

UNDERSTANDING ON THE INTERPRETATION OF ARTICLE XVII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994

Noting that Article XVII provides for obligations on Members in respect of the activities of the state trading enterprises referred to in Article XVII:1, which are required to be consistent with the general principles of non-discriminatory treatment prescribed in the GATT 1994 for governmental measures affecting imports or exports by private traders;

Noting further that Members are subject to their GATT 1994 obligations in respect of those governmental measures affecting state trading enterprises;

Recognizing that this Understanding is without prejudice to the substantive disciplines prescribed in Article XVII;

1. It is agreed that in order to ensure the transparency of the activities of state trading enterprises, such enterprises shall be notified to the Council for Trade in Goods, for review by the working party to be set up under paragraph 5 below, in accordance with the following working definition:

"Governmental and non-governmental enterprises, including marketing boards, which have been granted exclusive or special rights or privileges, including statutory or constitutional powers, in the exercise of which they influence through their purchases or sales the level or direction of imports or exports."

This notification requirement does not apply to imports of products for immediate or ultimate consumption in governmental use or in use by an enterprise as specified above and not otherwise for resale or use in the production of goods for sale.

2. It is agreed that each Member shall conduct a review of its policy with regard to the submission of notifications on state trading enterprises to the Council for Trade in Goods, taking account of the provisions of this Understanding. In carrying out such a review, each Member should have regard to the need to ensure the maximum transparency possible in its notifications so as to permit a clear appreciation of the manner of operation of the enterprises notified and the effect of their operations on international trade.

3. Notifications shall be made in accordance with the 1960 questionnaire on State trading (BISD, 9S/184), it being understood that Members shall notify the enterprises referred to in paragraph 1 above whether or not imports or exports have in fact taken place.

4. Any Member which has reason to believe that another Member has not adequately met its notification obligation may raise the matter with the Member concerned. If the matter is not satisfactorily resolved it may make a counter-notification to the Council for Trade in Goods, for consideration by the working party set up under paragraph 5 below, simultaneously informing the Member concerned. 5. A working party shall be set up, on behalf of the Council for Trade in Goods, to review notifications and counter-notifications. In the light of this review and without prejudice to Article XVII:4(c), the Council for Trade in Goods may make recommendations with regard to the adequacy of notifications and the need for further information. The working party shall also review, in the light of the notifications received, the adequacy of the 1960 questionnaire on state trading and the coverage of state trading enterprises notified under paragraph 1 above. 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. It is understood that the MTO Secretariat will provide a general background paper for the working party on the operations of state trading enterprises as they relate to international trade. Membership of the working party shall be open to all Members indicating their wish to serve on it. It shall meet within a year of the entry into force of the Agreement Establishing the MTO and thereafter at least once a year. It shall report annually to the Council for Trade in Goods.[1]

1. The activities of this working party shall be co-ordinated with those of the working group provided for in section III of the Ministerial Decision on Notification Procedures.