

# GATT <sup>News</sup> WTO

## FROM GATT TO THE WORLD TRADE ORGANIZATION

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### THE STRUCTURE AND ORGANIZATION OF WORK DURING THE TRANSITION FROM THE GATT TO THE WTO

The new World Trade Organization (WTO), resulting from the Uruguay Round negotiations and due to be established on 1 January 1995, will set in motion a substantially expanded multilateral trading system, greater in scope and strength than the current system which has been operating, as the GATT, since 1948. The Uruguay Round produced some 28 agreements with provisions to establish about 20 bodies to administer them, under the WTO as the common institutional framework for the conduct of trade relations among more than 120 member governments.

During this current period of transition from the GATT to the WTO, a substantial amount of work needs to be done to make the institutional framework fully operational as from the 1 January 1995. An infrastructure has been established to undertake this work with the widest possible participation by, and transparency among, the member governments.

#### 1. The WTO Preparatory Committee

The Preparatory Committee for the World Trade Organization was established on 14 April 1994 by the Ministers at the Marrakesh Ministerial Meeting of the Trade Negotiations Committee of the Uruguay Round. The objective of the WTO PrepCom is to ensure an orderly transition from the GATT to the WTO and the efficient operation of the WTO as of the date of its entry into force. The PrepCom is also responsible for final approval of schedules for goods and services, and for discussing proposals to add new issues to the future work programme of the WTO.

Mr Peter Sutherland, in his personal capacity, is Chairman of the PrepCom. Membership is open to all signatories of the Final Act and to any contracting party eligible to become an original member of the WTO in accordance with Article XI of the WTO Agreement. The PrepCom and its sub-committees will cease to exist upon the entry into force of the WTO Agreement.

#### 2. The Sub-Committee on Budget, Finance and Administration

The Ministerial Decision of 14 April 1994 established, under the PrepCom, a Sub-Committee on Budget, Finance and Administration, to be chaired by the Chairman of the GATT Contracting Parties. The Sub-Committee is chaired by Ambassador Andras Szepesi (Hungary) and reports to the PrepCom

on various budgetary, financial and administrative issues, including the question of the seat of the WTO; guidelines for the assessment of WTO members' budgetary contributions; and organizational structure and staffing requirements of the WTO.

### **3. The Sub-Committee on Services**

Also established by the Ministerial Decision of 14 April 1994, the Sub-Committee is chaired by Ambassador Christer Manhusen (Sweden) and is responsible for preparatory work on matters related to the General Agreement on Trade in Services (GATS) and for overseeing the on-going negotiations on maritime transport, movement of natural persons, basic telecommunications and financial services. For the first three of these sectors, the Marrakesh Ministerial Meeting established negotiating groups. In the case of financial services, however, the Ministerial Decision does not require the establishment of a negotiating group, but stipulates that upon the entry into force of the GATS, the Committee on Trade in Financial Services shall monitor such negotiations. In the interim, if no negotiating group is established, the Sub-Committee on Services can provide a forum for any multilateral discussion on financial services negotiations. The Sub-Committee is also responsible for the verification of GATS schedules for final approval by the PrepCom.

### **4. The Sub-Committee on Institutional, Procedural and Legal Matters**

The Sub-Committee is chaired by Ambassador K Kesavapany (Singapore) and was established by the PrepCom on 29 April 1994 to consider and report on institutional, procedural and legal matters, including the terms of reference and rules of procedure for about 20 bodies which will be established as a result of the Uruguay Round Agreements after the entry into force of the WTO; and appropriate arrangements with respect to relations with other governmental and non-government organizations. It is also responsible for making proposals to the PrepCom for transitional arrangements to deal with ongoing activities under the GATT 1947, including the Tokyo Round Agreements, after the WTO comes into force.

