GATS. The guidelines were revised on the basis of discussions in the Sub-Committee. The guidelines, as agreed, are set out in document PC/SCS/W/8 for transmission to the Council for Trade in Services for consideration and action as appropriate.

IV. Working Party on Professional Services

71. The Secretariat was asked by Members of the Sub-Committee to establish contacts with the relevant specialized international bodies in preparation for the commencement of work by the Working Party on Professional Services upon the entry into force of the GATS. The Ministerial Decision on Professional Services establishing the Working Party identifies the accountancy sector as an area of priority. Accordingly the Secretariat initiated contacts with a view to developing relations with the International Federation of Accountants (IFAC). A report by the Secretariat on these and other contacts is contained in paragraph 22 of document PC/SCS/M/3.

72. The Preparatory Committee took note of the work done in the area of services and agreed to transmit it to the WTO for information and action, as appropriate.

(2) Trade and Environment

73. The Sub-Committee on Trade and Environment held five formal meetings. In addition, the Chairman has held informal consultations on: the order in which the future Committee on Trade and Environment's work programme should be taken up; how best to address the seventh item of the work programme pertaining to the issue of exports of domestically prohibited goods; and observer status for intergovernmental and non-governmental organizations. Consultations on the latter issue have been carried out in the context of the Ministerial Decision to invite the Sub-Committee, and the WTO Committee on Trade and Environment when it is established, to provide input to the relevant bodies in respect of appropriate arrangements for relations with intergovernmental and non-governmental organizations referred to in Article V of the WTO.

74. With regard to appropriate arrangements for relations with non-governmental organizations the Preparatory Committee took note of a background note by the Secretariat in document PC/SCTE/W/2 on "Arrangements for relations with non-governmental organizations in the United Nations, its related bodies and selected other intergovernmental organizations". It also took note of a submission by a delegation in document PC/SCTE/W/6 on "NGO observation of the work of Committee on Trade and Environment". The Committee has agreed to transmit these two notes to the General Council for information. Informal consultations conducted by the Chairman of the Sub-Committee have led to a certain amount of progress on this issue. The Committee has agreed that informal consultations will need to be continued in the context of WTO Committee on Trade and Environment.

75. Following a general exchange of views on the work programme, Members agreed to focus initially on the first, third and sixth items of the work programme, building where possible on the work of the Group on Environmental Measures and International Trade (EMIT) under the GATT 1947. It was also agreed that delegations would be free to address other items of the work programme with a view to ensuring that work should progress flexibly and constructively. The Secretariat prepared several background papers, at the request of Members, to assist discussions.

76. Under the first item of its work programme - the relationship between the provisions of the multilateral trading system and trade measures for environmental purposes, including those pursuant to multilateral environmental agreements - the Sub-Committee focused on the use of trade measures for environmental purposes, particularly those applied in the context of multilateral environmental agreements and those applied specifically to non-parties to those agreements. Delegations began reviewing the potential advantages and disadvantages of *ex ante* and *ex post* approaches to establishing the relationship of these measures to the provisions of the multilateral trading system, and are looking forward to Secretariat papers on the issue including one requested from the Secretariat on the effectiveness and necessity of using trade measures in this context.

77. Under the third item of the work programme - the relationship between the provisions of the multilateral trading system and: (a) charges and taxes for environmental purposes; (b) requirements for environmental purposes relating to products, including standards and technical regulations, packaging, labelling and recycling - delegations began reviewing the use of environmental taxes in particular in the context of GATT disciplines on border tax adjustment, and extended further their examination of environmental regulations and standards, notably those related to eco-labelling, on the basis of the extensive work that had already been undertaken on this subject by the EMIT Group.

78. Under the sixth item of the work programme - the effect of environmental measures on market access, especially in relation to developing countries, in particular to the least developed among the, and environmental benefits or removing trade restrictions and distortions - delegations highlighted for further examination issues such as the effects of tariff escalation, non-tariff barriers and trade distorting

subsidies on the environment, export diversification and its relationship to environmental protection, market opportunities for environmentally friendly products particularly from developing countries, and the importance of technology transfer and technical and financial assistance in pursuit of sustainable development. Many noted this is a cross-cutting issue related to other items of the work programme, including transparency and charges, taxes and product requirements which serve environmental purposes.

