

**PREPARATORY COMMITTEE
FOR THE
WORLD TRADE ORGANIZATION**

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SUB-COMMITTEE ON INSTITUTIONAL
PROCEDURAL AND LEGAL MATTERS

PROVISIONS IN THE URUGUAY ROUND FINAL ACT TEXTS RELEVANT TO
TERMS OF REFERENCE AND RULES OF PROCEDURE FOR THE BODIES
ESTABLISHED THEREUNDER

Note by the Secretariat

1. Under the mandate assigned to it by the Preparatory Committee, the Sub-Committee on Institutional, Procedural and Legal Matters is, *inter alia*, "to make 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".
 2. To assist it in this task, the Sub-Committee, at its meeting on 13 June 1994, requested the Secretariat to compile a listing of the provisions in the Final Act texts relevant to the terms of reference and the rules of procedure for the various bodies established under those Agreements.
 3. The following Note has been prepared in response to that request. In the section on the Final Act provisions relevant to terms of reference, the Note lists the bodies mentioned in and functions ascribed by the respective Agreements to a particular body without attempting to differentiate as to whether these functions are of a time-bound or permanent nature. The Note reproduces in Appendix I the rules of procedure for Sessions of the CONTRACTING PARTIES to GATT, including rules for airmail and telegraphic ballots, as they appear in their latest version in the twelfth supplement of the BISD. In the light of Article XVI:1 of the WTO Agreement, which reads: "Except as otherwise provided under the Agreement or the Multilateral Trade Agreements, the WTO shall be guided by the decisions, procedures and customary practices followed by the CONTRACTING PARTIES to GATT 1947 and the bodies established in the framework of GATT 1947", attention is drawn to the chapter on Institutions and Procedure of the sixth edition of the Analytical Index of the GATT, pages 1008-1043. This chapter makes more explicit, *inter alia*, the rules contained in Appendix I.
 4. It should be noted that the plurilateral Agreements on Civil Aircraft, Bovine Meat, Dairy and Government Procurement, the texts of which were not attached to the Final Act submitted for signature by Ministers at Marrakesh, have not been taken into consideration in this Note.
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I. Provisions Relevant to Terms of Reference

(a) Ministerial Conference¹

1. The *Ministerial Conference* shall carry out the functions of the WTO and take actions necessary to this effect (*WTO Agreement*, Art. IV:1).
2. The *Ministerial Conference* shall have the authority to take decisions on all matters under any of the Multilateral Trade Agreements, if so requested by a Member, in accordance with the specific requirements for decision-making in this Agreement and in the relevant Multilateral Trade Agreement (*WTO Agreement*, Art. IV:1).

¹In the *Decision on Measures in Favour of Least-Developed Countries*, Ministers agree to keep under review the specific needs of the least-developed countries and to continue to seek the adoption of positive measures which facilitate the expansion of trading opportunities in favour of these countries. This may be a function for the *Ministerial Conference*.

3. The *Ministerial Conference* shall establish procedures² for periodic consultations with the objective of enabling such recommendations to be made to the Member concerned as it may deem appropriate (*GATS*, Art. XII:5(b)).
4. The provisions of this Decision will be subject to regular review by the *Ministerial Conference (Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries*, para. 6).
5. Ministers invite the *Ministerial Conference* to complete a full review of dispute settlement rules and procedures under the World Trade Organization within four years after the entry into force of the *WTO Agreement*, and to take a decision on the occasion of its first meeting after the completion of the review, whether to continue, modify or terminate such dispute settlement rules and procedures (*Decision on the Application and Review of the Understanding on Rules and Procedures Governing the Settlement of Disputes*).
6. At the end of the second year from the date of entry into force of the *WTO Agreement* and every three years thereafter, the *Ministerial Conference* shall review the provisions, implementation and operation of this Agreement, taking into account the objectives thereof and experience gained in its operation. As a result of such review, the *Ministerial Conference* may amend the provisions of the Agreement (*Agreement on Preshipment Inspection*, Art. 6).
7. The *Ministerial Conference* shall establish a *Committee on Trade and Development*, a *Committee on Balance-of-Payments Restrictions* and a *Committee on Budget, Finance and Administration*, which shall carry out the functions assigned to them by this Agreement and by the *Multilateral Trade Agreements*, and any additional functions assigned to them by the *General Council*, and may establish such additional Committees with such functions as it may deem appropriate (*WTO Agreement*, Art. IV:7).
8. The *Ministerial Conference* and the *General Council* shall have the exclusive authority to adopt interpretations of this Agreement and of the *Multilateral Trade Agreements*. In the case of an interpretation of a *Multilateral Trade Agreement* in Annex 1, they shall exercise their authority on the basis of a recommendation by the *Council* overseeing the functioning of that Agreement (*WTO Agreement*, Art. IX:2).
9. In exceptional circumstances, the *Ministerial Conference* may decide to waive an obligation imposed on a Member by this Agreement or any of the *Multilateral Trade Agreements* (*WTO Agreement*, Art. IX:3).

(b) General Council

1. In the intervals between meetings of the *Ministerial Conference*, its functions shall be conducted by the *General Council* (*WTO Agreement*, Art. IV:2).
2. The *General Council* shall also carry out the functions assigned to it by this Agreement (*WTO Agreement*, Art. IV:2).
3. Ministers direct the first meeting of the *General Council* to establish a *Committee on Trade and Environment* open to all members of the WTO to report to the first biennial meeting of the *Ministerial Conference* after the entry into force of the WTO when the terms of reference of the Committee³ will be reviewed, in the light of recommendations of the Committee (*Marrakesh Decision on Trade and Environment*).
4. There shall be a *Council for Trade in Goods*, a *Council for Trade in Services* and a *Council for Trade-Related Aspects of Intellectual Property Rights* which shall operate under the general guidance of the *General Council*. These Councils shall carry out the functions

²A footnote to the text reads: "It is understood that the procedures under paragraph 5 shall be the same as the GATT 1994 procedures".

³MTN.TNC/45(MIN), Annex II.

assigned to them by their respective agreements and by the *General Council*. They shall establish their respective rules of procedure subject to the approval of the *General Council* (*WTO Agreement*, Art. IV:5).

5. The *Committee on Trade and Development*, [the] *Committee on Balance-of-Payments Restrictions* and [the] *Committee on Budget, Finance and Administration* ... shall carry out the functions assigned to them by this Agreement and by the Multilateral Trade Agreements, and any additional functions assigned to them by the *General Council* (*WTO Agreement*, Art. IV:7).
6. The *General Council* shall make appropriate arrangements for effective cooperation with other intergovernmental organizations that have responsibilities related to those of the WTO (*WTO Agreement*, Art. V:1).
7. The *General Council* may make appropriate arrangements for consultation and cooperation with non-governmental organizations concerned with matters related to those of the WTO (*WTO Agreement*, Art. V:2).
8. The *Ministerial Conference* and the *General Council* shall have the exclusive authority to adopt interpretations of this Agreement and of the Multilateral Trade Agreements. In the case of an interpretation of a Multilateral Trade Agreement in Annex 1, they shall exercise their authority on the basis of a recommendation by the *Council* overseeing the functioning of that Agreement (*WTO Agreement*, Art. IX:2).

(c) Dispute Settlement Body (DSB)

1. The DSB shall administer these rules and procedures and, except as otherwise provided in a covered agreement, the consultation and dispute settlement provisions of the covered agreements (*Understanding on Dispute Settlement*, Art. 2:1).
2. The DSB shall have the authority to establish panels, adopt panel and Appellate Body reports, maintain surveillance of implementation of rulings and recommendations, and authorize suspension of concessions and other obligations under the covered agreements (*Understanding on Dispute Settlement*, Art. 2:1)..
3. Recommendations or rulings made by the DSB shall be aimed at achieving a satisfactory settlement of the matter in accordance with the rights and obligations under this *Understanding* and under the covered agreements (*Understanding on Dispute Settlement*, Art. 3:4).
4. The DSB shall establish a *Standing Appellate Body* to hear appeals from panel cases, and shall appoint persons to serve on the *Appellate Body* (*Understanding on Dispute Settlement*, Art. 17:1 and 2).
5. The DSB shall inform the relevant WTO Councils and Committees of any developments in disputes related to provisions of the respective covered agreements (*Understanding on Dispute Settlement*, Art. 2:2)..
6. The *Council for Trade in Services* or the *Dispute Settlement Body* (DSB) may, at the request of a Member, consult with any Member or Members in respect of any matter for which it has not been possible to find a satisfactory solution through consultation under paragraph 1 (*GATS*, Art. XXII:2).

Surveillance of Implementation of Recommendations and Rulings

7. The DSB shall keep under surveillance the implementation of adopted recommendations or rulings. The issue of implementation of the recommendations or rulings may be raised at the DSB by any Member at any time following their adoption. Unless the DSB decides otherwise, the issue of implementation of the recommendations or rulings shall be placed on the agenda of the DSB meeting after six months following the date of establishment of the reasonable period of time pursuant to paragraph 3 and shall remain on the DSB's agenda until the issue is resolved. At least 10 days prior to each such DSB meeting, the Member

concerned shall provide the DSB with a status report in writing of its progress in the implementation of the recommendations or rulings (*Understanding on Dispute Settlement*, Art. 21.6).

8. If the matter is one which has been raised by a developing country Member, the DSB shall consider what further action it might take which would be appropriate to the circumstances (*Understanding on Dispute Settlement*, Art. 21.7).

(i) Panels

Terms of Reference of Panels (All references are to Articles in the *Understanding on Dispute Settlement*)

1. Panels shall have the following terms of reference unless the parties to the dispute agree otherwise within 20 days from the establishment of the panel:
"To examine, in the light of the relevant provisions in (name of the covered agreement(s) cited by the parties to the dispute), the matter referred to the DSB by (name of party) in document ... and to make such findings as will assist the DSB in making the recommendations or in giving the rulings provided for in that/those agreement(s)." (Art. 7.1).
2. In establishing a panel, the DSB may authorize its Chairman to draw up the terms of reference of the panel in consultation with the parties to the dispute, subject to the provisions of paragraph 1. The terms of reference thus drawn up shall be circulated to all Members. If other than standard terms of reference are agreed upon, any Member may raise any point relating thereto in the DSB. (Art. 7.3).

Function of Panels

3. The function of panels is to assist the DSB in discharging its responsibilities under this Understanding and the covered agreements. Accordingly, a panel should make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of and conformity with the relevant covered agreements, and make such other findings as will assist the DSB in making the recommendations or in giving the rulings provided for in the covered agreements. Panels should consult regularly with the parties to the dispute and give them adequate opportunity to develop a mutually satisfactory solution (Art. 11).

Right to Seek Information

4. Each panel shall have the right to seek information and technical advice from any individual or body which it deems appropriate. However, before a panel seeks such information or advice from any individual or body within the jurisdiction of a Member it shall inform the authorities of that Member. A Member should respond promptly and fully to any request by a panel for such information as the panel considers necessary and appropriate. Confidential information which is provided shall not be revealed without formal authorization from the individual, body, or authorities of the Member providing the information (Art. 13.1).
5. Panels may seek information from any relevant source and may consult experts to obtain their opinion on certain aspects of the matter. With respect to a factual issue concerning a scientific or other technical matter raised by a party to a dispute, a panel may request an advisory report in writing from an expert review group. Rules for the establishment of such a group and its procedures are set forth in Appendix 4 (Art. 13.2).

Panel Recommendations

6. Where a panel or the Appellate Body concludes that a measure is inconsistent with a covered agreement, it shall recommend that the Member concerned⁴ bring the measure into conformity

⁴A footnote to the text reads: "The 'Member concerned' is the party to the dispute to which the panel or Appellate Body recommendations are directed".

with that agreement.⁵ In addition to its recommendations, the panel or Appellate Body may suggest ways in which the Member concerned could implement the recommendations (Art. 19.1).

7. In accordance with paragraph 2 of Article 3, in their findings and recommendations, the panel and Appellate Body cannot add to or diminish the rights and obligations provided in the covered agreements (Art. 19.2).

(ii) Expert Review Groups

A panel may request an advisory report from an expert review group. [Such] groups are under the panel's authority. Their terms of reference and detailed working procedures shall be decided by the panel and they shall report to the panel (*Understanding on Dispute Settlement*, Art. 13:2 and Appendix 4).

(iii) Standing Appellate Body (All references are to Articles in the *Understanding on Dispute Settlement*)

1. A standing Appellate Body shall be established by the DSB. The Appellate Body shall hear appeals from panel cases. It shall be composed of seven persons, three of whom shall serve on any one case. Persons serving on the Appellate Body shall serve in rotation. Such rotation shall be determined in the working procedures of the Appellate Body (Art. 17.1).
2. Where a panel or the Appellate Body concludes that a measure is inconsistent with a covered agreement, it shall recommend that the Member concerned⁶ bring the measure into conformity with that agreement.⁷ In addition to its recommendations, the panel or Appellate Body may suggest ways in which the Member concerned could implement the recommendations (Art. 19.1).
3. In accordance with paragraph 2 of Article 3, in their findings and recommendations, the panel and Appellate Body cannot add to or diminish the rights and obligations provided in the covered agreements (Art. 19.2).

(d) Trade Policy Review Body

The Trade Policy Review Body:

1. [Shall] carry out periodic trade policy reviews of all Members (TPRM, C(i) and (ii)).
2. Shall establish a basic plan for the conduct of the reviews (TPRM, C(iv)).
3. May also discuss and take note of update reports from Members (TPRM, C(iv)).
4. Shall establish a programme of reviews for each year in consultation with the Members directly concerned (TPRM, C(iv)).
5. Shall undertake an appraisal of the operation of the TPRM not more than five years after the entry into force of the *WTO Agreement* (TPRM, F).
6. Shall conduct an annual overview of developments in the international trading environment which are having an impact on the multilateral trading system (TPRM, G).

⁵A footnote to the text reads: "With respect to recommendations in cases not involving a violation of GATT 1994 or any other covered agreement, see Article 26".