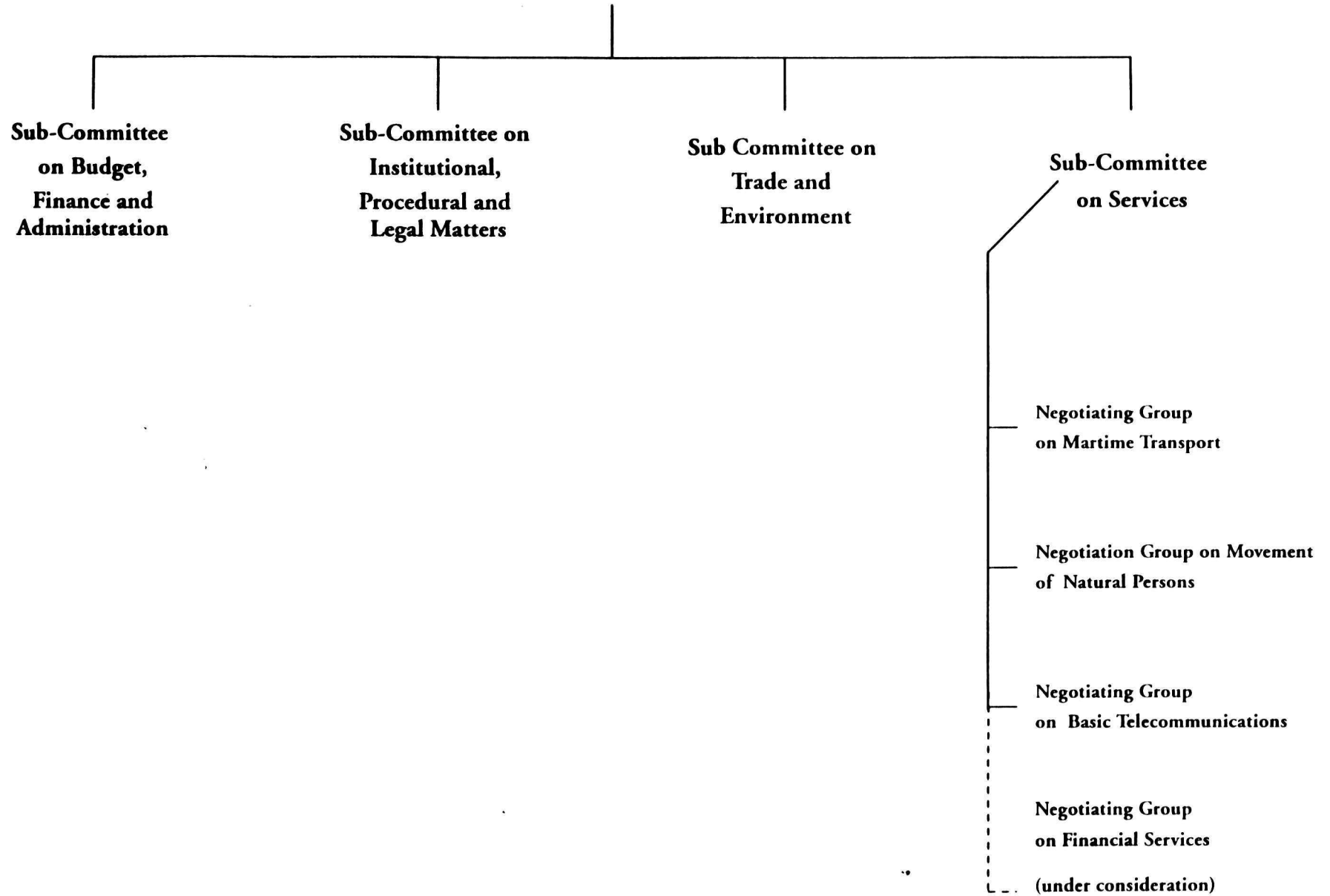
### **5. The Sub-Committee on Trade and Environment**

The Marrakesh Ministerial Decision on Trade and Environment of 14 April 1994 established under the WTO a Committee on Trade and Environment with detailed terms of reference to report to the first biennial Ministerial Conference after entry into force of the WTO when its work and terms of reference will be reviewed. The Ministerial Decision also agreed that, pending the entry into force of the WTO, the work of the Committee on Trade and Environment should be carried out by a Sub-Committee under the PrepCom. The Sub-Committee is chaired by Ambassador Luiz Felipe Lampreia (Brazil).

