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GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL

INTRODUCTION OF A LOOSE-LEAF SYSTEM FOR THE SCHEDULES OF TARIFF CONCESSIONS

Proposal by the Director-General

Revision

In the light of the discussions that took place in the Committee on Tariff Concessions on 28 February 1980, the proposal by the Director-General on the Introduction of a Loose-Leaf System for the Schedules of Tariff Concessions has been slightly revised. The new text is reproduced hereunder.

1. As can be seen from document L/4821 and Addenda 1 and 2, the existing system for the publication of the tariff concessions has become out-dated. There are at present more than forty legal instruments (Protocols, Certifications) containing valid tariff concessions. Extensive and time-consuming efforts are necessary under the present system to find out the status of a particular concession.
2. In view of this, I suggest that henceforth the schedules of tariff concessions be published in the form of a loose-leaf system which can continuously be kept up to date when rectifications, modifications, withdrawals and new concessions are made. The CONTRACTING PARTIES have given their approval of the financial consequences for the introduction of such a system (cf. L/4852, paragraph 33 and SR.35/2, page 13).
3. In order to establish such a loose-leaf system a number of decisions would have to be taken. The basis for the creation of a loose-leaf system for the schedules of tariff concessions must be a general consolidation of schedules. I would consequently propose that the Council agree that contracting parties submit consolidated schedules of tariff concessions as soon as possible and not later than 30 September 1980.
4. In order to draw the full advantages of the loose-leaf system and to ensure as complete a transparency as possible of the tariff concessions, some particular decisions would have to be taken to that effect. I would suggest that the Council agree on a format for the schedules as set out in the Annex to document L/4821/Add.1.

5. The schedules should comprise a complete description of the products covered. Furthermore, it is, in my view, desirable that the entries in the schedules should, as far as possible, correspond with the entries in the customs tariffs, not only for the descriptions but also in respect of the numeration used. For example, if a heading is only partially bound, then sub-headings should be created and should have their own numbers.

6. In order to maintain as far as possible the information in the schedules in conformity with the corresponding data in the national customs tariffs, there is in my view also a need for a new decision for procedures for modifications and rectifications of schedules. The present decision (BISD, 16S/16) does not contain provisions sufficiently precise to encourage contracting parties to up-date continuously their schedules. Therefore, I suggest that the proposed decision in the Annex be adopted.

7. So far, initial negotiating rights (INR's) have only been indicated in working documents on schedules in connexion with renegotiations or with consolidation of schedules. In the final, published schedules the indication of the INR's has so far been deleted. In order to make the loose-leaf system as transparent as possible and to remove the need for contracting parties to consult underlying documents, I propose that the INR's be indicated in the loose-leaf schedules as foreseen in the fifth column of the proposed format annexed to document L/4821/Add.1. The secretariat's files and assistance will be available to help delegations in establishing records of initial negotiating rights granted by or to their countries.

8. There is an understanding in the GATT concerning consolidated schedules that earlier schedules and negotiating records should be considered as proper sources in interpreting concessions in consolidated schedules (cf. BISD, 7S/115-116). This understanding is valid inter alia, for INR's regarding earlier bindings made at a higher level than the present bound rate on a certain item. In order to make the loose-leaf system as transparent as possible and to remove the need for contracting parties to consult underlying documents, I propose that this understanding will cease to be valid as regards the previous INR's when the loose-leaf schedules have been established and that all these previous INR's must, in order to maintain a legal value, be indicated in the loose-leaf schedules. If the inclusion of previous INR's would necessitate the creation of additional sub-items that would otherwise not be necessary, the reference to the existence of such INR's could be made in the form of a footnote to the relevant heading or in any other suitable way. As the incorporation of previous INR's into the Schedules will necessitate time-consuming research in old negotiating records, I suggest that such INR's be indicated in the loose-leaf schedules only one year after the date for the submission of the consolidated schedules, i.e. not later than 30 September 1981 and that earlier schedules and

negotiating records will remain proper sources for interpreting concessions until 1 January 1987 (cf. paragraphs 8 and 21 of L/4821).

9. A similar question arises with respect to the date applicable to each concession for the purpose of Article II:1(b) of the General Agreement. It has been agreed that the date, as of which "other duties or charges" on importation are bound, applicable to any concession in a consolidated schedule should be, for the purposes of Article II, the date of the instrument by which the concession on any particular item was first incorporated into the General Agreement (cf. BISD 7S/115-116). In order to draw full advantage of the loose-leaf system by making it as transparent as possible as to the status of all concessions, I propose that the instrument by which the concession was first incorporated into a GATT Schedule be indicated in a special column (column 6 of the proposed format in the annex to document L/4821/Add.1) of the loose-leaf schedules. I wish to point out in this connexion that such "other duties or charges" are in principle only those that discriminate against imports. As can be seen from Article II:2 of the General Agreement, such "other duties or charges" concern neither charges equivalent to internal taxes, nor anti-dumping or countervailing duties, nor fees or other charges commensurate with the cost of services rendered.

ANNEX

PROCEDURES FOR MODIFICATION AND RECTIFICATION
OF SCHEDULES OF TARIFF CONCESSIONS

Recalling that the CONTRACTING PARTIES established on 19 November 1968 a procedure for the certification of changes to Schedules annexed to the General Agreement¹;

Considering the importance of keeping the authentic texts of Schedules annexed to the General Agreement up to date and of ensuring that they tally with the texts of corresponding items in national customs tariffs;

Considering that, in consequence, changes in the authentic texts of Schedules which record rectifications of a purely formal character or modifications resulting from action taken under Article II, Article XVIII, Article XXIV, Article XXVII and Article XXVIII shall be certified without delay;

The CONTRACTING PARTIES decide that:

1. Changes in the authentic texts of Schedules annexed to the General Agreement which reflect modifications resulting from action under Article II, Article XVIII, Article XXIV, Article XXVII or Article XXVIII shall be certified by means of Certifications. A draft of such change shall be communicated to the Director-General within three months after the action has been completed.
2. Changes in the authentic texts of Schedules shall be made when amendments or rearrangements which do not alter the scope of a concession are introduced in national customs tariffs in respect of bound items. Such changes and other rectifications of a purely formal character shall be made by means of Certifications. A draft of such changes shall be communicated to the Director-General where possible within three months but not later than six months after the amendment or rearrangement has been introduced in the national customs tariff or in the case of other rectifications, as soon as circumstances permit.
3. The draft containing the changes described in paragraphs 1 and 2 shall be communicated by the Director-General to all the contracting parties and shall become a Certification provided that no objection has been raised by a contracting party within three months on the ground that, in the case of changes described in paragraph 1, the draft does not correctly reflect the modifications or, in the case of changes described in paragraph 2, the proposed rectification is not within the terms of that paragraph.

¹BISD, 16S/16

4. Whenever practicable Certifications shall record the date of entry into force of each modification and the effective date of each rectification.

5. The procedure of Certification under this Decision may be applied for the establishment of consolidated Schedules or of new Schedules under paragraph 5(c) of Article XXVI, wherein all changes are modifications or rectifications referred to in paragraphs 1 or 2.

6. This Decision supersedes the Decision of 19 November 1968.