⁶A footnote to the text reads: "The 'Member concerned' is the party to the dispute to which the panel or Appellate Body recommendations are directed".

⁷A footnote to the text reads: "With respect to recommendations in cases not involving a violation of GATT 1994 or any other covered agreement, see Article 26".

(e) Committee on Trade and Development

1. The *Committee on Trade and Development* shall carry out the functions assigned to it by this Agreement and by the Multilateral Trade Agreements, and any additional functions assigned to it by the *General Council (WTO Agreement, Art. IV:7)*.
2. As part of its functions, the *Committee on Trade and Development* shall periodically review the special provisions in the Multilateral Trade Agreements in favour of the least-developed country Members and report to the *General Council* for appropriate action (*WTO Agreement, Art. IV:7*).

(f) Committee on Balance-of-Payments Restrictions

1. The *Committee on Balance-of-Payments Restrictions* shall carry out the functions assigned to it by this Agreement and by the Multilateral Trade Agreements, and any additional functions assigned to it by the *General Council (WTO Agreement, Art. IV:7)*.
2. The *Committee* shall carry out consultations in order to review all restrictive import measures taken for balance-of-payments purposes (*Understanding on Balance-of-Payments Provisions, para. 5*).
3. The *Committee* shall report on its consultations to the *General Council (Understanding on Balance-of-Payments Provisions, para. 13)*.
4. Members applying the provisions of this Article shall consult promptly with the *Committee on Balance-of-Payments Restrictions* on restrictions adopted under this Article (*GATS, Art. XII:5(a)*).

(g) Committee on Budget, Finance and Administration

The *Committee on Budget, Finance and Administration*:

1. Shall carry out the functions assigned to it by this Agreement and by the Multilateral Trade Agreements, and any additional functions assigned to it by the *General Council (WTO Agreement, Art. IV:7)*.
2. Shall review the annual budget estimate and the financial statement presented by the Director-General and make recommendations thereon to the *General Council (WTO Agreement, Art. VII:1)*.
3. Shall propose to the *General Council* financial regulations which shall include provisions setting out: a) the scale of contributions apportioning the expenses of the WTO among its Members; and b) the measures to be taken in respect of Members in arrears. The financial regulations shall be based, as far as practicable, on the regulations and practices of GATT 1947 (*WTO Agreement, Art. VII:2*).

(h) Council for Trade in Goods

1. The *Council for Trade in Goods* shall oversee the functioning of the Multilateral Trade Agreements in *Annex IA* and shall carry out the functions assigned to it by the respective Agreements and by the *General Council (WTO Agreement, Art. IV:5)*.
2. The *Council* shall establish subsidiary bodies as required which shall establish their respective rules of procedure, subject to the approval of the *Council (WTO Agreement, Art. IV:6)*.
3. Not later than five years after the date of entry into force of the *WTO Agreement*, the *Council for Trade in Goods* shall review the operation of this Agreement and, as appropriate, propose to the *Ministerial Conference* amendments to its text. In the course of this review, the *Council for Trade in Goods* shall consider whether the Agreement should be complemented with provisions on investment policy and competition policy (*Agreement on TRIMS, Art. 9*).

4. In order to oversee the implementation of this Agreement, the *Council for Trade in Goods* shall conduct a major review before the end of each stage of the integration process (*Agreement on Textiles and Clothing*, Art. 8:11).
5. The *Council for Trade in Goods* will undertake a review of notification obligations and procedures under the Agreements in Annex 1A of the *WTO Agreement*. The review will be carried out by a working group, membership in which will be open to all Members. The group will be established immediately after the date of entry into force of the *WTO Agreement* (*Decision on Notification Procedures*, para. III).
6. In the case of an interpretation of the *Multilateral Trade Agreements* in Annex 1A of the *WTO Agreement* the *Ministerial Conference* and the *General Council* shall exercise their authority on the basis of a recommendation by the *Council for Trade in Goods* (*WTO Agreement*, Art. IX:2).
7. A request for a waiver concerning the *Multilateral Trade Agreements* in Annex 1A of the *WTO Agreement* shall be submitted initially to the *Council for Trade in Goods* for consideration during a time-period which shall not exceed 90 days. At the end of the time-period the *Council* shall submit a report to the *Ministerial Conference* (*WTO Agreement*, Art. IX:3(b)).
8. The *Council* may also submit to the *Ministerial Conference* proposals to amend the provisions of the *Multilateral Trade Agreements* in Annex 1A of the *WTO Agreement* (*WTO Agreement*, Art. X:1).
9. The *Council for Trade in Goods* is the competent body to approve a request by an importing country to take anti-dumping action on behalf of a third country (*Agreement on Implementation of Article VI*, Art. 14.4)

(i) Committee on Agriculture

1. Progress in the implementation of commitments negotiated under the Uruguay Round reform programme shall be reviewed by the *Committee on Agriculture* (*Agreement on Agriculture*, Art. 18:1).
2. The review process shall provide an opportunity for Members to raise any matter relevant to the implementation of commitments under the reform programme as set out in this Agreement (*Agreement on Agriculture*, Art. 18:6).
3. The review process shall be undertaken on the basis of notifications submitted by Members in relation to such matters and at such intervals as shall be determined, as well as on the basis of such documentation as the Secretariat may be requested to prepare in order to facilitate the review process (*Agreement on Agriculture*, Art. 18:2).
4. As part of this review process the *Committee on Agriculture* would need to establish appropriate notification procedures in connection with:
 - (i) new or modified domestic support measures in respect of which exemption from reduction commitments is claimed (*Agreement on Agriculture*, Art. 7 and 18:3);
 - (ii) transparency in the operation of the special safeguard (*Agreement on Agriculture*, Art. 5:7);
 - (iii) prevention of circumvention of export subsidy commitments (*Agreement on Agriculture*, Art. 10);
 - (iv) disciplines on export prohibitions and restrictions (*Agreement on Agriculture*, Art. 12);
 - (v) implementation of differential and more favourable treatment for developing country Members as set out in the relevant provisions of the Agreement and as embodied in the Schedules of concessions and commitments (*Agreement on Agriculture*, Art. 15:1);
 - (vi) action by developed country Members within the framework of the *Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-*

Developed and Net Food-Importing Developing Countries (Agreement on Agriculture, Art. 16:1);

- (vii) counter notifications with respect to measures which any Member considers ought to have been notified by another Member (*Agreement on Agriculture, Art. 18:7*).
- 5. Members agree to consult annually in the *Committee on Agriculture* with respect to their participation in the normal growth of world trade in agricultural products within the framework of the commitments on export subsidies under this Agreement (*Agreement on Agriculture, Art. 18:5*).
- 6. The *Committee on Agriculture* shall monitor, as appropriate, the follow-up to the *Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries (Agreement on Agriculture, Art. 16:2)*.

(ii) Committee on Sanitary and Phytosanitary Measures

The *Committee*:

- 1. Shall provide a regular forum for consultations (*Agreement on Sanitary and Phytosanitary Measures, Art. 12:1*).
- 2. Shall carry out the functions necessary to implement the provisions of this Agreement and the furtherance of its objectives, in particular with respect to harmonization (*Agreement on Sanitary and Phytosanitary Measures, Art. 12:1*).
- 3. Shall encourage and facilitate ad hoc consultations or negotiations on specific issues (*Agreement on Sanitary and Phytosanitary Measures, Art. 12:2*).
- 4. Shall encourage the use of international standards and, in this regard, sponsor technical consultation and study with respect to systems for approval of additives and establishment of tolerances for contaminants (*Agreement on Sanitary and Phytosanitary Measures, Art. 12:2*).
- 5. Shall maintain close contact with the relevant international organizations in the field of sanitary and phytosanitary protection, especially with the *Codex Alimentarius Commission, the International Office of Epizootics, and the Secretariat of the International Plant Protection Convention*, with the objective of securing the best available scientific and technical advice for the administration of this Agreement and in order to ensure that unnecessary duplication of effort is avoided (*Agreement on Sanitary and Phytosanitary Measures, Art. 12:3*).
- 6. Shall develop a procedure to monitor the process of international harmonization and the use of international standards, guidelines or recommendations (*Agreement on Sanitary and Phytosanitary Measures, Art. 3:5 & 12:4*).
- 7. Shall review the operation and implementation of this Agreement three years after the date of entry into force of the *WTO Agreement*, and thereafter as the need arises (*Agreement on Sanitary and Phytosanitary Measures, Art. 12:7*).
- 8. May, where appropriate, submit to the *Council for Trade in Goods* proposals to amend the text of this Agreement having regard, *inter alia*, to the experience gained in its implementation (*Agreement on Sanitary and Phytosanitary Measures, Art. 12:7*).
- 9. Shall develop guidelines for the implementation of consistency in the application of the concept of appropriate level of protection (*Agreement on Sanitary and Phytosanitary Measures, Art. 5:5*).
- 10. May, upon request from a developing country Member, grant time-limited exceptions to obligations under the Agreement (*Agreement on Sanitary and Phytosanitary Measures, Art. 10:3*).

(iii) Textiles Monitoring Body (TMB)

1. The TMB is established to supervise the implementation of this Agreement, to examine all measures taken under this Agreement and their conformity therewith, and to take the actions specifically required of it by this Agreement (*Agreement on Textiles and Clothing*, Art. 8:1).
2. The TMB shall be considered as a standing body. It shall rely on notifications and information supplied by the Members under the relevant Articles of this Agreement, supplemented by any additional information or necessary details they may submit or it may decide to seek from them. It may also rely on notifications to and reports from other WTO bodies and from such other sources as it may deem appropriate (*Agreement on Textiles and Clothing*, Art. 8:3).
3. In the absence of any mutually agreed solution in the bilateral consultations provided for in this Agreement, the TMB shall, at the request of either Member, and following a thorough and prompt consideration of the matter, make recommendations to the Members concerned (*Agreement on Textiles and Clothing*, Art. 8:5).
4. At the request of any Member, the TMB shall review promptly any particular matter which that Member considers to be detrimental to its interests under this Agreement and where consultations between it and the Member or Members concerned have failed to produce a mutually satisfactory solution. On such matters, the TMB may make such observations as it deems appropriate to the Members concerned and for the purposes of the review provided for in paragraph 11 (*Agreement on Textiles and Clothing*, Art. 8:6).
5. Before formulating its recommendations or observations, the TMB shall invite participation of such Members as may be directly affected by the matter in question (*Agreement on Textiles and Clothing*, Art. 8:7).
6. Whenever the TMB is called upon to make recommendations or findings, it shall do so, preferably within a period of 30 days, unless a different time period is specified in this Agreement. All such recommendations or findings shall be communicated to the Members directly concerned. All such recommendations or findings shall also be communicated to the *Council for Trade in Goods* for its information (*Agreement on Textiles and Clothing*, Art. 8:8).
7. The Members shall endeavour to accept in full the recommendations of the TMB, which shall exercise proper surveillance of the implementation of such recommendations (*Agreement on Textiles and Clothing*, Art. 8:9).
8. If a Member considers itself unable to conform with the recommendations of the TMB, it shall provide the TMB with the reasons therefor not later than one month after receipt of such recommendations. Following thorough consideration of the reasons given, the TMB shall issue any further recommendations it considers appropriate forthwith. If, after such further recommendations, the matter remains unresolved, either Member may bring the matter before the *Dispute Settlement Body* and invoke paragraph 2 of Article XXIII of GATT 1994 and the relevant provisions of the *Dispute Settlement Understanding* (*Agreement on Textiles and Clothing*, Art. 8:10).
9. In order to oversee the implementation of this Agreement, the *Council for Trade in Goods* shall conduct a major review before the end of each stage of the integration process. To assist in this review, the TMB shall, at least five months before the end of each stage, transmit to the Council for Trade in Goods a comprehensive report on the implementation of this Agreement during the stage under review, in particular in matters with regard to the integration process, the application of the transitional safeguard mechanism, and relating to the application of GATT 1994 rules and disciplines as defined in Articles 2, 3, 6 and 7 respectively. The TMB's comprehensive report may include any recommendation as deemed appropriate by the TMB to the *Council for Trade in Goods* (*Agreement on Textiles and Clothing*, Art. 8:11).

Other TMB functions arising from the Agreement on Textiles and Clothing

10. To oversee the circulation of notifications, as required under paragraphs 2, 7, 10, 11, and 15 of Art. 2, and under para. 5 of Art 3;
11. Completion of any residual work of the Textiles Surveillance Body as regards consideration of unilateral actions or disputes under the MFA (Art. 2:5 and 4:4)
12. To review all notifications of measures taken by Members relating to: (a) restraints in place on the date of entry into force (Art. 2:7); (b) the integration of products (Art. 2:11); (c) the liberalization of quotas (review of the implementation of Art. 2 as such - ref. Art. 2:21); (d) phase-out programmes in respect of other restrictions on textiles and clothing (Art. 3:2(b)); and (e) make recommendations, as appropriate in respect of the above (Art. 2:2, 2:3, 2:21 and 3:2(b))
13. To review and recommend, as required, with respect to changes in administrative practices, rules, procedures, etc, pursuant to Article 4 (Art. 4:4)
14. To review and recommend, as required, in matters relating to circumvention of the Agreement through transshipment, false declaration, etc. pursuant to Art. 5 (ref. Art. 5:2, 5:4 and 5:6)
15. To review notifications with respect to measures taken under Article 6 to determine whether bilateral agreements reached are justified in accordance with the provisions of that Article and make recommendations, as appropriate. In cases where agreement is not reached through bilateral consultations and the matter is referred to the TMB or where measures are taken provisionally, the Body will examine the matter and make appropriate recommendations (Art. 6:9-11 and 6:21)
16. To review notifications and reverse notifications with respect to actions taken by Members to achieve improved market access, ensure the application of policies relating to fair and equitable trading conditions and avoid discrimination against imports in the textile and clothing sector, pursuant to Article 7 (Art. 7:2 and 7:3)

(iv) Committee on Technical Barriers to Trade

1. The Committee shall meet for the purpose of affording Members 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 Members (*Agreement on Technical Barriers*, Art. 13:1).
2. The Committee shall establish working parties 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 (*Agreement on Technical Barriers*, Art. 13:2).
3. It is understood that unnecessary duplication should be avoided between the work under this Agreement and that of governments in other technical bodies. The Committee shall examine this problem with a view to minimizing such duplication (*Agreement on Technical Barriers*, Art. 13:3).
4. The Committee shall review annually the implementation and operation of this Agreement taking into account the objectives thereof (*Agreement on Technical Barriers*, Art. 15:3).
5. Not later than the end of the third year from the date of entry into force of the *WTO 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 recommending an adjustment of 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. Having regard, *inter alia*, to the experience gained in the implementation of the Agreement, the Committee shall, where appropriate, submit proposals for amendments to the text of the Agreement to the *Council for Trade in Goods* (*Agreement on Technical Barriers*, Art. 15:4).