### **Notes to Editors**

Attached are the texts of the Ministerial Decisions of 14 April 1994 establishing the WTO PrepCom and its sub-committees, the Committee on Trade and Environment, and the Negotiating Groups on specific services sectors.

# WTO PREPARATORY COMMITTEE



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**Decision on the Establishment of the Preparatory Committee  
for the World Trade Organization**

Ministers,

*Having regard to* the Agreement Establishing the World Trade Organization (hereinafter referred to as "WTO Agreement" and "WTO"), and

*Mindful of* the desirability of ensuring an orderly transition to the WTO and the efficient operation of the WTO as of the date of entry into force,

hereby *agree* as follows:

1. A Preparatory Committee for the WTO (hereinafter referred to as "Committee") is hereby established. Mr. P.D. Sutherland in his personal capacity is appointed Chairman of the Committee.
2. The Committee shall be open for membership to all Signatories of the Final Act of the Uruguay Round of Multilateral Trade Negotiations and to any contracting party eligible to become an original member of the WTO in accordance with Article XI of the WTO Agreement.
3. A Sub-Committee on Budget, Finance and Administration, to be chaired by the Chairman of the GATT CONTRACTING PARTIES, and a Sub-Committee on Services responsible for preparatory work on GATS matters are also established. The Committee may establish additional sub-committees as appropriate. Membership of the Sub-Committees shall be open to all members of the Committee. The Committee shall establish its own procedures and those of its sub-committees.
4. The Committee will make all its decisions by consensus.
5. Only those members of the Committee that are GATT contracting parties eligible to become original Members of the WTO in accordance with Articles XI and XIV of the WTO Agreement may participate in the decision-making of the Committee.
6. The Committee and its sub-committees shall be serviced by the GATT Secretariat.
7. The Committee shall cease to exist upon the entry into force of the WTO Agreement, at which time it will forward its records and recommendations to the WTO.
8. The Committee shall perform such functions as may be necessary to ensure the efficient operation of the WTO immediately as of the date of its establishment, including the functions set out below:

(a) Administrative, budgetary and financial matters:

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

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- (i) the headquarters agreement provided for in Article VIII:5 of the WTO Agreement;
  - (ii) financial regulations, including guidelines for the assessment of WTO members' budget contributions, in accordance with the criteria set out in Article VII of the WTO Agreement;
  - (iii) the budget estimates for the first year of operation of the WTO;
  - (iv) the transfer of the property, including financial assets, of the ICITO/GATT to the WTO;
  - (v) the transfer and the terms and conditions of the transfer of the GATT staff to the WTO Secretariat; and
  - (vi) the relationship between the International Trade Centre and the WTO.
- (b) Institutional, procedural and legal matters:
- (i) To carry out the examination of and approve the schedules submitted to it in accordance with the "Decision on Acceptance of and Accession to the Agreement Establishing the World Trade Organization" and to propose terms of accession in accordance with paragraph 2 of that Decision;
  - (ii) 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;
  - (iii) To make recommendations to the General Council of the WTO concerning the appropriate arrangements with respect to relations with other organizations referred to in Article V of the WTO Agreement; and
  - (iv) To prepare and submit a report on its activities to the WTO.
- (c) Matters related to the entry into force of the WTO Agreement and to the activities of the WTO within its scope and functions:
- (i) To convene and prepare the Implementation Conference;
  - (ii) To initiate the work programme arising from the Uruguay Round results as set out in the Final Act, such as overseeing, in the Sub-Committee on Services referred to in paragraph 3 above, negotiations in specific services sectors, and also to undertake work resulting from Decisions of the Marrakesh meeting;
  - (iii) To discuss suggestions for the inclusion of additional items on the agenda of the WTO's work programme;
  - (iv) To make proposals concerning the composition of the Textiles Monitoring Body in accordance with the criteria set out in Article 8 of the Agreement on Textiles and Clothing; and

- (v) To convene the first meeting of the Ministerial Conference or the General Council of the WTO, whichever meets first, and to prepare the provisional agenda thereof.

