

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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REVIEW OF THE GENERAL AGREEMENT

Proposals by the New Zealand Government

Article I - No New Preference Rule

Article I of the Agreement has the effect of limiting margins of preference as under:

- (a) On products which are described in the importing country's Schedule the margin of preference must not exceed that which remained after GATT negotiations were conducted.
- (b) On other products the margin may not exceed that which existed on the base date (10 April 1947 for New Zealand and most other contracting parties).

Although a waiver of obligations under this Article may possibly be obtained in exceptional circumstances, the rule is rigid in its application.

The New Zealand Government is of the opinion that it is desirable to provide for minor and inconsequential increases in preferential margins resulting from adjustments in tariffs without the necessity to seek approval of the CONTRACTING PARTIES.

The following examples of possible action under the New Zealand tariff will serve to illustrate the type of case envisaged:

<u>Example 1.</u>	British Preferential Tariff	British Preferential Rate plus Surtax (9/40ths of duty) applicable to certain British countries	Most Favoured Nation	General Tariff
	<u>per cent</u>	<u>per cent</u>	<u>per cent</u>	<u>per cent</u>
Present rates	15	$15 + 9/40ths = 18 \frac{3}{8}$	35	$45 + 9/40ths$ (not bound) surtax = $55 \frac{1}{8}$
Present margin of preference compared with m.f.n. rate	20	$16 \frac{5}{8}$		
Proposed rates	20	20	40	50
Comparison with existing margins	No change	$+ 3 \frac{3}{8}$		

In the above case the basic British preferential rate would be increased by 5 per cent and a corresponding increase made in the most-favoured-nation rate to retain the requisite margin of preference in conformity with the trade agreement of 1932 between the United Kingdom and New Zealand. Surtax (where applicable) would be abolished in accordance with general policy in New Zealand to eliminate that duty when opportunity presents itself. Unless otherwise exempted, the surtax mentioned in column 2 applies only to imports from Canada, South Africa, India, Pakistan and Eire. The effective preferential rate is that shown in the first column which is applicable to the United Kingdom and all other Commonwealth sources. The increase in preferential margin resulting from removal of surtax would accordingly be of little consequence.

<u>Example 2.</u>	British Prefer- ential Tariff per cent	British Preferential Rate plus Surtax applicable to certain Commonwealth Countries per cent	Rate under Trade Agree- ments for Canada and Australia per cent	Most Favoured Nation Rate (if any) per cent	General Foreign Tariff per cent
Present rates	20	$20 + 9/40\text{ths} = 24\frac{1}{2}$	30	-	$50 + 9/4$ surtax $63\frac{1}{2}$
Present margins of preference compared with General Tariff	$43\frac{1}{2}$	39	$33\frac{1}{2}$		
Proposed rates	25	25	25	-	60
Resulting margins of preference	35	35	35		
Comparison with existing margins	$- 8\frac{1}{2}$	- 4	$+ 1\frac{1}{2}$		

The action taken in this case would be to increase the basic British Preferential rate from 20 per cent to 25 per cent and to make such rate applicable to all countries entitled to preference thereby simplifying the tariff. At the same time surtax would be eliminated from imports from all sources and the duty under General Tariff (applicable to all non-preferential imports in the absence of a most-favoured-nation rate) would be reduced.

In the absence of provision to make minor adjustments of this nature it is probable that tariffs will be kept at a higher level than would otherwise be the case. It is suggested that the position could be met by an interpretative note to Article I along the following lines, no change in the Article itself being considered necessary.

"Nothing in paragraph 4 shall prevent a contracting party from adjusting unbound rates of duty on any product in such a manner than the overall effective margins of preference on that product are not increased or the margin is increased only to a negligible extent by the rounding out of rates."

II. Article VI - Anti-dumping and Countervailing Duties

The Government of New Zealand subscribes to the view that countries should not seek to encourage or increase exports through the use of subsidies or dumping and it considers that the text of the Agreement should be strengthened in the following manner:

(a) There should be a positive obligation on contracting parties to refrain from dumping. In recognition of this the following sentence should be added after the first sentence of paragraph 1 of Article VI:

"Accordingly contracting parties shall refrain from action which would cause or encourage dumping of this kind."