6. The Committee shall, without prejudice to provisions on consultation and dispute settlement, at least once a year review the publication provided by the ISO/IEC Information Centre on information received according to the *Code of Good Practice for the Preparation, Adoption and Application of Standards* in Annex 3 of the [Technical Barriers to Trade] Agreement, for the purpose of affording Members opportunity of discussing any matters relating to the operation of that Code (*Decision on Review of the ISO/IEC Information Centre Publication*).

- Technical Expert Group

At the request of a party to a dispute, or at its own initiative, a panel may establish a *technical expert group* to assist in questions of a technical nature, requiring detailed consideration by experts (*Agreement on Technical Barriers*, Art. 14:2).

(v) Committee on Trade-Related Investment Measures

The *Committee on Trade-Related Investment Measures*:

1. Shall carry out responsibilities assigned to it by the *Council for Trade in Goods* and shall afford Members the opportunity to consult on any matters relating to the operation and implementation of this Agreement (*Agreement on TRIMS*, Art. 7:2).
2. Shall monitor the operation and implementation of this Agreement and shall report thereon annually to the *Council for Trade in Goods* (*Agreement on TRIMS*, Art. 7:3).

(vi) Committee on Anti-Dumping Practices

1. The *Committee* shall carry out responsibilities as assigned to it under this Agreement or by the Members and it shall afford Members the opportunity of consulting on any matters relating to the operation of the Agreement or the furtherance of its objectives (*Agreement on Implementation of Article VI*, Art. 16:1).
2. The *Committee* may set up subsidiary bodies as appropriate (*Agreement on Implementation of Article VI*, Art. 16:2).
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 Member, it shall inform the Member involved. It shall obtain the consent of the Member and any firm to be consulted (*Agreement on Implementation of Article VI*, Art. 16:3).
4. The *Committee* shall review annually the implementation and operation of this Agreement taking into account the objectives thereof. The *Committee* shall inform annually the *Council for Trade in Goods* of developments during the period covered by such reviews (*Agreement on Implementation of Article VI*, Art. 18:6).
5. The *Committee* shall also receive notifications by Members of:
 - all preliminary or final anti-dumping actions taken, and of semi-annual reports of anti-dumping actions taken within the preceding six months (Art. 16:4)
 - the domestic authorities competent to initiate and conduct anti-dumping investigations, and of domestic procedures governing the initiation and conduct of such investigations (Art. 16:5)
 - any changes in members' laws and regulations relevant to the Agreement and in the administration of such laws and regulations (Art. 18:5)
6. *Ministers* decide to refer this matter [the problem of circumvention of anti-dumping duty measures] to the *Committee on Anti-Dumping Practices* for resolution (*Decision on Anti-Circumvention*).

7. The standard of review in paragraph 6 of Article 17 "shall be reviewed after a period of three years with a view to considering the question of whether it is capable of general application" (*Decision on Review of Art. 17.6 of the Agreement on Implementation of Article VI*).

(vii) Committee on Customs Valuation

1. The *Committee* shall meet for the purpose of affording Members the opportunity to consult on matters relating to the administration of the customs valuation system by any Member as it might affect the operation of this Agreement or the furtherance of its objectives and carrying out such other responsibilities as may be assigned to it by the Members (*Agreement on Implementation of Article VII, Art. 18:1*).
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 *Council for Trade in Goods* of developments during the period covered by such reviews (*Agreement on Implementation of Article VII, Art. 23*).

- Technical Committee on Customs Valuation

1. A *Technical Committee on Customs Valuation* shall be established under the auspices of the *Customs Cooperation Council* with a view to ensuring, at the technical level, uniformity in interpretation and application of this Agreement (*Agreement on Implementation of Article VII, Annex II, para. 1*).
2. The responsibilities of the *Technical Committee* shall include the following:
 - to examine specific technical problems arising in the day-to-day administration of the customs valuation system of Members and to give advisory opinions on appropriate solutions based upon the facts presented;
 - to study, as requested, valuation laws, procedures and practices as they relate to this Agreement and to prepare reports on the results of such studies;
 - to prepare and circulate annual reports on the technical aspects of the operation and status of this Agreement;
 - to furnish such information and advice on any matters concerning the valuation of imported goods for customs purposes as may be requested by any Member or the *Committee*. Such information and advice may take the form of advisory opinions, commentaries or explanatory notes;
 - to facilitate, as requested, technical assistance to Members with a view to furthering the international acceptance of this Agreement;
 - to carry out an examination of a matter referred to it by a panel under Article 19 of this Agreement; and
 - to exercise such other responsibilities as the *Committee* may assign to it (*Agreement on Implementation of Article VII, Annex II, para. 2*).

(viii) Committee on Rules of Origin

1. The *Committee* shall meet for the purpose of affording Members the opportunity to consult on matters relating to the operation of Parts I, II, III and IV or the furtherance of the objectives set out in these Parts and to carry out such other responsibilities assigned to it under this Agreement or by the *Council for Trade in Goods* (*Agreement on Rules of Origin, Art. 4:1*).
2. The *Committee* shall review annually the implementation and operation of Parts II and III of the Agreement on Rules of Origin having regard to its objectives. The *Committee* shall annually inform the *Council for Trade in Goods* of developments during the period covered by such reviews (*Agreement on Rules of Origin, Art. 6:1*).

3. The *Committee* shall review the provisions of Parts I, II and III and propose amendments as necessary to reflect the results of the harmonization work programme (*Agreement on Rules of Origin*, Art. 6:2).
4. The *Committee*, in cooperation with the *Technical Committee* [established under the auspices of the *Customs Cooperation Council*], shall set up a mechanism to consider and propose amendments to the results of the harmonization work programme, taking into account the objectives and principles set out in Article 9. This may include instances where the rules need to be made more operational or need to be updated to take into account new production processes as affected by any technological change (*Agreement on Rules of Origin*, Art. 6:3).

- Technical Committee on Rules of Origin

1. A *Technical Committee on Rules of Origin* [under the auspices of the *Customs Cooperation Council*] shall carry out the technical work called for in Part IV and prescribed in Annex I. Where appropriate, the *Technical Committee* shall request information and advice from the *Committee* on matters related to this Agreement. The *Technical Committee* may also request such other work from the *Committee* as it considers appropriate for the furtherance of the above-mentioned objectives of the Agreement (*Agreement on Rules of Origin*, Art. 4:2).
2. The *Committee* shall request the *Technical Committee* to provide its interpretation and opinions resulting from the work described below on the basis of the principles listed in paragraph 1 (*Agreement on Rules of Origin*, Art. 9:2(c)).
3. The ongoing responsibilities of the *Technical Committee* shall include the following:
 - at the request of any member of the *Technical Committee*, to examine specific technical problems arising in the day-to-day administration of the rules of origin of Members and to give advisory opinions on appropriate solutions based upon the facts presented;
 - to furnish information and advice on any matters concerning the origin determination of goods as may be requested by any Member or the *Committee*;
 - to prepare and circulate periodic reports on the technical aspects of the operation and status of this Agreement;
 - to review annually the technical aspects of the implementation and operation of Parts II and III (*Agreement on Rules of Origin*, Annex I, para. 1).
4. The *Technical Committee* shall exercise such other responsibilities as the *Committee* may request of it (*Agreement on Rules of Origin*, Annex I, para. 2).
5. The *Technical Committee* shall attempt to conclude its work on specific matters, especially those referred to it by Members or the *Committee*, in a reasonably short period of time (*Agreement on Rules of Origin*, Annex I, para. 3).

(ix) Committee on Import Licensing

1. The *Committee* shall meet as necessary for the purpose of affording Members the opportunity of consulting on any matters relating to the operation of this Agreement or the furtherance of its objectives (*Agreement on Import Licensing*, Art. 4).
2. 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 the rights and obligations contained therein (*Agreement on Import Licensing*, Art. 7:1).
3. The *Committee* shall inform the *Council for Trade in Goods* of developments during the period covered by such reviews (*Agreement on Import Licensing*, Art. 7:4).

- (x) Committee on Subsidies and Countervailing Measures
(All references are to Articles in the *Agreement on Subsidies and Countervailing Measures*)

The Committee:

1. May set up subsidiary bodies as appropriate (Art. 24:2).
2. Shall establish a Permanent Group of Experts ("PGE") and will elect its members (Art. 24:3).
3. In carrying out its functions, may consult and seek information from any source it deems appropriate (Art. 24:5).

General

4. Shall carry out responsibilities assigned to it by the Agreement or by its Members (Art. 24:1).
5. Shall afford Members the opportunity of consulting on any matter relating to the operation of the Agreement or the furtherance of its objectives (Art. 24:1).
6. Shall review annually the implementation and operation of the Agreement taking into account the objectives thereof (Art. 32:7).
7. Shall inform the *Council for Trade in Goods* of developments during the period covered by the Committee's annual reviews (Art. 32:7).

Notification and Surveillance

8. Shall receive notifications of subsidies (Art. 25:2).
9. Shall establish a Working Party to review the contents and the form of the questionnaire regarding subsidies as contained in BISD 9S/193-194 (footnote to Art. 25:3).
10. Shall examine full subsidies notifications every third year in special sessions, and to examine updating notifications for intervening years at each regular meeting (Art. 26:1).
11. Shall consider, upon request, the failure of a Member to notify a subsidy or to provide information requested by another Member regarding a subsidy (Art. 25:9, 25:10).
12. Shall receive, within ninety days of the date of entry into force of the WTO Agreement, notifications regarding subsidies inconsistent with the Agreement (Art. 28:1).
13. Shall receive advance notifications, as well as yearly updates and information regarding any modification of non-actionable subsidies (Art. 8:3).
14. Shall receive notifications regarding developing country Member subsidies granted within and directly linked to a privatization programme (Art. 27:13)
15. Shall receive notifications, from Members in the process of transformation from a centrally-planned into a market economy, regarding subsidies within the scope of Article 3 (Art. 29:3).
16. Shall receive notifications from developing country Members that have eliminated their export subsidies prior to the expiry of the period of eight years from the date of entry into force of the WTO Agreement (Art. 27:11).
17. Shall receive notifications from Members regarding preliminary and final actions with respect to countervailing duties (Art. 25:11).
18. Shall receive semi-annual reports from Members regarding countervailing duties (Art. 25:11).
19. Shall examine notifications regarding preliminary and final countervailing actions, and semi-annual reports of countervailing actions, at each regular meeting (Art. 26:2).
20. Shall receive notifications from Members regarding the authorities competent to initiate countervailing duty investigations and the procedures governing such investigations (Art. 25:12).
21. Shall be informed by Members of any changes in their laws and regulations relevant to the Agreement and in the administration thereof (Art. 32:6).

Reviews and Determinations

22. Shall review, upon request, any notifications of non-actionable subsidies (or modifications thereto) and any findings of the Secretariat made pursuant to a request by a Member for a review of such notifications, with a view to determining whether the conditions and criteria of Article 8.2 have not been met (Art. 8:4).

23. Shall review, upon referral to the Committee by a Member, whether a non-actionable subsidy has resulted in serious adverse effects to that Member's domestic industry which would be difficult to repair, to recommend any modifications to the programme so as to modify those effects, and to authorize appropriate countermeasures if the recommendations are not followed (Art. 9:4).
24. Shall seek an advisory opinion from the Permanent Group of Experts on the existence and nature of any subsidy (Art. 24:3).
25. Shall consult with developing country Members which deem it necessary to extend prohibited subsidies beyond the eight-year transition period, to determine if such an extension is justified, and if so, to hold annual consultations with the developing country Member to determine the necessity of maintaining the subsidies (Art. 27:4).
26. Shall give Members in the process of transformation from a centrally-planned into a market economy departures from their notified programmes, measures and time-frames if such departures are deemed necessary for the process of transformation (Art. 29:4).
27. Shall examine, upon request, whether a specific export subsidy practice is in conformity with a developing country Member's development needs (Art. 27:14).
28. Shall review, upon request by a developing country Member, whether a countervailing duty applied to a developing country Member is consistent with the Agreement's provisions regarding de minimis subsidization and negligible import volumes (Art. 27:15).

Work on specific issues

29. Shall review, not later than 18 months after the date of entry into force of the WTO Agreement, the operation of the provisions of Article 8.2(a) (non-actionable research subsidies), with a view to making all necessary modifications to improve their operation (including a review of the definitions of the categories set forth therein) (Art. 8:2(a), note 25).
30. Shall review the operation of Art. 27:6 (export competitiveness) five years from the date of entry into force of the WTO Agreement (Art. 27:6).
31. Shall review, not later than 180 days before the end of a five year period after the date of entry into force of the WTO Agreement, the operation of Articles 6:1, 8 and 9, with a view to determining whether to extend their application, either as presently drafted, or in modified form, for a further period (Art. 31).

Other

32. Shall, upon the request of a Member, determine whether the conditions of Article 8:2(a) have been met (Art. 8:5).
33. May receive notification from developing country Members which have achieved export competitiveness in a product (Art. 27:6).