### **Decision on Trade and Environment**

*Ministers*, meeting on the occasion of signing the Final Act embodying the results of the Uruguay Round of Multilateral Trade Negotiations at Marrakesh on 15 April 1994,

*Recalling* the preamble of the Agreement establishing the World Trade Organization (WTO), which states that members' "relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development,"

*Noting:*

- the Rio Declaration on Environment and Development, Agenda 21, and its follow-up in GATT, as reflected in the statement of the Chairman of the Council of Representatives to the CONTRACTING PARTIES at their 48th Session in December 1992, as well as the work of the Group on Environmental Measures and International Trade, the Committee on Trade and Development, and the Council of Representatives;
- the work programme envisaged in the Decision on Trade in Services and the Environment; and
- the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights,

*Considering* that there should not be, nor need be, any policy contradiction between upholding and safeguarding an open, non-discriminatory and equitable multilateral trading system on the one hand, and acting for the protection of the environment, and the promotion of sustainable development on the other,

*Desiring* to coordinate the policies in the field of trade and environment, and this without exceeding the competence of the multilateral trading system, which is limited to trade policies and those trade-related aspects of environmental policies which may result in significant trade effects for its members,

*Decide:*

- to direct the first meeting of the General Council of the WTO to establish a Committee on Trade and Environment open to all members of the WTO to report to the first biennial meeting of the Ministerial Conference after the entry into force of the WTO when the work and terms of reference of the Committee will be reviewed, in the light of recommendations of the Committee,

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- that the TNC Decision of 15 December 1993 which reads, in part, as follows:
  - "(a) to identify the relationship between trade measures and environmental measures, in order to promote sustainable development;
  - (b) to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the open, equitable and non-discriminatory nature of the system, as regards, in particular:
    - the need for rules to enhance positive interaction between trade and environmental measures, for the promotion of sustainable development, with special consideration to the needs of developing countries, in particular those of the least developed among them; and
    - the avoidance of protectionist trade measures, and the adherence to effective multilateral disciplines to ensure responsiveness of the multilateral trading system to environmental objectives set forth in Agenda 21 and the Rio Declaration, in particular Principle 12; and
    - surveillance of trade measures used for environmental purposes, of trade-related aspects of environmental measures which have significant trade effects, and of effective implementation of the multilateral disciplines governing those measures;"

constitutes, along with the preambular language above, the terms of reference of the Committee on Trade and Environment,

- that, within these terms of reference, and with the aim of making international trade and environmental policies mutually supportive, the Committee will initially address the following matters, in relation to which any relevant issue may be raised:
  - the relationship between the provisions of the multilateral trading system and trade measures for environmental purposes, including those pursuant to multilateral environmental agreements;
  - the relationship between environmental policies relevant to trade and environmental measures with significant trade effects and the provisions of the multilateral trading system;
  - the relationship between the provisions of the multilateral trading system and:
    - (a) charges and taxes for environmental purposes
    - (b) requirements for environmental purposes relating to products, including standards and technical regulations, packaging, labelling and recycling;
  - the provisions of the multilateral trading system with respect to the transparency of trade measures used for environmental purposes and environmental measures and requirements which have significant trade effects;

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- the relationship between the dispute settlement mechanisms in the multilateral trading system and those found in multilateral environmental agreements;
  - the effect of environmental measures on market access, especially in relation to developing countries, in particular to the least developed among them, and environmental benefits of removing trade restrictions and distortions;
  - the issue of exports of domestically prohibited goods,
- that the Committee on Trade and Environment will consider the work programme envisaged in the Decision on Trade in Services and the Environment and the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights as an integral part of its work, within the above terms of reference,
- that, pending the first meeting of the General Council of the WTO, the work of the Committee on Trade and Environment should be carried out by a Sub-Committee of the Preparatory Committee of the World Trade Organization (PCWTO), open to all members of the PCWTO,
- to invite the Sub-Committee of the Preparatory Committee, and the Committee on Trade and Environment when it is established, to provide input to the relevant bodies in respect of appropriate arrangements for relations with inter-governmental and non-governmental organizations referred to in Article V of the WTO.

