IV. Report on Protection of Intellectual Property Rights Within GATT

BE IT RESOLVED that the American Bar Association favors the government of the United States of America taking appropriate measures, consistent with other concurrent bilateral and multilateral initiatives for the protection of intellectual property rights, to (i) insure that the upcoming round of multilateral trade negotiations under the auspices of the contracting parties of the General Agreement on Tariffs and Trade ("GATT") will consider the lack of adequate and effective protection for intellectual property rights to be a non-tariff barrier to trade, (ii) press, in such negotiations, for the early conclusion of a code such as the pending draft GATT Code on Measures to Discourage the Importation of Counterfeit Goods, and (iii) seek actively within GATT to negotiate and conclude codes and agreements to deal more generally with ineffective and inadequate international protection for intellectual property rights.

REPORT

1. Intellectual property rights include for example, patents, trademarks, tradenames, copyrights, mask works, and industrial designs.

2. In recent years, the lack of laws protecting intellectual property rights and the lack of effective enforcement of those laws where they do exist have become a serious problem in international trade. For example, such conditions deprive U.S. companies of revenues by displacing sales in U.S. and foreign markets and by preventing the recoupment of investments in research and development. The U.S. International Trade Commission has estimated that in 1982 $6-$8 billion in sales and 131,000 jobs were lost due to product counterfeiting alone. In this light, the lack of adequate and effective protection for intellectual property rights constitutes a non-tariff barrier to trade, not only for the United States, but for our trading partners as well.

3. The present international regimes protecting intellectual property rights (Berne Copyright Convention, Universal Copyright Convention, Paris Convention), as presently structured, have no effective dispute resolution or enforcement mechanisms.

4. The GATT contains a dispute resolution mechanism. The GATT has also previously served as a vehicle for dealing, on a multilateral basis, with other types of non-tariff barriers to trade. It thus constitutes an appropriate institutional environment for the consideration and adoption of international measures to protect intellectual property rights.

5. Prior to the completion of the most recent GATT sponsored multilateral trade negotiations, substantial work had been done on concluding