- Permanent Group of Experts

1. The *Committee [on Subsidies and Countervailing Measures]* shall establish a *Permanent Group of Experts* (PGE) composed of five independent persons, highly qualified in the fields of subsidies and trade relations. The PGE may be requested to assist a panel, as provided for in paragraph 5 of Article 4. The *Committee* may also seek an advisory opinion on the existence and nature of any subsidy (*Agreement on Subsidies and Countervailing Measures*, Art. 24:3).
2. The PGE may be consulted by any Member and may give advisory opinions on the nature of any subsidy proposed to be introduced or currently maintained by that Member. Such advisory opinions will be confidential and may not be invoked in proceedings under Article 7 (*Agreement on Subsidies and Countervailing Measures*, Art. 24:4).
3. Upon its establishment, the panel may request the assistance of the PGE with regard to whether the measure in question is a prohibited subsidy. If so requested, the PGE shall immediately review the evidence with regard to the existence and nature of the measure in question and shall provide an opportunity for the Member applying or maintaining the measure to demonstrate that the measure in question is not a prohibited subsidy. The PGE shall report its conclusions to the panel within a time-limit determined by the panel. The

PGE's conclusions on the issue of whether or not the measure in question is a prohibited subsidy shall be accepted by the panel without modification (*Agreement on Subsidies and Countervailing Measures*, Art. 4:5).

- (xi) Committee on Safeguards
(All references are to Articles in the *Agreement on Safeguards*)

The *Committee* will have the following functions:

1. to monitor, and report annually to the *Council for Trade in Goods* (Art. 13:1(a)) on, the general implementation of the Agreement and make recommendations towards its improvement. The Committee will base its report on, *inter alia*, a factual report prepared annually by the Secretariat on the operation of the Agreement based on notifications and other reliable information available to it (Art. 13:2)
2. to assist Members, if they so request, in their consultations under the provisions of the Agreement (Art. 13:1(c))
3. to perform any function connected with the Agreement that the *Council for Trade in Goods* may determine (Art. 13:1(g))
Notifications and Surveillance
4. to receive and review all notifications provided for in the Agreement and report as appropriate to the *Council for Trade in Goods* (Art. 13:1(f))
5. Specific aspects of the Committee's tasks regarding notifications under the Agreement include:
 - (i) To normally receive all notifications under the Agreement to the *Council for Trade in Goods* (Art. 12:10)
 - (ii) To receive the notifications by Members when they initiate an investigation relating to serious injury or threat thereof, make a finding of serious injury or threat thereof caused by increased imports, or take a decision to apply or extend a safeguard measure - including a decision to take a provisional measure - (Details of the information to be provided in these notifications are in Articles 11.1 and 11.2) (Art. 12:1 and 12:4)
 - (iii) To receive, not later than 60 days after the entry into force, notifications by Members of their pre-existing Article XIX measures and of the measures prohibited under Article 11 (Art. 12:7)
 - (iv) To receive, within 180 days of the entry into force, timetables for phasing out the measures prohibited under Article 11 or for bringing them into conformity with the Agreement (Art. 11:2)
 - (v) To receive, within 90 days of the entry into force, notifications of the exception mentioned in Article 11.2 (Art. 11:2)
 - (vi) To receive notifications of special and differential safeguard actions taken regarding exports from developing country Members (Art. 9:1, footnote 2)
 - (vii) To receive notifications of laws, regulations and administrative procedures relating to safeguard measures as well as modifications made to them (Art. 12:6)
 - (viii) To receive notifications and report to the *Council for Trade in Goods* of the results of the consultations referred to in Article 12, of mid-term reviews referred to in Article 7.4, any form of compensation referred to in Article 8.1, and proposed suspensions of concessions and other obligations referred to in Article 8.2 (Art. 8:2 and 12:5)
 - (ix) To receive notifications that Members may make of all laws, regulations, administrative procedures and any measures taken or actions dealt with in the Agreement that have not been notified by the Members that are required by the Agreement to make such notifications (Art. 12:8)
 - (x) To receive notifications that Members may make of any non-governmental measures referred to in Art. 11:3 (Art. 12:9)
6. The *Council for Trade in Goods* or the *Committee on Safeguards* may request such additional information as they may consider necessary from the Member proposing to apply or extend the measure (Art. 12:2)

7. To examine the pre-existing Article XIX measures and the measures prohibited under Article 11, monitor the phase-out of these measures and report as appropriate to the *Council for Trade in Goods* (Art. 13:1(d))
8. To provide the auspices for consultations on proposed discriminatory allocation of import quotas under Article 5.2(b) and provide a possibility to demonstrate that the requisite conditions for such allocation are met (Art. 5:2(b))
Review and determination
9. To find, upon request of an affected Member, whether or not the procedural requirements of the Agreement have been complied with in connection with a safeguard measure and report its findings to the *Council for Trade in Goods* (Art. 13:1(b))
10. To review, at the request of the Member taking a safeguard measure, whether proposals to suspend concessions or other obligations are "substantially equivalent", and report as appropriate to the *Council for Trade in Goods* (Art. 13:1(e))
11. To review and accept the exception mentioned in Art. 11:2 (Art. 11:2)

(xii) Working Group on Notification Obligations and Procedures

The terms of reference of the working group will be:

1. To undertake a thorough review of all existing notification obligations of Members established under the Agreements in Annex 1A of the *WTO Agreement*, with a view to simplifying, standardizing and consolidating these obligations to the greatest extent practicable, as well as to improving compliance with these obligations, bearing in mind the overall objective of improving the transparency of the trade policies of Members and the effectiveness of surveillance arrangements established to this end, and also bearing in mind the possible need of some developing country Members for assistance in meeting their notification obligations.
2. To make recommendations to the *Council for Trade in Goods* not later than two years after the entry into force of the *WTO Agreement* (*Decision on Notification Procedures*, para. III).

(xiii) Working Party on State Trading Notifications and Counter-Notifications⁸

1. A *Working Party* shall be set up, on behalf of the *Council for Trade in Goods* to review notifications and counter-notifications (*Understanding on Interpretation of Article XVII*, para. 5).
2. The *Working Party* shall also review, in the light of the notifications received, the adequacy of the questionnaire on state trading and the coverage of state trading enterprises notified under paragraph 1. It shall also develop an illustrative list showing the kinds of relationships between governments and enterprises, and the kinds of activities engaged in by these enterprises, which may be relevant for the purposes of Article XVII. [The working party] shall report annually to the *Council for Trade in Goods* (*Understanding on Interpretation of Article XVII*, para. 5).

(xiv) Working Party on Notifications under Article XXIV:7(a)

All notifications made under paragraph 7(a) of Article XXIV shall be examined by a *Working Party* in the light of the relevant provisions of GATT 1994 and of paragraph 1 of this Understanding. The *Working Party* shall submit a report to the *Council for Trade in Goods* on its findings in this regard (*Understanding on Interpretation of Article XXIV*, para. 7).

⁸A footnote to the text reads: "The activities of this working party shall be coordinated with those of the working group provided for in Section III of the *Ministerial Decision on Notification Procedures* adopted on 15 April 1994".

(i) Council for Trade in Services

1. The *Council for Trade in Services* shall oversee the functioning of the *GATS* and shall carry out the functions assigned to it by the *GATS* and by the *General Council (WTO Agreement, Art. IV:5)*.
2. The *Council for Trade in Services* shall carry out such functions as may be assigned to it to facilitate the operation of this Agreement and further its objectives. The *Council* may establish such subsidiary bodies as it considers appropriate for the effective discharge of its functions (*GATS, Art. XXIV:1*). These subsidiary bodies shall establish their respective rules of procedure subject to the approval of the *Council (WTO Agreement, Art. IV:6)*.
3. The *Council for Trade in Services* or the *Dispute Settlement Body (DSB)* may, at the request of a Member, consult with any Member or Members in respect of any matter for which it has not been possible to find a satisfactory solution through consultation under paragraph 1 (*GATS Art. XXII:2*).
4. The *Council for Trade in Services* shall review all exemptions [from obligations under Article II:1] granted for a period of more than 5 years. The first such review shall take place no more than 5 years after the entry into force of the *WTO Agreement (GATS, Annex on Article II Exemptions)*.
5. The *Council for Trade in Services* shall review periodically, and at least every five years, developments in the air transport sector and the operation of this Annex with a view to considering the possible further application of the Agreement in this sector (*GATS, Annex on Air Transport Services*).
6. In the case of an interpretation of the *GATS* the *Ministerial Conference* and the *General Council* shall exercise their authority on the basis of a recommendation by the *Council for Trade in Services (WTO Agreement, Art. IX:2)*.
7. A request for a waiver concerning the *GATS* shall be submitted initially to the *Council for Trade in Services* for consideration during a time-period which shall not exceed 90 days. At the end of the time-period the *Council* shall submit a report to the *Ministerial Conference (WTO Agreement, Art. IX:3(b))*.
8. The *Council* may also submit to the *Ministerial Conference* proposals to amend the provisions of the *GATS (WTO Agreement, Art. X:1)*.

(i) Sectoral Committees on Services

Any *sectoral committee* shall carry out responsibilities as assigned to it by the *Council* [for Trade in Services], and shall afford Members the opportunity to consult on any matters relating to trade in services in the sector concerned and the operation of the sectoral annex to which it may pertain. Such responsibilities shall include:

- to keep under continuous review and surveillance the application of the Agreement with respect to the sector concerned;
- to formulate proposals or recommendations for consideration by the *Council* in connection with any matter relating to trade in the sector concerned;
- if there is an annex pertaining to the sector, to consider proposals for amendment of that sectoral annex, and to make appropriate recommendations to the *Council*;
- to provide a forum for technical discussions, to conduct studies on measures of Members and to conduct examinations of any other technical matters affecting trade in services in the sector concerned;
- to provide technical assistance to developing country Members and developing countries negotiating accession to the *WTO Agreement* in respect of the application of obligations or other matters affecting trade in services in the sector concerned; and
- to cooperate with any other subsidiary bodies established under the *GATS* or any international organizations active in any sector concerned (*Decision on Institutional Arrangements for the GATS, para. 2*).

(ii) Negotiating Group on Movement of Natural Persons

The *Negotiating Group* shall carry out the negotiations. The group shall report periodically to the *Council for Trade in Services (Decision on Negotiations on Movement of Natural Persons)*.

(iii) Committee on Trade in Financial Services

1. The *Committee* will have the responsibilities listed in paragraph 2 (*Decision on Institutional Arrangements for GATS*, para. 3).
2. The *Committee* shall monitor the progress of any negotiations undertaken under the terms of this Decision and shall report thereon to the *Council for Trade in Services* no later than four months after the date of entry into force of the *WTO Agreement (Decision on Financial Services*, para. 2).

(iv) Negotiating Group on Maritime Transport Services

1. The *Negotiating Group* shall carry out this mandate [on negotiations on maritime transport services]. The *Negotiating Group* shall report periodically on the progress of these negotiations (*Decision on Negotiations on Maritime Transport Services*, para. 2).
2. The implementation of paragraph 7 [on standstill provisions] shall be subject to surveillance in the *Negotiating Group (Decision on Negotiations on Maritime Transport Services*, para. 8).

(v) Negotiating Group on Basic Telecommunications

The *Committee* shall carry out this mandate [on negotiations on basic telecommunications]. The *Committee* shall report periodically on the progress of these negotiations (*Decision on Negotiations on Basic Telecommunications*).

(vi) Working Party on Professional Services

1. The *Working Party* shall examine and report, with recommendations, on the disciplines necessary to ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements in the field of professional services do not constitute unnecessary barriers to trade (*Decision on Professional Services*, para. 1);
2. As a matter of priority, the *Working Party* shall make recommendations for the elaboration of multilateral disciplines in the accountancy sector, so as to give operational effect to specific commitments. In making these recommendations, the *Working Party* shall concentrate on:
 - developing multilateral disciplines relating to market access so as to ensure that domestic regulatory requirements are: (i) based on objective and transparent criteria, such as competence and the ability to supply the service; (ii) not more burdensome than necessary to ensure the quality of the service, thereby facilitating the effective liberalization of accountancy services;
 - the use of international standards and, in doing so, it shall encourage the cooperation with the relevant international organizations as defined under paragraph 5(b) of Article VI [of *GATS*], so as to give full effect to paragraph 5 of Article VII [of *GATS*];
 - facilitating the effective application of paragraph 6 of Article VI of the Agreement [*GATS*] by establishing guidelines for the recognition of qualifications (*Decision on Professional Services*, para. 2).