### **Decision on Negotiations on Maritime Transport Services**

#### *Ministers,*

*Noting that* commitments scheduled by participants on maritime transport services at the conclusion of the Uruguay Round shall enter into force on an MFN basis at the same time as the Agreement Establishing the World Trade Organization (hereinafter referred to as the "WTO Agreement"),

#### *Decide as follows:*

1. Negotiations shall be entered into on a voluntary basis in the sector of maritime transport services within the framework of the General Agreement on Trade in Services. The negotiations shall be comprehensive in scope, aiming at commitments in international shipping, auxiliary services and access to and use of port facilities, leading to the elimination of restrictions within a fixed time scale.
2. A Negotiating Group on Maritime Transport Services (hereinafter referred to as the "NGMTS") is established to carry out this mandate. The NGMTS shall report periodically on the progress of these negotiations.
3. The negotiations in the NGMTS shall be open to all governments and the European Communities which announce their intention to participate. To date, the following have announced their intention to take part in the negotiations:

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Argentina, Canada, European Communities and their member States, Finland, Hong Kong, Iceland, Indonesia, Korea, Malaysia, Mexico, New Zealand, Norway, Philippines, Poland, Romania, Singapore, Sweden, Switzerland, Thailand, Turkey, United States.

Further notifications of intention to participate shall be addressed to the depositary of the WTO Agreement.

4. The NGMTS shall hold its first negotiating session no later than 16 May 1994. It shall conclude these negotiations and make a final report no later than June 1996. The final report of the NGMTS shall include a date for the implementation of results of these negotiations.

5. Until the conclusion of the negotiations Article II and paragraphs 1 and 2 of the Annex on Article II Exemptions are suspended in their application to this sector, and it is not necessary to list MFN exemptions. At the conclusion of the negotiations, Members shall be free to improve, modify or withdraw any commitments made in this sector during the Uruguay Round without offering compensation, notwithstanding the provisions of Article XXI of the Agreement. At the same time Members shall finalize their positions relating to MFN exemptions in this sector, notwithstanding the provisions of the Annex on Article II Exemptions. Should negotiations not succeed, the Council for Trade in Services shall decide whether to continue the negotiations in accordance with this mandate.

6. Any commitments resulting from the negotiations, including the date of their entry into force, shall be inscribed in the Schedules annexed to the General Agreement on Trade in Services and be subject to all the provisions of the Agreement.

7. Commencing immediately and continuing until the implementation date to be determined under paragraph 4, it is understood that participants shall not apply any measure affecting trade in maritime transport services except in response to measures applied by other countries and with a view to maintaining or improving the freedom of provision of maritime transport services, nor in such a manner as would improve their negotiating position and leverage.

8. The implementation of paragraph 7 shall be subject to surveillance in the NGMTS. Any participant may bring to the attention of the NGMTS any action or omission which it believes to be relevant to the fulfilment of paragraph 7. Such notifications shall be deemed to have been submitted to the NGMTS upon their receipt by the Secretariat.

