

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/3194

3 April 1969

Limited Distribution

## WORKING PARTY ON MALAWI SCHEDULE

### PREFERENTIAL MARGINS

#### First Report

1. The Working Party was called upon "to examine the content and nature of any changes in the preferential margins arising out of the customs tariff introduced by the Government of Malawi on 1 January 1967 and report to the Council". This examination could be based on the new tariff itself, and the former Malawi tariff which was based on that of the Federation of Rhodesia and Nyasaland. A key code relating the numbers of both tariffs (L/3184) had been provided by the Government of Malawi.
2. The representative of Malawi outlined the history of the new Malawi customs tariff. He explained that this new tariff followed on from the former tariff of the Federation of Rhodesia and Nyasaland and reflected the fact that Malawi accepted for its own territory the GATT rights and obligations of the Federation on becoming independent on 6 July 1964.
3. The decision of the Government of Malawi to base the new customs tariff on the Brussels Tariff Nomenclature necessitated, however, a total revision of the customs tariff. While no difficulty would have arisen if the Government of Malawi had continued to apply the previous system, the new nomenclature was the cause of a number of problems. It was generally recognized that any transposition of one nomenclature into another could not be done without certain changes in rates. This had, in the case of Malawi, led to two questions of interest to GATT: one, related to the obligation laid down in Article I of GATT not to increase preferential margins; and the other - treated outside this Working Party - the tariff concessions accepted by Malawi.
4. In so far as preferential margins were concerned, Malawi did not seek increases for commercial policy or other similar reasons, even where tariff rates themselves were changed to take account of the different economic situation. The only changes of preferential margins were those which occurred inevitably as a result of the technical necessities of the conversion to the new nomenclature. Malawi strengthened this explanation by confirming that where it did become apparent that a margin of preference in the new tariff had been increased inadvertently, it would certainly look immediately at the possibility of an adjustment. Such a correction had already been put into effect in the case of sugar, where it became obvious during the course of the preparation for this Working Party that the preferential margin had been increased erroneously.

5. Malawi felt that the manner in which the tariff reform had been carried out was in conformity with the precedents created on the occasion of the adoption of the tariff of the Federation of Rhodesia and Nyasaland. In this case, the CONTRACTING PARTIES of GATT had recognized (Fourth Supplement of BISD, pages 17 and 72) that "the provisions of Article I of the Agreement should not prevent the application of the preferences established [by the new customs tariff of the Federation of 1955 ...] so long as ... the overall position in respect of preferences established on the applicable base dates provided for in paragraph 4 of Article I of GATT is maintained ...".

6. It was noted that the provisions of Article I did not permit the increase of any preferential margin on any individual item beyond the situation existing on the base date. The representative of Malawi stressed that a rigid interpretation of the relevant provisions of Article I would effectively prevent any country which grants tariff preferences from modernizing its customs tariff.

7. One representative stressed that the question of preferential margins was dealt with legally in paragraph 2(a) of Article I and that in consequence such margins should in principle be examined individually. However, to take account of the special case of Malawi one could accept the general incidence of the margins as a relevant factor.

8. To illustrate the fact that reductions of preferential margins were, on the whole, more important in number and weight than the increases, the representative of Malawi presented a comparative table (Annex I) showing the situation concerning preferential margins on the base date for the customs tariff of the Federation of Rhodesia and Nyasaland and under the new Malawi customs tariff, for imports into Malawi of goods exceeding £100,000 in 1967. The Working Party, while recognizing that it would be too difficult, if not impossible, to prepare such a tabulation for all goods, felt however that it would be useful for reaching a decision on the question of preferential margins if Malawi could extend this information to those goods, imports of which exceeded £75,000. The representative of Malawi prepared this additional information (Annex II). He also presented an analysis (Annex III) which showed in particular, for the trade included in Annex I and Annex II, covering 65 per cent of the total trade of Malawi, that apart from a number of cases where a comparison was not possible, most preferential margins had been maintained. Margins had been reduced in the case of fourteen items (corresponding to a trade of £2,855,000), and increased only in the case of six items (corresponding to a trade of £695,000).

9. The representative of Malawi furthermore pointed out that information included in these tables was based on extreme cases, and that a more detailed comparison would, in many instances, show a greater reduction or a lesser increase of preferential margins. One reason for this was that for certain items higher preferential rates were in force in the Federal tariff than those contained in column C. The other reason was that the new Malawi customs tariff no longer provided for special reduced preferential rates - as the Federal tariff did - which were granted bilaterally by agreement and which in many cases were not

reproduced in the customs tariff itself. The removal of this system had not only led to a general reduction of preferential margins, but also showed the firm intention of the Government of Malawi to establish a clear legal situation.