(j) Council for Trade-Related Aspects of Intellectual Property Rights

1. The *Council for TRIPS* shall oversee the functioning of the *Agreement on TRIPS* and shall carry out the functions assigned to it by the *Agreement on TRIPS* and by the *General*

- Council (WTO Agreement, Art. IV:5).*
2. The *Council for TRIPS* shall establish subsidiary bodies as required which shall establish their respective rules of procedure subject to the approval of the *Council (WTO Agreement, Art. IV:6).*
 3. The *Council* may also submit to the *Ministerial Conference* proposals to amend the provisions of the *Agreement on TRIPS (WTO Agreement, Art. X:1).*
- General Functions
4. In the case of an interpretation of the *Agreement on TRIPS* the *Ministerial Conference* and the *General Council* shall exercise their authority on the basis of a recommendation by the *Council for TRIPS (WTO Agreement, Art. IX:2).*
 5. A request for a waiver concerning the *Agreement on TRIPS* shall be submitted initially to the *Council for TRIPS* for consideration during a time-period which shall not exceed 90 days. At the end of the time-period the *Council* shall submit a report to the *Ministerial Conference (WTO Agreement, Art. IX:3(b)).*
 6. The *Council for TRIPS* shall monitor the operation of this Agreement and, in particular, Members' compliance with their obligations hereunder, and shall afford Members the opportunity of consulting on matters relating to the trade-related aspects of intellectual property rights (*Agreement on TRIPS, Art. 68).*
 7. The *Council for TRIPS* shall carry out such other responsibilities as assigned to it by the Members, and it shall, in particular, provide any assistance requested by them in the context of dispute settlement procedures (*Agreement on TRIPS, Art. 68).*
 8. In carrying out its functions, the *Council* may consult with and seek information from any source it deems appropriate. In consultation with WIPO, the *Council* shall seek to establish, within one year of its first meeting, appropriate arrangements for cooperation with bodies of that Organization (*Agreement on TRIPS, Art. 68).*
- Review and amendment
9. The *Council* may also undertake reviews in the light of any relevant new developments which might warrant modification or amendment of this Agreement (*Agreement on TRIPS, Art. 71:1).*
 10. The *Council* shall review the implementation of this Agreement after the expiration of the transitional period referred to in paragraph 2 of Article 65. The *Council* shall, having regard to the experience gained in its implementation, review it two years after that date, and at identical intervals thereafter (*Agreement on TRIPS, Art. 71:1).*
 11. Amendments merely serving the purpose of adjusting to higher levels of protection of intellectual property rights achieved, and in force, in other multilateral agreements and accepted under those agreements by all Members of the WTO may be referred to the *Ministerial Conference* for action in accordance with paragraph 6 of Article X of the *WTO Agreement* on the basis of a consensus proposal from the *Council (Agreement on TRIPS, Art. 71:2).*
- Notification
12. Members shall notify the laws and regulations referred to in paragraph 1 to the *Council for TRIPS* in order to assist that *Council* in its review of the operation of this Agreement. The *Council* shall attempt to minimize the burden on Members in carrying out this obligation and may decide to waive the obligation to notify such laws and regulations directly to the *Council* if consultations with WIPO on the establishment of a common register containing these laws and regulations are successful. The *Council* shall also consider in this connection any action required regarding notifications pursuant to the obligations under this Agreement stemming from the provisions of Article 6ter of the Paris Convention (1967) (*Agreement on TRIPS, Art. 63:2).*
 13. Any Member availing itself of the possibilities provided in paragraph 3 of Article 5 or paragraph 2 of Article 6 of the Rome Convention shall make a notification as foreseen in those provisions to the *Council for TRIPS (Agreement on TRIPS, Art. 1:3).*
 14. Any Member availing itself of the possibilities provided in Article 6 of the Berne Convention (1971) or paragraph 1(b) of Article 16 of the Rome Convention shall make a

notification as foreseen in those provisions to the *Council for TRIPS* (*Agreement on TRIPS*, Art. 3:1).

15. Exempted from this obligation are any advantage, favour, privilege or immunity accorded by a Member: ... (d) deriving from international agreements related to the protection of intellectual property which entered into force prior to the entry into force of the WTO Agreement, provided that such agreements are notified to the *Council for TRIPS* and do not constitute an arbitrary or unjustifiable discrimination against nationals of other Members (*Agreement on TRIPS*, Art. 4:(d)).

Transitional Arrangements

16. In view of the special needs and requirements of least-developed country Members, their economic, financial and administrative constraints, and their need for flexibility to create a viable technological base, such Members shall not be required to apply the provisions of this Agreement, other than Articles 3, 4 and 5, for a period of 10 years from the date of application as defined under paragraph 1 of Article 65. The *Council for TRIPS* shall, upon duly motivated request by a least-developed country Member, accord extensions of this period (*Agreement on TRIPS*, Art. 66:1).

Geographical Indications

17. The *Council for TRIPS* shall keep under review the application of the provisions of this Section [Geographical Indications]; the first such review shall take place within two years of the entry into force of the WTO Agreement. Any matter affecting the compliance with the obligations under these provisions may be drawn to the attention of the *Council*, which, at the request of a Member, shall consult with any Member or Members in respect of such matter in respect of which it has not been possible to find a satisfactory solution through bilateral or plurilateral consultations between the Members concerned. The *Council* shall take such action as may be agreed to facilitate the operation and further the objectives of this Section (*Agreement on TRIPS*, Art. 24:2).

Further work on specific points

18. In order to facilitate the protection of geographical indications for wines, negotiations shall be undertaken in the *Council for TRIPS* concerning the establishment of a multilateral system of notification and registration of geographical indications for wines eligible for protection in those Members participating in the system (*Agreement on TRIPS*, Art. 23:4).
19. Members may also exclude from patentability: ... (b) plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes. However, Members shall provide for the protection of plant varieties either by patents or by an effective *sui generis* system or by any combination thereof. The provisions of this subparagraph shall be reviewed four years after the date of entry into force of the WTO Agreement (*Agreement on TRIPS*, Art. 27:3).
20. During the time period referred to in paragraph 2, the *Council for TRIPS* shall examine the scope and modalities for complaints of the type provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 made pursuant to this Agreement, and submit its recommendations to the *Ministerial Conference* for approval. Any decision of the *Ministerial Conference* to approve such recommendations or to extend the period in paragraph 2 shall be made only by consensus, and approved recommendations shall be effective for all Members without further formal acceptance process (*Agreement on TRIPS*, Art. 64:3).

II. Provisions Relevant to Rules of Procedure

Article IX of the *WTO Agreement - Decision-Making* is reproduced here on its own because of its general application.

The WTO shall continue the practice of decision-making by consensus followed under GATT 1947.⁹ Except as otherwise provided, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. At meetings of the Ministerial Conference and the General Council, each Member of the WTO shall have one vote. Where the European Communities exercise their right to vote, they shall have a number of votes equal to the number of their member States¹⁰ which are Members of the WTO. Decisions of the Ministerial Conference and the General Council shall be taken by a majority of the votes cast, unless otherwise provided in this Agreement or in the relevant Multilateral Trade Agreement.¹¹

(a) Ministerial Conference

The *Ministerial Conference* shall meet at least once every two years (*WTO Agreement*, Art. IV:1).

(b) General Council

The *General Council* shall establish its rules of procedure (*WTO Agreement*, Art. XVI:1).

(c) Dispute Settlement Body (DSB)

The DSB shall establish such rules of procedure as it deems necessary for the fulfilment of its responsibilities (*WTO Agreement*, Art. IV:3).

Time-frame for DSB Decisions

Unless otherwise agreed to by the parties to the dispute, the period from the date of establishment of the panel by the DSB until the date the DSB considers the panel or appellate report for adoption shall as a general rule not exceed nine months where the panel report is not appealed or 12 months where the report is appealed. Where either the panel or the Appellate Body has acted, pursuant to paragraph 9 of Article 12 or paragraph 5 of Article 17, to extend the time for providing its report, the additional time taken shall be added to the above periods (Art. 20)

(i) Panels

Confidentiality

1. Panel deliberations shall be confidential (Art. 14.1)
2. The reports of panels shall be drafted without the presence of the parties to the dispute in the light of the information provided and the statements made (Art. 14.2)
3. Opinions expressed in the panel report by individual panellists shall be anonymous (Art. 14.3)

Interim Review Stage

4. Following the consideration of rebuttal submissions and oral arguments, the panel shall issue the descriptive (factual and argument) sections of its draft report to the parties to the dispute. Within a period of time set by the panel, the parties shall submit their comments in writing (Art. 15.1)
5. Following the expiration of the set period of time for receipt of comments from the parties to the dispute, the panel shall issue an interim report to the parties, including both the descriptive

⁹A footnote to the text reads: "The body concerned shall be deemed to have decided by consensus on a matter submitted for its consideration, if no Member, present at the meeting when the decision is taken, formally objects to the proposed decision".

¹⁰A footnote to the text reads: "The number of votes of the European Communities and their member States shall in no case exceed the number of the member States of the European Communities".

¹¹A footnote to the text reads: "Decisions by the General Council when convened as the Dispute Settlement Body shall be taken only in accordance with the provisions of paragraph 4 of Article 2 of the Dispute Settlement Understanding".

sections and the panel's findings and conclusions. Within a period of time set by the panel, a party may submit a written request for the panel to review precise aspects of the interim report prior to circulation of the final report to the Members. At the request of a party, the panel shall hold a further meeting with the parties on the issues identified in the written comments. If no comments are received from any party within the comment period, the interim report shall be considered the final panel report and circulated promptly to the Members (Art. 15.2)

6. The findings of the final panel report shall include a discussion of the arguments made at the interim review stage. The interim review stage shall be conducted within the time-period set out in paragraph 8 of Article 12 (Art. 15.3)

Adoption of Panel Reports

7. In order to provide sufficient time for the Members to consider panel reports, the reports shall not be considered for adoption by the DSB until 20 days after the date they have been circulated to the Members (Art. 16.1)
8. Members having objections to a panel report shall give written reasons to explain their objections for circulation at least 10 days prior to the DSB meeting at which the panel report will be considered (Art. 16.3)
9. The parties to a dispute shall have the right to participate fully in the consideration of the panel report by the DSB, and their views shall be fully recorded (Art. 16.3)
10. Within 60 days after the date of circulation of a panel report to the Members, the report shall be adopted at a DSB meeting¹² unless a party to the dispute formally notifies the DSB of its decision to appeal or the DSB decides by consensus not to adopt the report. If a party has notified its decision to appeal, the report by the panel shall not be considered for adoption by the DSB until after completion of the appeal. This adoption procedure is without prejudice to the right of Members to express their views on a panel report (Art. 16.4)

Panel Procedures (*Understanding on Dispute Settlement*, Art. 12)

11. Panels shall follow the Working Procedures in Appendix 3 unless the panel decides otherwise after consulting the parties to the dispute (Para. 1)
12. Panel procedures should provide sufficient flexibility so as to ensure high-quality panel reports, while not unduly delaying the panel process (Para. 2)
13. After consulting the parties to the dispute, the panellists shall, as soon as practicable and whenever possible within one week after the composition and terms of reference of the panel have been agreed upon, fix the timetable for the panel process, taking into account the provisions of paragraph 9 of Article 4, if relevant (Para. 3)
14. In determining the timetable for the panel process, the panel shall provide sufficient time for the parties to the dispute to prepare their submissions (Para. 4)
15. Panels should set precise deadlines for written submissions by the parties and the parties should respect those deadlines (Para. 5)
16. Each party to the dispute shall deposit its written submissions with the Secretariat for immediate transmission to the panel and to the other party or parties to the dispute. The complaining party shall submit its first submission in advance of the responding party's first submission unless the panel decides, in fixing the timetable referred to in paragraph 3 and after consultations with the parties to the dispute, that the parties should submit their first submissions simultaneously. When there are sequential arrangements for the deposit of first submissions, the panel shall establish a firm time-period for receipt of the responding party's submission. Any subsequent written submissions shall be submitted simultaneously (Para. 6)
17. Where the parties to the dispute have failed to develop a mutually satisfactory solution, the panel shall submit its findings in the form of a written report to the DSB. In such cases, the report of a panel shall set out the findings of fact, the applicability of relevant provisions and the basic rationale behind any findings and recommendations that it makes. Where a settlement of the

¹²A footnote to the text reads: "If a meeting of the DSB is not scheduled within this period at a time that enables the requirements of paragraphs 1 and 4 of Article 16 to be met, a meeting of the DSB shall be held for this purpose".

- matter among the parties to the dispute has been found, the report of the panel shall be confined to a brief description of the case and to reporting that a solution has been reached (Para. 7)
18. In order to make the procedures more efficient, the period in which the panel shall conduct its examination, from the date that the composition and terms of reference of the panel have been agreed upon until the date the final report is issued to the parties to the dispute, shall, as a general rule, not exceed six months. In cases of urgency, including those relating to perishable goods, the panel shall aim to issue its report to the parties to the dispute within three months (Para. 8)
 19. When the panel considers that it cannot issue its report within six months, or within three months in cases of urgency, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will issue its report. In no case should the period from the establishment of the panel to the circulation of the report to the Members exceed nine months (Para. 9)
 20. In the context of consultations involving a measure taken by a developing country Member, the parties may agree to extend the periods established in paragraphs 7 and 8 of Article 4. If, after the relevant period has elapsed, the consulting parties cannot agree that the consultations have concluded, the Chairman of the DSB shall decide, after consultation with the parties, whether to extend the relevant period and, if so, for how long. In addition, in examining a complaint against a developing country Member, the panel shall accord sufficient time for the developing country Member to prepare and present its argumentation. The provisions of paragraph 1 of Article 20 and paragraph 4 of Article 21 are not affected by any action pursuant to this paragraph (Para. 10)
 21. Where one or more of the parties is a developing country Member, the panel's report shall explicitly indicate the form in which account has been taken of relevant provisions on differential and more-favourable treatment for developing country Members that form part of the covered agreements which have been raised by the developing country Member in the course of the dispute settlement procedures (Para. 11)
 22. The panel may suspend its work at any time at the request of the complaining party for a period not to exceed 12 months. In the event of such a suspension, the time-frames set out in paragraphs 8 and 9 of this Article, paragraph 1 of Article 20, and paragraph 4 of Article 21 shall be extended by the amount of time that the work was suspended. If the work of the panel has been suspended for more than 12 months, the authority for establishment of the panel shall lapse (Para. 12)
Procedures for Multiple Complainants
 23. Where more than one Member requests the establishment of a panel related to the same matter, a single panel may be established to examine these complaints taking into account the rights of all Members concerned. A single panel should be established to examine such complaints whenever feasible (Art. 9.1)
 24. The single panel shall organize its examination and present its findings to the DSB in such a manner that the rights which the parties to the dispute would have enjoyed had separate panels examined the complaints are in no way impaired. If one of the parties to the dispute so requests, the panel shall submit separate reports on the dispute concerned. The written submissions by each of the complainants shall be made available to the other complainants, and each complainant shall have the right to be present when any one of the other complainants presents its views to the panel (Art. 9.2)
 25. If more than one panel is established to examine the complaints related to the same matter, to the greatest extent possible the same persons shall serve as panellists on each of the separate panels and the timetable for the panel process in such disputes shall be harmonized (Art. 9.3)
Third Parties
 26. The interests of the parties to a dispute and those of other Members under a covered agreement at issue in the dispute shall be fully taken into account during the panel process (Art. 10.1)
 27. Any Member having a substantial interest in a matter before a panel and having notified its interest to the DSB (referred to in this Understanding as a "third party") shall have an opportunity to be heard by the panel and to make written submissions to the panel. These submissions shall also be given to the parties to the dispute and shall be reflected in the panel report (Art. 10.2)