79. Informal consultations led to agreement in the Sub-Committee on two other issues:

- (a) work on the issue of exports of domestically prohibited goods should be taken up early in 1995, and will be assisted by a background paper being prepared by the Secretariat.
- (b) the list of intergovernmental organizations invited to observe the work of the Sub-Committee was extended to include UNEP, FAO, ITC, UNDP, the UN Commission on Sustainable Development, OECD and EFTA. It was agreed that further requests for observer status from such organizations should be taken up on a case-by-case basis, taking into account the general criteria and conditions for observership for intergovernmental organizations to be approved by the Sub-Committee on Institutional, Procedural and Legal Matters.

80. The Committee took note of the work done as well as the programme set out for the future, and agreed to transmit it to the WTO for information and action, as appropriate.

81. The Committee recalled the Ministerial Decision on Trade and Environment (MTN.TNC/45(MIN), Annex II), which invites the first meeting of the General Council of the WTO to establish a Committee on Trade and Environment, open to all members of the WTO, with the terms of reference and programme of work as contained in that Ministerial Decision, and transmitted to the WTO's Committee the working documents and reports of the Sub-Committee on Trade and Environment.

- (iii) Discussing suggestions for the inclusion of additional items on the agenda of the WTO's work programme

82. Suggestions for the inclusion of additional items on the agenda of the WTO's work programme were made by delegations at the Ministerial Meeting of the Uruguay Round Trade Negotiations Committee at Marrakesh from 12 to 14 April 1994. The Chairman, Mr. Sergio Abreu Bonilla (Uruguay), listed these suggestions in his concluding remarks on 15 April 1994 (MTN.TNC/45(MIN), page 12, sixth paragraph). The Preparatory Committee took up this matter at its first meeting on 29 April (PC/M/1, paragraph 8). The Committee forwarded this matter to the WTO's General Council for further consideration and action as appropriate.

- (iv) Making proposals concerning the composition of the Textiles Monitoring Body in accordance with the criteria set out in Article 8 of the Agreement on Textiles and Clothing

83. At its meeting on 21 December, the Preparatory Committee took note of the oral report by the Chairman of the Sub-Committee on Institutional, Procedural and Legal Matters and agreed with his recommendation that the matter be forwarded to the WTO for appropriate action. The Committee also took note of the statements made from the floor in this connection.

- (v) Convening the first meeting of the Ministerial Conference or the General Council of the WTO, whichever meets first, and preparing the provisional agenda thereof

84. At its meeting on 21 December, the Preparatory Committee decided to convene the first meeting of the General Council of the WTO on 31 January 1995. It further agreed that the meeting should be devoted entirely to the most immediate "housekeeping" tasks.

C. Transitional Arrangements⁶

85. On 8 December, the Preparatory Committee, meeting on the occasion of the Implementation Conference, adopted several decisions on transitional arrangements. The recommendations contained in the Decision concerning the transitional co-existence of the GATT 1947 and the WTO Agreement (PC/12, L/7583) and the avoidance of procedural and institutional duplication (PC/11, L/7582) were forwarded to the Sixth Special Session of the GATT 1947 CONTRACTING PARTIES for approval and action. The Decision on the participation in meetings of WTO bodies of certain signatories of the Final Act eligible to become original members of the WTO (PC/10, L/7581) was forwarded to the Sixth Special Session to be noted and to the WTO for information and implementation, as appropriate.

86. On the same occasion, the Committee adopted four other Decisions on transitional arrangements concerning the co-existence of both the Tokyo Round and WTO Agreements on Anti-Dumping (PC/13/, L/7584 and PC/14/, L/7585), and Subsidies (PC/16/, L/7586 and PC/17/, L/7587), which it forwarded to the CONTRACTING PARTIES and to the respective Parties/Signatories for action. These Decisions were subsequently adopted by the respective Code Committees, which met the same day, and re-issued as documents ADP/131 and 132 in the case of anti-dumping and SCM/186 and 187 in that of subsidies.

87. Also on the same occasion, the Committee adopted the Agreement providing for the transfer of all assets and liabilities, other than staff contracts, from the ICITO/GATT to the WTO in document PC/9, L/7580 and forwarded it to the Sixth Special Session of GATT 1947 CONTRACTING PARTIES for adoption and to the Executive Committee of the ICITO for approval and action. The ICITO's Executive Committee also met on 8 December to approve the Agreement which was then re-issued, duly signed, as document ICITO/1/39.