10. Some members of the Working Party were of the opinion that information presented by the Government of Malawi confirmed their conviction that the new Malawi tariff, considering the technical necessities of a customs tariff, could be accepted as being in conformity with the obligations laid down in Article I of GATT. Other representatives, on the other hand, were not yet in a position to express a view on this point. A number of members of the Working Party desired more time to study the various legal and practical questions involved before expressing a final view. It was particularly remarked, in this connexion, that the key code which permitted governments to study the new Malawi customs tariff systematically had only been requested in November 1968 and been made available in March 1969 (L/3184).

11. In so far as general questions were concerned, one representative regretted that the new Malawi customs tariff continued to contain preferences in favour of developed countries. Some sympathy was expressed by certain delegations for this viewpoint. It was felt, however, that this question fell outside the terms of reference of the Working Party.

12. The Working Party recognizing that more time was needed in certain capitals to study the legal and factual aspects of the question, also recognized that the wish of Malawi to regularize the legal position of its customs tariff as soon as possible was justified. The secretariat prepared this first report as a basis for such studies. The Working Party decided to have a further meeting at 10 a.m. on Monday, 9 June 1969 in the Villa Le Bocage, in order to continue discussions and to adopt its final report to the Council of Representatives.

Annex I

Comparison of Preferential Margins in 1955 and the  
Preferential Margins in the New Customs Tariff

(Headings accounting in 1967 for Imports exceeding £100,000)

Product Description	Imports 1967 (£'000)	Preferential margin 1955			Preferential margin in new tariff		
		Tariff number	m.f.n. rate minus		Tariff number	m.f.n. rate minus	
			Column C rate	Column D rate		Column 5 (Common-wealth) rate	Column 6 (United Kingdom) rate
Milk and cream, preserved	302	32	1½d or 1d/lb.	1½d or 1d/lb.	04.02	1d/lb. or 5%	1d.1b. or 5%
Wheat flour, in bulk	286	15(a) (ii)	6d/100 lb.	6d/100 lb.	11.01.01	5%	5%
Tallow	133	207	5%	5%	15.02	5%	5%
Sugar, raw or refined	273	43(a) (i) and (iii)	Nil	Nil or 5%	17.01.99	Nil	Nil
Beer	500	48(1)	Nil	6d/gall.	22.03	Nil	6d/gall.
Tobacco for re-export	1,723	58	Nil	Nil	24.01.01	Nil	Nil
Salt, in bulk	101	39(a)	Nil	Nil	25.01.99	Nil	Nil
Coal	133	163	Nil	Nil	27.01	Nil	Nil
Motor spirit	341	195(1) (a)	Nil	Nil	27.10.02	Nil	Nil
Paraffin, illuminating	116	200(b)	Nil	Nil	27.10.14	Nil	Nil
Diesel fuel	414	200(a)	Nil	Nil	27.10.21	Nil	Nil
Lubricating oils, in bulk	221	199(a)	Nil	1½d/gall.	27.10.31	Nil	1½d/gall.
Medicaments n.e.s.	215	231(1)	5%	10%	30.03.99	Nil	10%
Nitrogenous fertilizer	399	227	Nil	Nil	31.02	Nil	Nil

Annex I (cont'd)

Product description	Imports 1967 (£'000)	Preferential margin 1955			Preferential margin in new tariff		
		Tariff number	m.f.n. rate minus		Tariff number	m.f.n. rate minus	
			Column C rate	Column D rate		Column 5 (Common-wealth) rate	Column 6 (United Kingdom) rate
Fertilizers, n.e.s.	145	227	Nil	Nil	31.05	Nil	Nil
Chemicals, n.e.s.	141	Vars	Vars	Vars	38.00.01	5%	5%
Tyres and tubes, bicycle	109	ex 260	Nil	3d/lb.	40.11.90	Nil	3d/lb.
Tyres and tubes, n.e.s.	299	ex 260	Nil	9d/lb.	40.11.99	Nil	9d/lb.
Boxes, etc. wooden	263	263	Nil	Nil	44.21	Nil	Nil
Paper and board	187	ex 295	10%	10%	48.01.97	5%	5%
Cardboard boxes	194	285(1) and 286	5%	5%	48.16.98	5%	5%
Books and newspapers	164	284	Nil	Nil	49.01	Nil	Nil
Cotton fabric 100% )	1,504	(76(c) (i)	Nil	12½% or 4d/yd. )	55.09	Nil	15% or 4d/yd. )
Other )		(76(c) (ii)	Nil	15% or 4½d/yd. )			
Yarn of man-made fibre	105	81(b)	5%	5%	56.05	Nil	Nil