28. Third parties shall receive the submissions of the parties to the dispute to the first meeting of the panel (Art. 10.3)
 29. If a third party considers that a measure already the subject of a panel proceeding nullifies or impairs benefits accruing to it under any covered agreement, that Member may have recourse to normal dispute settlement procedures under this Understanding. Such a dispute shall be referred to the original panel wherever possible (Art. 10.4)
- Special Procedures Involving Least-Developed Country Members
30. At all stages of the determination of the causes of a dispute and of dispute settlement procedures involving a least-developed country Member, particular consideration shall be given to the special situation of least-developed country Members. In this regard, Members shall exercise due restraint in raising matters under these procedures involving a least-developed country Member. If nullification or impairment is found to result from a measure taken by a least-developed country Member, complaining parties shall exercise due restraint in asking for compensation or seeking authorization to suspend the application of concessions or other obligations pursuant to these procedures (Art.24.1)
 31. In dispute settlement cases involving a least-developed country Member, where a satisfactory solution has not been found in the course of consultations the Director-General or the Chairman of the DSB shall, upon request by a least-developed country Member offer their good offices, conciliation and mediation with a view to assisting the parties to settle the dispute, before a request for a panel is made. The Director-General or the Chairman of the DSB, in providing the above assistance, may consult any source which either deems appropriate (Art. 24.2)
- Working Procedures for Panels (*Understanding on Dispute Settlement*, Appendix 3)
32. In its proceedings the panel shall follow the relevant provisions of this Understanding. In addition, the following working procedures shall apply (Para. 1)
 33. The panel shall meet in closed session. The parties to the dispute, and interested parties, shall be present at the meetings only when invited by the panel to appear before it (Para. 2)
 34. The deliberations of the panel and the documents submitted to it shall be kept confidential. Nothing in this Understanding shall preclude a party to a dispute from disclosing statements of its own positions to the public. Members shall treat as confidential information submitted by another Member to the panel which that Member has designated as confidential. Where a party to a dispute submits a confidential version of its written submissions to the panel, it shall also, upon request of a Member, provide a non-confidential summary of the information contained in its submissions that could be disclosed to the public (Para. 3)
 35. Before the first substantive meeting of the panel with the parties, the parties to the dispute shall transmit to the panel written submissions in which they present the facts of the case and their arguments (Para. 4)
 36. At its first substantive meeting with the parties, the panel shall ask the party which has brought the complaint to present its case. Subsequently, and still at the same meeting, the party against which the complaint has been brought shall be asked to present its point of view (Para. 5)
 37. All third parties which have notified their interest in the dispute to the DSB shall be invited in writing to present their views during a session of the first substantive meeting of the panel set aside for that purpose. All such third parties may be present during the entirety of this session (Para. 6)
 38. Formal rebuttals shall be made at a second substantive meeting of the panel. The party complained against shall have the right to take the floor first to be followed by the complaining party. The parties shall submit, prior to that meeting, written rebuttals to the panel (Para. 7)
 39. The panel may at any time put questions to the parties and ask them for explanations either in the course of a meeting with the parties or in writing (Para. 8)
 40. The parties to the dispute and any third party invited to present its views in accordance with Article 10 shall make available to the panel a written version of their oral statements (Para. 9)
 41. In the interest of full transparency, the presentations, rebuttals and statements referred to in paragraphs 5 to 9 shall be made in the presence of the parties. Moreover, each party's written

submissions, including any comments on the descriptive part of the report and responses to questions put by the panel, shall be made available to the other party or parties (Para. 10)

42. Any additional procedures specific to the panel (Para. 11)
43. Proposed timetable for panel work (Para. 12)
The above calendar [not reproduced] may be changed in the light of unforeseen developments. Additional meetings with the parties shall be scheduled if required.

(ii) Expert Review Groups (*Understanding on Dispute Settlement*, Appendix 4)

1. The following rules and procedures shall apply to expert review groups established in accordance with the provisions of paragraph 2 of Article 13.
2. Expert review groups are under the panel's authority. Their terms of reference and detailed working procedures shall be decided by the panel, and they shall report to the panel (Para. 1)
3. Participation in expert review groups shall be restricted to persons of professional standing and experience in the field in question (Para. 2)
4. Expert review groups may consult and seek information and technical advice from any source they deem appropriate. Before an expert review group seeks such information or advice from a source within the jurisdiction of a Member, it shall inform the government of that Member. Any Member shall respond promptly and fully to any request by an expert review group for such information as the expert review group considers necessary and appropriate (Para. 4)
5. The parties to a dispute shall have access to all relevant information provided to an expert review group, unless it is of a confidential nature. Confidential information provided to the expert review group shall not be released without formal authorization from the government, organization or person providing the information. Where such information is requested from the expert review group but release of such information by the expert review group is not authorized, a non-confidential summary of the information will be provided by the government, organization or person supplying the information (Para. 5)
6. The expert review group shall submit a draft report to the parties to the dispute with a view to obtaining their comments, and taking them into account, as appropriate, in the final report, which shall also be issued to the parties to the dispute when it is submitted to the panel. The final report of the expert review group shall be advisory only (Para. 6)

(iii) Standing Appellate Body

Procedures for Appellate Review

1. Working procedures shall be drawn up by the Appellate Body in consultation with the Chairman of the DSB and the Director-General, and communicated to the Members for their information (Art. 17.9)
2. The proceedings of the Appellate Body shall be confidential. The reports of the Appellate Body shall be drafted without the presence of the parties to the dispute and in the light of the information provided and the statements made (Art. 17.10)
3. Opinions expressed in the Appellate Body report by individuals serving on the Appellate Body shall be anonymous (Art. 17.11)
4. The Appellate Body shall address each of the issues raised in accordance with paragraph 6 during the appellate proceeding (Art. 17.12)
5. The Appellate Body may uphold, modify or reverse the legal findings and conclusions of the panel (Art. 17.13)

Adoption of Appellate Body Reports

6. An Appellate Body report shall be adopted by the DSB and unconditionally accepted by the parties to the dispute unless the DSB decides by consensus not to adopt the Appellate Body report within

30 days following its circulation to the Members.¹³ This adoption procedure is without prejudice to the right of Members to express their views on an Appellate Body report (Art. 17.14)

7. As a general rule, the proceedings shall not exceed 60 days from the date a party to the dispute formally notifies its decision to appeal to the date the Appellate Body circulates its report. In fixing its timetable the Appellate Body shall take into account the provisions of paragraph 9 of Article 4, if relevant. When the Appellate Body considers that it cannot provide its report within 60 days, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will submit its report. In no case shall the proceedings exceed 90 days (Art. 17.5).

Communications with the Panel or Appellate Body

8. There shall be no *ex parte* communications with the panel or Appellate Body concerning matters under consideration by the panel or Appellate Body (Art. 18.1)
9. Written submissions to the panel or the Appellate Body shall be treated as confidential, but shall be made available to the parties to the dispute. Nothing in this Understanding shall preclude a party to a dispute from disclosing statements of its own positions to the public. Members shall treat as confidential information submitted by another Member to the panel or the Appellate Body which that Member has designated as confidential. A party to a dispute shall also, upon request of a Member, provide a non-confidential summary of the information contained in its written submissions that could be disclosed to the public (Art. 18.2)

(d) Trade Policy Review Body

The *Trade Policy Review Body* shall establish such rules of procedure as it deems necessary for the fulfilment of its responsibilities (*WTO Agreement*, Art. IV:4).

(e) Council for Trade in Goods

1. The *Council for Trade in Goods* shall establish its rules of procedure subject to the approval of the *General Council* (*WTO Agreement*, Art. IV:5).
2. The *Council for Trade in Goods* shall establish subsidiary bodies as required. These subsidiary bodies shall establish their respective rules of procedure subject to the approval of the Council (*WTO Agreement*, Art. IV:6).

(i) Committee on Sanitary and Phytosanitary Measures

The *Committee* shall reach its decisions by consensus (*Agreement on Sanitary and Phytosanitary Measures*, Art. 12:1).

(ii) Textiles Monitoring Body (TMB)

1. The TMB shall develop its own working procedures. It is understood, however, that consensus within the TMB does not require the assent or concurrence of members appointed by Members involved in an unresolved issue under review by the TMB (*Agreement on Textiles and Clothing*, Art. 8:2).
2. The TMB shall meet as necessary to carry out the functions required of it under this Agreement (*Agreement on Textiles and Clothing*, Art.8:3).

¹³A footnote to the text reads: "If a meeting of the DSB is not scheduled during this period, such a meeting of the DSB shall be held for this purpose".

(iii) Committee on Technical Barriers to Trade

The *Committee* shall meet as necessary, but not less than once a year, for the purpose of affording Members the opportunity of consulting on any matters relating to the operation of this Agreement or the furtherance of its objectives (*Agreement on Technical Barriers*, Art. 13:1).

(iv) Committee on Trade-Related Investment Measures

The *Committee* shall meet not less than once a year and otherwise at the request of any Member (*Agreement on TRIMS*, Art. 7:1).

(v) Committee on Anti-Dumping Practices

The *Committee* shall meet not less than twice a year and otherwise as envisaged by relevant provisions of this Agreement at the request of any Member (*Agreement on Implementation of Article VI*, Art. 16:1).

(vi) Committee on Customs Valuation

The *Committee* shall normally meet once a year, or as is otherwise envisaged by the relevant provisions of this Agreement (*Agreement on Customs Valuation*, Art. XVIII:1).

- Technical Committee on Customs Valuation

General

1. The *Technical Committee* shall be assisted as appropriate in its activities by the CCC Secretariat (*Agreement on Implementation of Article VII*, Annex II, para. 4).

Technical Committee Meetings

2. The Secretary-General, or officers of the CCC Secretariat designated by the Secretary-General, shall perform the secretarial work of the meetings of the *Technical Committee* (*Agreement on Implementation of Article VII*, Annex II, para. 19).
3. The *Technical Committee* shall meet as necessary but at least two times a year. The date of each meeting shall be fixed by the *Technical Committee* at its preceding session. The date of the meeting may be varied either at the request of any member of the *Technical Committee* concurred in by a simple majority of the members of the *Technical Committee* or, in cases requiring urgent attention, at the request of the Chairman. Notwithstanding the provisions in sentence 1 of this paragraph, the *Technical Committee* shall meet as necessary to consider matters referred to it by a panel under the provisions of Article 19 of this Agreement (*Agreement on Implementation of Article VII*, Annex II, para. 9).
4. The meetings of the *Technical Committee* shall be held at the headquarters of the CCC unless otherwise decided (*Agreement on Implementation of Article VII*, Annex II, para. 10).
5. The Secretary-General shall inform all members of the *Technical Committee* and those included under paragraphs 6 and 7 at least 30 days in advance, except in urgent cases, of the opening date of each session of the *Technical Committee* (*Agreement on Implementation of Article VII*, Annex II, para. 11).

Agenda

6. A provisional agenda for each session shall be drawn up by the Secretary-General and circulated to the members of the *Technical Committee* and to those included under paragraphs 6 and 7 at least 30 days in advance of the session, except in urgent cases. This agenda shall comprise all items whose inclusion has been approved by the *Technical Committee* during its preceding session, all items included by the Chairman on the Chairman's own initiative, and all items whose inclusion has been requested by the Secretary-General, by the Committee or by any member of the *Technical Committee* (*Agreement on Implementation of Article VII*, Annex II, para. 12)

7. The *Technical Committee* shall determine its agenda at the opening of each session. During the session the agenda may be altered at any time by the *Technical Committee* (*Agreement on Implementation of Article VII*, Annex II, para. 13).
- Officers and Conduct of Business
8. The *Technical Committee* shall elect from among the delegates of its members a Chairman and one or more Vice-Chairmen. The Chairman and Vice-Chairmen shall each hold office for a period of one year. The retiring Chairman and Vice-Chairmen are eligible for re-election. The mandate of a Chairman or Vice-Chairman who no longer represents a member of the *Technical Committee* shall terminate automatically (*Agreement on Implementation of Article VII*, Annex II, para. 14).
 9. If the Chairman is absent from any meeting or part thereof, a Vice-Chairman shall preside. In that event, the latter shall have the same powers and duties as the Chairman (*Agreement on Implementation of Article VII*, Annex II, para. 15).
 10. The Chairman of the meeting shall participate in the proceedings of the *Technical Committee* as such and not as the representative of a member of the *Technical Committee* (*Agreement on Implementation of Article VII*, Annex II, para. 16).
 11. In addition to exercising the other powers conferred upon the Chairman by these rules, the Chairman shall declare the opening and closing of each meeting, direct the discussion, accord the right to speak, and, pursuant to these rules, have control of the proceedings. The Chairman may also call a speaker to order if the speaker's remarks are not relevant (*Agreement on Implementation of Article VII*, Annex II, para. 17).
 12. During discussion of any matter a delegation may raise a point of order. In this event, the Chairman shall immediately state a ruling. If this ruling is challenged, the Chairman shall submit it to the meeting for decision and it shall stand unless overruled (*Agreement on Implementation of Article VII*, Annex II, para. 18).
 13. The Secretary-General, or officers of the CCC Secretariat designated by the Secretary-General, shall perform the secretarial work of meetings of the *Technical Committee* (*Agreement on Implementation of Article VII*, Annex II, para. 19).
- Quorum and Voting
14. Representatives of a simple majority of the members of the *Technical Committee* shall constitute a quorum (*Agreement on Implementation of Article VII*, Annex II, para. 20).
 15. Each member of the *Technical Committee* shall have one vote. A decision of the *Technical Committee* shall be taken by a majority comprising at least two thirds of the members present. Regardless of the outcome of the vote on a particular matter, the *Technical Committee* shall be free to make a full report to the *Committee* and to the CCC on that matter indicating the different views expressed in the relevant discussions. Notwithstanding the above provisions of this paragraph, on matters referred to it by a panel, the *Technical Committee* shall take decisions by consensus. Where no agreement is reached in the *Technical Committee* on the question referred to it by a panel, the *Technical Committee* shall provide a report detailing the facts of the matter and indicating the views of the members (*Agreement on Implementation of Article VII*, Annex II, para. 21).
- Languages and Records
16. The official languages of the *Technical Committee* shall be English, French and Spanish. Speeches or statements made in any of these three languages shall be immediately translated into the other official languages unless all delegations agree to dispense with translation. Speeches or statements made in any other language shall be translated into English, French and Spanish, subject to the same conditions, but in that event the delegation concerned shall provide the translation into English, French or Spanish. Only English, French and Spanish shall be used for the official documents of the *Technical Committee*. Memoranda and correspondence for the consideration of the *Technical Committee* must be presented in one of the official languages (Annex II, para. 22).
 17. The *Technical Committee* shall draw up a report of all its sessions and, if the Chairman considers it necessary, minutes or summary records of its meetings. The Chairman or a designee of the

Chairman shall report on the work of the *Technical Committee* at each meeting of the *Committee* and at each meeting of the CCC (*Agreement on Implementation of Article VII*, Annex II, para. 23).