88. Attention is drawn to paragraph 6 of Annex 1 to document PC/6, L/7577, concerning rules for the WTO and the GATT 1947 Committees on Budget, Finance and Administration during the period in which the WTO Agreement is open for acceptance (see also paragraph 19 above), which is relevant for transitional arrangements.

⁶The subject of "Transitional Arrangements" was included by consensus in the mandate of the Committee at its meeting on 31 May 1994 (PC/M/2, paragraph 6 and 7).

D. List of Points for Action set out in the Report

89. Matters forwarded to the WTO for information and implementation, as appropriate.

(a) Administrative, Budgetary and Financial:

- (1) The 1995 Budget: paragraphs 19 and 20
- (2) Transfer agreement ICITO/GATT/WTO: paragraphs 21 and 87

(b) Institutional, Procedural and Legal :

- (1) Market Access Schedules: paragraph 29
- (2) Accessions: paragraphs 33, 34, 36 and 37
- (3) Terms of reference of WTO bodies: paragraphs 39 and 40
- (4) Rules of procedure: paragraphs 43 and 44
- (5) Participation of contracting party signatories: paragraphs 44 and 85
- (6) Notification formats and procedures: paragraphs 45 and 46
- (7) Observer status for intergovernmental organizations: paragraph 52
- (8) Transitional Arrangements: paragraphs 85-88
- (9) Date and provisional agenda of the first meeting of the General Council: paragraph 84

90. Matters forwarded to the WTO for further consideration and action as appropriate.

(a) Administrative, Budgetary and Financial:

- (1) Headquarters Agreement: paragraphs 15 and 16
- (2) Financial regulations: paragraph 17 and 18
- (3) Transfer agreement ICITO/GATT/WTO: paragraph 22
- (4) Staff Transfer: paragraph 23
- (5) ITC/WTO relationship: paragraph 24
- (6) Organizational matters: paragraphs 25-28, of which management review (25), unpaid contributions (26) and financial obligations (27)

(a) Institutional, Legal and Procedural:

- (1) Market Access Schedules: paragraphs 30-32
- (2) Accessions: paragraph 35
- (3) Management of accession negotiations: paragraph 38
- (4) Rules of procedure: paragraph 41
- (5) Notification formats and procedures: paragraphs 47 and 48
- (6) Appellate Body: paragraph 49
- (7) Ethical code of conduct: paragraph 50
- (8) Appointment of officers of WTO bodies: paragraphs 42 and 51
- (9) Observer status for intergovernmental organizations: paragraphs 52 and 53
- (10) PSI entity: paragraph 58
- (11) Arrangements with intergovernmental organizations: paragraphs 54-56
- (12) Arrangements with NGOs: paragraphs 57, 59, 73 and 74
- (13) Discussion of suggestions for the inclusion of additional items on the agenda of the WTO's work programme: paragraph 82
- (14) Composition of the TMB: paragraph 83

(c) Services:

- (1) Scope of the GATS: paragraph 69
- (2) Guidelines for GATS notifications: paragraph 70
- (3) Overall work on Services: paragraph 72

(d) Trade and environment:

- (1) Overall work on Environment: paragraph 80
- (2) Establishment of Committee on Trade and Environment: paragraph 81

ANNEX

Original Members as at Entry into Force of the WTO Agreement

Antigua and Barbuda	Argentina	Australia
Austria	Bahrain	Bangladesh
Barbados	Belgium	Belize
Brazil	Brunei Darussalam	Canada
Chile	Colombia	Costa Rica
Côte d' Ivoire	Czech Republic	Denmark
Dominica	European Communities	Finland
France	Gabon	Germany
Ghana	Greece	Guyana
Honduras	Hong Kong	Hungary
Iceland	India	Indonesia
Ireland	Italy	Japan
Kenya	Korea	Kuwait
Luxembourg	Macau	Malaysia
Malta	Mauritania	Mauritius
Mexico	Morocco	Myanmar
Namibia	Netherlands	New Zealand
Nigeria	Norway	Pakistan
Paraguay	Peru	Philippines
Portugal	Romania	Saint Lucia
Saint Vincent & the Grenadines	Senegal	Singapore
Spain	Slovak Republic	South Africa
Swaziland	Sri Lanka	Suriname
Thailand	Sweden	Tanzania
United States	Uganda	United Kingdom
Zambia	Uruguay	Venezuela