(b) Article VI does not make positive provision for the levying of countervailing duties nor does it enable adequate action to be taken by importing countries in the case of subsidized products. The position could be met by amending paragraph 3, first, to make it more positive and secondly, to provide for the imposition of quantitative restrictions in cases where countervailing duties are difficult to apply or where, by themselves, they do not meet the situation. It is visualized that there may be cases where, although quantitative restrictions are applied, certain imports may be permitted which would be subject to countervailing duties. It is considered, therefore, that paragraph 3 of Article VI should be amended as follows:

3. No countervailing duty shall be levied on any product of the territory of any contracting party imported into the territory of another contracting party in excess of an amount equal to the estimated bounty or subsidy determined to have been granted, directly or indirectly, on the manufacture, production or export of such product in the country of origin or exportation, including any special subsidy to the transportation of a particular product. The term "countervailing duty" shall be understood to mean a special duty levied for the purpose of offsetting any bounty or subsidy bestowed, directly or indirectly, upon the manufacture, production or export of any merchandise.]

"3. (a) For the purpose of this Article the term 'countervailing duty' shall be understood to mean a special duty levied to offset any bounty or subsidy bestowed, directly or indirectly, upon the manufacture, production or export of any merchandise.

(b) Countervailing duty may be levied on the product of the territory of any contracting party imported into the territory of another contracting party of an amount not in excess of the estimated bounty or subsidy determined to have been granted, directly or indirectly, on the manufacture, production or export of such product in the country of origin or exportation including any special subsidy to the transportation of a particular product.

- (c) Where a countervailing duty would, for legislative or other reasons, be difficult to apply or would be inadequate to offset the effects of the granting of a bounty or subsidy referred to in sub-paragraph (a) of this paragraph a contracting party may in addition to or in lieu of such countervailing duty impose quantitative restrictions on the importation of such commodity provided that any contracting party taking such action shall report the matter promptly to the CONTRACTING PARTIES and to the contracting party from whose territory the product was imported."

(c) The provisions of paragraph 6 of Article VI should be amended to enable a contracting party, without the requirement of a waiver, to levy anti-dumping or countervailing duties to avoid material injury to an industry of another contracting party. Similar provision should be made for the application, in accordance with paragraph 3 as amended above, of quantitative restrictions in the case of goods liable to countervailing duties. Paragraph 6 should therefore be amended to read as follows:

- "6. (a) Except as provided in sub-paragraph (b) of this paragraph ~~No~~ a contracting party shall not levy any anti-dumping or countervailing duty or impose quantitative restrictions as provided for in sub-paragraph (c) of paragraph 3 of this Article on the importation of any product of the territory of another contracting party unless it determines that the effect of the dumping or subsidization, as the case may be, is such as to cause or threaten material injury to an established domestic industry or is such as to retard materially the establishment of a domestic industry. /The CONTRACTING PARTIES may waive the requirements of this paragraph so as to permit a contracting party to levy an anti-dumping or countervailing duty on the importation of any product for the purpose of offsetting dumping or subsidization which causes or threatens material injury to an industry in the territory of another contracting party exporting the product concerned to the territory of the importing contracting party./
- (b) A contracting party may levy an anti-dumping or countervailing duty or impose quantitative restrictions as provided for in sub-paragraph (c) of paragraph 3 of this Article on the importation of any product for the purpose of offsetting dumping or subsidization which causes or threatens material injury to an industry in the territory of another contracting party exporting the product concerned to the territory of the importing contracting party; provided that any such action shall be reported promptly to the CONTRACTING PARTIES and to the contracting party from whose territory the product was imported."

The above proposals have some relevance to Article XVI as well as to Article VI. In the final drafting there may need to be in Article XVI a cross-reference to the action which may be taken under Article VI.