(vii) Committee on Rules of Origin

The *Committee* shall meet as necessary, but not less than once a year (*Agreement on Rules of Origin*, Art. 4:1).

- Technical Committee

The *Technical Committee* shall establish its own procedures (*Agreement on Rules of Origin*, Annex I, para. 9).

(viii) Committee on Import Licensing

The *Committee* shall meet as necessary (*Agreement on Import Licensing*, Art. 4).

(ix) Committee on Subsidies and Countervailing Measures

The *Committee* shall meet not less than twice a year and otherwise as envisaged by relevant provisions of this Agreement at the request of any Member (*Agreement on Subsidies and Countervailing Measures*, Art. 24:1).

(x) Working Party on State Trading Notifications and Counter-Notifications

The *Working Party* shall meet within a year of the date of entry into force of the *WTO Agreement* and thereafter at least once a year (*Understanding on the Interpretation of Art. XVII*, para. 5).

(f) Council for Trade in Services

1. The *Council* shall establish its rules of procedure subject to the approval of the *General Council* (*WTO Agreement*, Art. IV:5).
2. The *Council* shall establish subsidiary bodies as required. These subsidiary bodies shall establish their respective rules of procedure subject to the approval of the *Council* (*WTO Agreement*, Art. IV:6).

- Negotiating Group on Movement of Natural Persons

The *Negotiating Group* shall establish its own procedures (*Decision on Negotiations on Movement of Natural Persons*, para. 2).

(g) Council for Trade-Related Aspects of Intellectual Property Rights

1. The *Council* shall establish its rules of procedure subject to the approval of the *General Council* (*WTO Agreement*, Art. IV:5).
2. The *Council* shall establish subsidiary bodies as required. These subsidiary bodies shall establish their respective rules of procedure subject to the approval of the *Council* (*WTO Agreement*, Art. IV:6).

(h) Other Bodies

The Uruguay Round Final Act texts do not describe any rules of procedure for the following bodies established thereunder:

- Committee on Trade and Development
- Committee on Balance-of-Payments Provisions
- Committee on Budget, Finance and Administration
- Committee on Agriculture
- Technical Expert Group (on technical barriers)
- Technical Committee on Customs Valuation
- Permanent Group of Experts
- Committee on Safeguards
- Working Group on Notification Obligations and Procedures
- Working Party on Notification Obligations under Article XXIV:7(a)
- Sectoral Committees on Services
- Committee on Trade in Financial Services
- Negotiating Group on Maritime Transport Services
- Negotiating Group on Basic Telecommunications
- Working Party on Professional Services

III. Provisions Relating to Chairmanship

Dispute Settlement Body (DSB)

The DSB may have its own chairman (*WTO Agreement*, Art. IV:3).

Trade Policy Review Body

The *Trade Policy Review Body* may have its own chairman (*WTO Agreement*, Art. IV:4).

Textiles Monitoring Body (TMB)

The TMB shall consist of a Chairman (*Agreement on Textiles and Clothing*, Art. 8:1).

Committee on Technical Barriers to Trade

The *Committee* shall elect its own Chairman (*Agreement on Technical Barriers*, Art. 13:1).

Committee on Trade-Related Investment Measures

The *Committee* shall elect its own Chairman and Vice-Chairman (*Agreement on TRIMS*, Art. 7:1).

Committee on Anti-Dumping Practices

The *Committee* shall elect its own Chairman (*Agreement on Implementation of Article VI*, Art. 16:1).

Committee on Customs Valuation

The *Committee* shall elect its own Chairman (*Agreement on Implementation of Article VI*, Art. 18:1).

Technical Committee on Customs Valuation

The *Technical Committee* shall elect from among the delegates of its members a Chairman and one or more Vice-Chairmen. The Chairman and Vice-Chairmen shall each hold office for a period of one year. The retiring Chairman and Vice-Chairmen are eligible for re-election. The mandate of a Chairman or Vice-Chairman who no longer represents a member of the *Technical Committee* shall terminate automatically (*Agreement on Implementation of Article VII*, Annex II, para. 14).

Committee on Rules of Origin

The *Committee* shall elect its own Chairman (*Agreement on Rules of Origin*, Art. 4:1).

Technical Committee

The *Technical Committee* shall elect its own Chairman (*Agreement on Rules of Origin*, Annex I, para. 9).

Committee on Import Licensing

The *Committee* shall elect its own Chairman and Vice-Chairman (*Agreement on Import Licensing*, Art. 4).

Committee on Subsidies and Countervailing Measures

The *Committee* shall elect its own Chairman (*Agreement on Subsidies and Countervailing Measures*, Art. 24:1).

Council for Trade in Services

The Chairman of the *Council* shall be elected by the Members (*GATS*, Art. XXIV:3).

Other Bodies

The Uruguay Round Final Act texts do not contain any provisions relating to chairmanship for the following bodies established thereunder:

- Ministerial Conference
- General Council
- Expert Review Groups (under the DSB)
- Standing Appellate Body
- Committee on Trade and Development
- Committee on Balance-of-Payments Restrictions
- Committee on Budget, Finance and Administration
- Council for Trade in Goods
- Committee on Agriculture
- Committee on Sanitary and Phytosanitary Measures
- Permanent Group of Experts (on subsidies)
- Committee on Safeguards

- Working Group on Notification Obligations and Procedures
- Working Party on State Trading Notifications and Counter-Notifications
- Working Party on Notifications under Article XXIV:7(a)
- Sectoral Committees on Services
- Negotiating Group on Movement of Natural Persons
- Committee on Trade in Financial Services
- Negotiating Group on Maritime Transport Services
- Negotiating Group on Basic Telecommunications
- Working Party on Professional Services
- Council for Trade-Related Aspects of Intellectual Property Rights

IV. Provisions Relating to Membership

Ministerial Conference

There shall be a *Ministerial Conference* composed of representatives of all the Members (*WTO Agreement*, Art. IV:1).

General Council

There shall be a *General Council* composed of representatives of all Members (*WTO Agreement*, Art. IV:2).

Committee on Trade and Environment

Ministers direct the first meeting of the *General Council* to establish a *Committee on Trade and Environment* open to all Members of the WTO (*Decision on Trade and Environment*).

Dispute Settlement Body (DSB)

The *General Council*, composed of representatives of all Members, "shall convene as appropriate to discharge the responsibilities of the DSB" (*WTO Agreement*, Art. IV:2).

(All references in the sub-paragraphs (i), (ii) and (iii) below are to Articles in the *Understanding on Dispute Settlement*)

(i) Panels: Composition

- (1) Panels shall be composed of well-qualified governmental and/or non-governmental individuals, including persons who have served on or presented a case to a panel, served as a representative of a Member or of a contracting party to GATT 1947 or as a representative to the Council or Committee of any covered agreement or its predecessor agreement, or in the Secretariat, taught or published on international trade law or policy, or served as a senior trade policy official of a Member. (Art.8.1)
- (2) 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 (Art.8.2)

- (3) Citizens of Members whose governments¹⁴ are parties to the dispute or third parties as defined in paragraph 2 of Article 10 shall not serve on a panel concerned with that dispute, unless the parties to the dispute agree otherwise (Art. 8.3)
- (4) To assist in the selection of panellists, the Secretariat shall maintain an indicative list of governmental and non-governmental individuals possessing the qualifications outlined in paragraph 1, from which panellists may be drawn as appropriate. That list shall include the roster of non-governmental panellists established on 30 November 1984 (BISD 31S/9), and other rosters and indicative lists established under any of the covered agreements, and shall retain the names of persons on those rosters and indicative lists at the time of entry into force of the WTO Agreement. Members may periodically suggest names of governmental and non-governmental individuals for inclusion on the indicative list, providing relevant information on their knowledge of international trade and of the sectors or subject matter of the covered agreements, and those names shall be added to the list upon approval by the DSB. For each of the individuals on the list, the list shall indicate specific areas of experience or expertise of the individuals in the sectors or subject matter of the covered agreements (Art.8.4)
- (5) Panels shall be composed of three panellists unless the parties to the dispute agree, within 10 days from the establishment of the panel, to a panel composed of five panellists. Members shall be informed promptly of the composition of the panel (Art.8.5)
- (6) The Secretariat shall propose nominations for the panel to the parties to the dispute. The parties to the dispute shall not oppose nominations except for compelling reasons (Art.8.6)
- (7) If there is no agreement on the panellists within 20 days after the date of the establishment of a panel, at the request of either party, the Director-General, in consultation with the Chairman of the DSB and the Chairman of the relevant Council or Committee, shall determine the composition of the panel by appointing the panellists whom the Director-General considers most appropriate in accordance with any relevant special or additional rules or procedures of the covered agreement or covered agreements which are at issue in the dispute, after consulting with the parties to the dispute. The Chairman of the DSB shall inform the Members of the composition of the panel thus formed no later than 10 days after the date the Chairman receives such a request (Art.8.7)
- (8) Members shall undertake, as a general rule, to permit their officials to serve as panellists (Art.8.8)
- (9) Panellists shall serve in their individual capacities and not as government representatives, nor as representatives of any organization. Members shall therefore not give them instructions nor seek to influence them as individuals with regard to matters before a panel (Art.8.9)
- (10) When a dispute is between a developing country Member and a developed country Member the panel shall, if the developing country Member so requests, include at least one panellist from a developing country Member (Art.8.10)
- (11) Panellists' expenses, including travel and subsistence allowance, shall be met from the WTO budget in accordance with criteria to be adopted by the General Council, based on recommendations of the Committee on Budget, Finance and Administration (Art.8.11)

(ii) Expert Review Groups

- (1) Participation in expert review groups shall be restricted to persons of professional standing and experience in the field in question (Appendix 4, para. 2).
- (2) Citizens of parties to the dispute shall not serve on an expert review group without the joint agreement of the parties to the dispute, except in exceptional circumstances when the panel considers that the need for specialized scientific expertise cannot be fulfilled otherwise. Government officials of parties to the dispute shall not serve on an expert review group.

¹⁴In the case where customs unions or common markets are parties to a dispute, this provision applies to citizens of all member countries of the customs unions or common markets.

Members of expert review groups shall serve in their individual capacities and not as government representatives, nor as representatives of any organization (Appendix 4, para. 3).

(iii) Standing Appellate Body

- (1) The *Appellate Body* shall be composed of seven persons, three of whom shall serve on any one case. Persons serving on the *Appellate Body* shall serve in rotation. Such rotation shall be determined in the working procedures of the *Appellate Body* (Art. 17:1).
- (2) The DSB shall appoint persons to serve on the *Appellate Body* for a four-year term, and each person may be reappointed once. However, the terms of three of the seven persons appointed immediately after the entry into force of the *WTO Agreement* shall expire at the end of two years, to be determined by lot. Vacancies shall be filled as they arise. A person appointed to replace a person whose term of office has not expired shall hold office for the remainder of the predecessor's term (Art. 17:2).
- (3) The *Appellate Body* shall comprise persons of recognized authority, with demonstrated expertise in law, international trade and the subject matter of the covered agreements generally. They shall be unaffiliated with any government. The *Appellate Body* membership shall be broadly representative of membership in the WTO (Art. 17:3).

Trade Policy Review Body

The *General Council*, composed of representatives of all Members, "shall convene as appropriate to discharge the responsibilities of the *Trade Policy Review Body*" (*WTO Agreement*, Art. IV:2).

Committee on Trade and Development

Membership in this *Committee* shall be open to representatives of all Members (*WTO Agreement*, Art. IV:7).

Committee on Balance-of-Payments Restrictions

Membership in this *Committee* shall be open to representatives of all Members (*WTO Agreement*, Art. IV:7). Membership of the *Committee* is open to all Members indicating their wish to serve on it (*Understanding on the BOP Provisions of GATT 1994*, para. 5).

Committee on Budget, Finance and Administration

Membership in this *Committee* shall be open to representatives of all Members (*WTO Agreement*, Art. IV:7).

Council for Trade in Goods

Membership in this *Council* shall be open to representatives of all Members (*WTO Agreement*, Art. IV:5).

Textiles Monitoring Body (TMB)

The TMB shall consist of 10 members. Its membership shall be balanced and broadly representative of the Members and shall provide for rotation of its members at appropriate intervals. The members shall be appointed by Members designated by the *Council for*

Trade in Goods to serve on the TMB, discharging their function on an *ad personam* basis (*Agreement on Textiles and Clothing*, Art. 8.1).

Committee on Technical Barriers to Trade

The *Committee* shall be composed of representatives from each of the Members (*Agreement on Technical Barriers*, Art. 13.1).

Committee on Trade-Related Investment Measures

The *Committee* shall be open to all Members (*Agreement on TRIMS*, Art. 7:1).

Committee on Anti-Dumping Practices

The *Committee* shall be composed of representatives from each of the Members (*Agreement on Implementation of Article VI*, Art. 16:1).

Committee on Customs Valuation

The *Committee* shall be composed of representatives from each of the Members (*Agreement on Customs Valuation*, Art. 18:1).