### **Decision on Negotiations on Movement of Natural Persons**

*Ministers,*

*Noting* the commitments resulting from the Uruguay Round negotiations on the movement of natural persons for the purpose of supplying services;

*Mindful* of the objectives of the General Agreement on Trade in Services, including the increasing participation of developing countries in trade in services and the expansion of their service exports;

*Recognizing* the importance of achieving higher levels of commitments on the movement of natural persons, in order to provide for a balance of benefits under the General Agreement on Trade in Services;

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*Decide* as follows:

1. Negotiations on further liberalization of movement of natural persons for the purpose of supplying services shall continue beyond the conclusion of the Uruguay Round, with a view to allowing the achievement of higher levels of commitments by participants under the General Agreement on Trade in Services.
2. A Negotiating Group on Movement of Natural Persons is established to carry out the negotiations. The group shall establish its own procedures and shall report periodically to the Council on Trade in Services.
3. The negotiating group shall hold its first negotiating session no later than 16 May 1994. It shall conclude these negotiations and produce a final report no later than six months after the entry into force of the Agreement Establishing the World Trade Organization.
4. Commitments resulting from these negotiations shall be inscribed in Members' Schedules of specific commitments.

#### **Decision on Negotiations on Basic Telecommunications**

*Ministers decide* as follows:

1. Negotiations shall be entered into on a voluntary basis with a view to the progressive liberalization of trade in telecommunications transport networks and services (hereinafter referred to as "basic telecommunications") within the framework of the General Agreement on Trade in Services.
2. Without prejudice to their outcome, the negotiations shall be comprehensive in scope, with no basic telecommunications excluded *a priori*.
3. A Negotiating Group on Basic Telecommunications (hereinafter referred to as the "NGBT") is established to carry out this mandate. The NGBT shall report periodically on the progress of these negotiations.
4. The negotiations in the NGBT shall be open to all governments and the European Communities which announce their intention to participate. To date, the following have announced their intention to take part in the negotiations:

Australia, Austria, Canada, Chile, Cyprus, European Communities and their member States, Finland, Hong Kong, Hungary, Japan, Korea, Mexico, New Zealand, Norway, Slovak Republic, Sweden, Switzerland, Turkey, United States.

Further notifications of intention to participate shall be addressed to the depositary of the Agreement Establishing the World Trade Organization.

5. The NGBT shall hold its first negotiating session no later than 16 May 1994. It shall conclude these negotiations and make a final report no later than 30 April 1996. The final report of the NGBT shall include a date for the implementation of results of these negotiations.

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6. Any commitments resulting from the negotiations, including the date of their entry into force, shall be inscribed in the Schedules annexed to the General Agreement on Trade in Services and shall be subject to all the provisions of the Agreement.

7. Commencing immediately and continuing until the implementation date to be determined under paragraph 5, it is understood that no participant shall apply any measure affecting trade in basic telecommunications in such a manner as would improve its negotiating position and leverage. It is understood that this provision shall not prevent the pursuit of commercial and governmental arrangements regarding the provision of basic telecommunications services.

8. The implementation of paragraph 7 shall be subject to surveillance in the NGBT. Any participant may bring to the attention of the NGBT any action or omission which it believes to be relevant to the fulfilment of paragraph 7. Such notifications shall be deemed to have been submitted to the NGBT upon their receipt by the Secretariat.

### Decision on Financial Services

*Ministers,*

*Noting* that commitments scheduled by participants on financial services at the conclusion of the Uruguay Round shall enter into force on an MFN basis at the same time as the Agreement Establishing the World Trade Organization (hereinafter referred to as the "WTO Agreement"),

*Decide* as follows:

1. At the conclusion of a period ending no later than six months after the date of entry into force of the WTO Agreement, Members shall be free to improve, modify or withdraw all or part of their commitments in this sector without offering compensation, notwithstanding the provisions of Article XXI of the General Agreement on Trade in Services. At the same time Members shall finalize their positions relating to MFN exemptions in this sector, notwithstanding the provisions of the Annex on Article II Exemptions. From the date of entry into force of the WTO Agreement and until the end of the period referred to above, exemptions listed in the Annex on Article II Exemptions which are conditional upon the level of commitments undertaken by other participants or upon exemptions by other participants will not be applied.

2. The Committee on Trade in Financial Services 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.

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