Technical Committee on Customs Valuation

1. Each Member shall have the right to be represented on the *Technical Committee*. Each Member may nominate one delegate and one or more alternates to be its representatives on the *Technical Committee*. Such a Member so represented on the *Technical Committee* is referred to in this Annex as a "member of the Technical Committee". Representatives of member so the *Technical Committee* may be assisted by advisers. The WTO Secretariat may also attend such meetings with observer status (*Agreement on Customs Valuation*, Annex II, para. 5).
2. Members of the CCC which are not Members of the WTO may be represented at meetings of the *Technical Committee* by one delegate and one or more alternates. Such representatives shall attend meetings of the *Technical Committee* as observers (*Agreement on Customs Valuation*, Annex II, para. 6).
3. Subject to the approval of the Chairman of the *Technical Committee*, the Secretary-General of the CCC may invite representatives of governments which are neither Members of the WTO nor members of the CCC and representatives of international governmental and trade organizations to attend meetings of the *Technical Committee* as observers (*Agreement on Customs Valuation*, Annex II, para. 7).

Committee on Rules of Origin

The *Committee* shall be composed of the representatives from each of the Members (*Agreement on Rules of Origin*, Art. 4:1).

Technical Committee on Rules of Origin

Each Member shall have the right to be represented on the *Technical Committee* (*Agreement on Rules of Origin*, Annex I, para. 4).

Committee on Import Licensing

The *Committee* shall be composed of representatives from each of the Members (*Agreement on Import Licensing*, Art. 4).

Committee on Subsidies and Countervailing Measures

The *Committee* shall be composed of representatives from each of the Members (*Agreement on Subsidies and Countervailing Measures*, Art. 24:1).

Permanent Group of Experts (on subsidies)

The *Permanent Group of Experts* (PGE) shall be composed of five independent persons, highly qualified in the fields of subsidies and trade relations. The experts will be elected by the *Committee* and one of them will be replaced every year. The PGE may be requested to assist a panel, as provided for in paragraph 5 of Article 4 (*Agreement on Subsidies and Countervailing Measures*, Art. 24:3).

Committee on Safeguards

The *Committee* shall be open to the participation of any Member indicating its wish to serve on it (*Agreement on Safeguards*, Art. 13:1)

Working Party on State Trading Notifications and Counter-Notifications

Membership shall be open to all Members indicating their wish to serve on it (*Understanding on the Interpretation of Art. XVII*, para. 5).

Council for Trade in Services

1. Membership in this *Council* shall be open to representatives of all Members (*WTO Agreement*, Art. IV:5).
2. Unless the *Council* decides otherwise, its subsidiary bodies shall be open to participation by representatives of all Members (*GATS*, Art. XXIV:2).

Council for Trade-Related Aspects of Intellectual Property Rights

Membership in this *Council* shall be open to representatives of all Members (*WTO Agreement*, Art. IV:5).

Other Bodies

The Uruguay Round Final Act texts do not contain any provisions relating to membership for the following bodies established thereunder:

- Committee on Agriculture
- Committee on Sanitary and Phytosanitary Measures
- Technical Expert Group (on Technical Barriers)
- Working Group on Notification Obligations and Procedures
- Working Party on Notifications under Article XXIV:7(a)
- Sectoral Committees on Services
- Negotiating Group on Movement of Natural Persons
- Committee on Trade in Financial Services

- Negotiating Group on Maritime Transport Services
- Negotiating Group on Basic Telecommunications
- Working Party on Professional Services

V. GATT 1947 Bodies That Have No Counterpart in the WTO Agreements

1. Consultative Group of Eighteen

Terms of reference:

The task of the *Group* is to facilitate the carrying out, by the CONTRACTING PARTIES, of their responsibilities, particularly with respect to:

- (i) following international trade developments with a view to the pursuit and maintenance of trade policies consistent with the objectives and principles of the General Agreement;
- (ii) the forestalling, whenever possible, of sudden disturbances that could represent a threat to the multilateral trading system and to international trade relations generally; and action to deal with such disturbances if they in fact occur;
- (iii) the international adjustment process and the co-ordination, in this context, between the GATT and the IMF.

In the pursuit of its task, the *Group* shall take into account the special characteristics and requirements of the economies of the developing countries and their problems.

The *Group* shall not impinge upon the competence or authority of the CONTRACTING PARTIES or of the *Council* and shall not assume, or detract from, any of the decision-making responsibilities of these two bodies or of the permanent GATT Committees.

The *Group's* membership shall be balanced and broadly representative, due regard being had to rotation of membership as appropriate.

2. Committee on Tariff Concessions

Terms of reference:

To supervise the task of keeping the GATT schedules up to date; to supervise the staging of tariff reductions; to provide a forum for discussion of questions relating to tariffs; and to report periodically to the *Council*.

3. Technical Group on Quantitative Restrictions and Other Non-Tariff Measures

Terms of reference:

- (i) A *Technical Group*, open to all contracting parties, is established for the purpose of finalizing not later than March 1987 the updating of the documentation previously prepared by the *Group on Quantitative Restrictions and Other Non-Tariff Measures*.
- (ii) The same *Group* will conduct the subsequent updating and analysis of documentation in accordance with the timetable and procedures agreed by the CONTRACTING PARTIES in 1984 and 1985 (BISD 31S/227-228, BISD 32S/92-93).

4. Joint Advisory Group on the International Trade Centre UNCTAD/GATT

Terms of reference:

To meet annually to review the activities of the *Centre* and formulate recommendations to the governing bodies of UNCTAD and GATT.

APPENDIX I

RULES OF PROCEDURE FOR SESSIONS OF THE CONTRACTING PARTIES¹⁵

(From BISD 12S/10-16)

Chapter I — Sessions

Rule 1

Sessions of the CONTRACTING PARTIES shall be held from time to time as required. The date of each session shall be fixed by the CONTRACTING PARTIES at a previous session. A session may, however, be held at another date on the initiative of the Chairman, or at the request of a contracting party concurred in by the majority of the contracting parties. Notice of the convening of any such session shall be given to contracting parties at least twenty-one days in advance of the session.

Chapter II — Agenda

Rule 2

The provisional agenda for each session shall be drawn up by the Secretary in consultation with the Chairman and shall be communicated to the contracting parties at least five weeks before the date of the meeting. It shall be open to any contracting party to propose items for inclusion in this provisional agenda up to six weeks from the date of the meeting.¹⁶

Rule 3

The first item of business at each session shall be the consideration and approval of an agenda.

Rule 4

The agenda may be amended at any time or priority given to certain items.

Chapter III — Credentials

Rule 5

Each contracting party as defined in the General Agreement on Tariffs and Trade shall be represented by an accredited representative.

Rule 6

Each representative may be accompanied by such alternate representatives and advisers as he may require.

Rule 7

The credentials of representatives shall be submitted to the Secretary at least one week before the opening of a meeting. They shall take the form of a communication from or on behalf of the Minister for Foreign Affairs authorizing the representative to perform on behalf of the contracting party the functions indicated in Article XXV of the General Agreement on Tariffs and Trade. The Chairman after consulting with the Secretary shall draw attention to any case where a representative has omitted to present his credentials in due time and form.

¹⁵These rules incorporate the amendments published in the Seventh Supplement to the Basic Instruments and Selected Documents, as well as those adopted at the twenty-first session.

¹⁶It was agreed at the eleventh session that the inclusion of any additional items proposed for the agenda and submitted under "Other Business" would depend upon the agreement of the CONTRACTING PARTIES.

Chapter IV — Observers

Rule 8

The representatives of countries signatories of the Final Act adopted at the conclusion of the United Nations Conference on Trade and Employment at Havana which have not become contracting parties may attend meetings in the capacity of observers participating in the discussions without vote.

Rule 9

Representatives of other governments invited to the United Nations Conference on Trade and Employment and of intergovernmental organizations may attend the meetings as observers on the invitation of the CONTRACTING PARTIES and, on the invitation of the CONTRACTING PARTIES, participate without vote in accordance with the terms of such invitation.

Chapter V — Officers

Rule 10

During the course of each regular session a Chairman, a First Vice-Chairman and two other Vice-Chairmen shall be elected from among the representatives. They shall hold office from the end of that session until the end of the next regular session.

Rule 11

If the Chairman is absent from any meeting or part thereof, the First Vice-Chairman shall preside. If the First Vice-Chairman is also absent, one of the other Vice-Chairmen shall preside, and if no Vice-Chairman is present the CONTRACTING PARTIES shall elect a Chairman for that meeting or that part of the meeting.

Rule 12

If the Chairman ceases to represent a contracting party, or is so incapacitated that he can no longer hold office, the CONTRACTING PARTIES shall designate one of the Vice-Chairmen to perform the functions of the Chairman pending election of a new Chairman in accordance with rule 10.

Rule 13

The Vice-Chairman acting as Chairman shall have the same powers and duties as the Chairman.

Rule 14

The Chairman or the Vice-Chairman acting as Chairman shall normally participate in the proceedings as such and not as the representative of a contracting party. He may, however, at any time request that he be permitted to act in either capacity.

Rule 15

The usual duties of a secretariat shall, by agreement with the Interim Commission for the International Trade Organization, be performed by the Executive Secretary of the Interim Commission on a reimbursable basis.

Chapter VI — Conduct of business

Rule 16

A simple majority of the contracting parties shall constitute a quorum.

Rule 17

In addition to exercising the powers conferred upon him elsewhere by these rules, the Chairman shall declare the opening and closing of each meeting, shall direct the discussion, accord the right to speak, put questions to the vote, announce decisions, rule on points of order and, subject to these rules, have complete control of the proceedings. The Chairman may also call a speaker to order if his remarks are not relevant.

Rule 18

During the discussion of any matter, a representative may raise a point of order. In this case the Chairman shall immediately state his ruling. If his ruling is challenged, the Chairman shall immediately submit it for decision and it shall stand unless overruled.

Rule 19

During the discussion of any matter a representative may move the adjournment of the debate. Any such motion shall have priority. In addition to the proposer of the motion, one representative may be allowed to speak in favour of, and two representatives against, the motion.

Rule 20

A representative may at any time move the closure of the debate. In addition to the mover of the motion, not more than one representative may be granted permission to speak in favour of the motion and not more than two representatives may be granted permission to speak against the motion, after which the motion shall be put to the vote immediately.

Rule 21

During the course of the debate, the Chairman may announce the list of speakers and, with the consent of the meeting, declare the list closed. He may, however, accord the right of reply to any representative if a speech delivered after he has declared the list closed makes this desirable.

Rule 22

The Chairman, with the consent of the CONTRACTING PARTIES, may limit the time allowed to each speaker.

Rule 23

Proposals and amendments shall normally be introduced in writing and circulated to all representatives not later than twelve hours before the commencement of the meeting at which they are to be discussed.

Rule 24

If two or more proposals are moved relating to the same question, the meeting shall first vote on the most far-reaching proposal and then on the next most far-reaching proposal and so on.

Rule 25

When an amendment is moved to a proposal, the amendment shall be put to the vote first and, if it is adopted, the amended proposal shall then be put to the vote.

Rule 26

When two or more amendments are moved to a proposal, the meeting shall vote first on the amendment farthest removed in substance from the original proposal, then, if necessary, on the amendment next farthest removed, and so on until all the amendments have been put to the vote.

Rule 27

Parts of a proposal may be voted on separately if a representative requests that the proposal be divided.

Chapter VII — Voting

Rule 28

Except as otherwise specified in the General Agreements on Tariffs and Trade, decisions shall be taken by a majority of the representatives present and voting.

Rule 29

Each contracting party shall be entitled to one vote.

Chapter VIII — Committees

Rule 30

Such committees and sub-committees as may be necessary may be established.

Rule 31

A simple majority of the members of a committee shall constitute a quorum.

Rule 32

The provisions of rules 16 to 29 shall be applied in the proceedings of committees.

Chapter IX — Languages

Rule 33

Subject to the provisions of rule 34, English and French shall be the working languages.

Rule 34

A decision, by unanimous agreement, may be taken at any meeting to adopt a rule of procedure regarding interpretations of a more simple character than rule 33.

Chapter X — Records

Rule 35

Summary records of the meetings of the CONTRACTING PARTIES shall be kept by the Secretariat. They shall be sent as soon as possible to all representatives who shall inform the Secretariat not later than twenty-four hours after the circulation of the summary record of any changes they wish to have made.

Rule 36

Committees may decide to adopt records of a more simple form than those mentioned in rule 35.

Chapter XI — Publicity of meetings

Rule 37

The meetings of the CONTRACTING PARTIES and of committees shall ordinarily be held in private. It may be decided that a particular meeting or meetings should be held in public.

Rule 38

After a private meeting has been held, the Chairman of the body concerned may issue a communiqué to the Press.

Chapter XII — Revision

Rule 39

The CONTRACTING PARTIES may decide at any time to revise these rules or any part of them.

RULES FOR AIRMAIL AND TELEGRAPHIC BALLOTS

1. Decisions of the CONTRACTING PARTIES may, in the intervals between the sessions of the CONTRACTING PARTIES, be taken by airmail or telegraphic ballot.

2. The Chairman of the CONTRACTING PARTIES, upon application by a contracting party for an airmail or telegraphic ballot or upon his own initiative, decides in each case whether the matter is sufficiently urgent to warrant the taking of an airmail or telegraphic ballot and whether such a procedure is practicable.
3. In any case where the Chairman of the CONTRACTING PARTIES decides that an airmail or telegraphic ballot should be taken, he despatches a letter or telegram to each contracting party. The letter or telegram contains such information as the Chairman considers necessary and a clear statement of the question to which each contracting party is requested to answer "yes" or "no".
4. The Chairman of the CONTRACTING PARTIES determines the date and hour by which votes must be received. In exceptional circumstances, the Chairman may, upon request and at his discretion, extend the time-limit for receipt of votes. Any contracting party from which a vote has not been received within such time-limit is regarded as not voting.
5. The governments entitled to participate in an airmail or telegraphic ballot are those which are contracting parties at the time of the decision to submit the matter in question to a vote.