Annex I (cont'd)

Product description	Imports 1967 (£'000)	Preferential margin 1955			Preferential margin in new tariff		
		Tariff number	m.f.n. rate minus		Tariff number	m.f.n. rate minus	
			Column C rate	Column D rate		Column 5 (Common-wealth) rate	Column 6 (United Kingdom) rate
Fabric of man-made fibre	631	76(f)	Nil	15% or 4 <sup>1</sup> / <sub>2</sub> d./yd.	56.07	Nil	15% or 4d./yd.
Trousers	169	65(d)	Nil	10% or 1/9d./each	61.01.03	Nil	10% or 1/-d./each
Shirts	175	65(g)	Nil	10% or 1/3d./each	61.01.06	Nil	10% and 1/3d./each
Other clothing	272	65	Nil	10%	61.01.99	Nil	10%
Blankets and rugs	188	61(1)	Nil	10% or 5d./lb.	62.01	Nil	10% or 5d./lb.
Household linen	147	73	2 <sup>1</sup> / <sub>2</sub> %	12 <sup>1</sup> / <sub>2</sub> %	62.02.99	Nil	10% or 1/4d./lb.
Bags and sacks	383	59(1)	Nil	Nil	62.03	Nil	Nil
Footwear, rubber or leather	255	251	Nil	10% or 9d./pair	64.01.99	Nil	10% or 9d./pair
Iron and steel plates, rods, angles, sheets	189	122(1)	5%	5%	73.09.01	5%	5%
Structural iron and steel	163	122(1) (g)	Nil	5%	73.21.99	5%	5%
Hoes	115	133(2)	5%	5%	82.01.01	10%	10%

Product description	Imports 1967 (£'000)	Preferential margin 1955			Preferential margin in new tariff		
		Tariff number	m.f.n. rate minus		Tariff number	m.f.n. rate minus	
			Column C rate	Column D rate		Column 5 (Common-wealth) rate	Column 6 (UK) rate
Engines, stationary	142	103(1) (a)	5%	5%	84.06.04	5%	5%
Engines, other and parts	128	103(1) (b) & (c)	10%	10%	84.06.99	Nil	10%
Machines, earthmoving, etc.	215	147(1)	5%	5%	84.23	5%	5%
Machines, agricultural	118	118(a) (i)	5%	5%	84.24.99	5%	5%
Accounting machines, etc.	125	94(1) & (3)	Nil	12½%	84.52.98	10%	10%
Other machinery	152	118 and others	5%	5%	84.59	5%	5%
Generators, motors, etc. electrical	182	119(1)	10%	10%	85.01.99	5%	5%
Telephone and telegraph equipment	122	145	5%	5%	85.13	5%	5%
Electrical switchgear	155	119(1)	10%	10%	85.19	5%	5%
Insulated cable and wire	158	119(1)	10%	10%	85.23.99	5%	5%
Railway vehicles and equipment	190	138	5%	5%	86.00	5%	5%

Annex I (cont'd)

Product description	Imports 1967 (£'000)	Preferential margin 1955			Preferential margin in new tariff		
		Tariff number	M.f.n. rate minus		Tariff number	M.f.n. rate minus	
			Column C rate	Column D rate		Column 5 (Commonwealth) rate	Column 6 (UK) rate
Agricultural tractors	102	130(1)	5%	5%	87.01.99	5%	5%
4-wheel drive vehicles, n.e.s.	130	129(a)(i)	5%	17½%	87.02.05	Nil	5%
Lorries, vans, etc. n.e.s.	259	129(b)(i)	Nil	5%	87.02.06	Nil	5%
Chassis for local bodies	476	129(c)(ii)	5%	5%	87.02.07	5%	5%
Motor cars under £800	566	129(a)(i)	5%	17½%	87.02.97	5%	17½%
Motor vehicle parts	335	129(d)	10%	10%	87.06.99	Nil	10%
Bicycles n.e.s.	206	86(1)(a)(i)	10% or 16s. each	20% or 32s. each	87.10.01	10% or 16s. each	20% or 32s. each
Cycle parts n.e.s.	104	86(1)(a)(ii)	10%	20%	87.12.03	10%	20%
Aircraft and parts	146	82(1)	10%	10%	88.00	Nil	Nil
Total of imports over £100,000	14,966						
Other imports 1967	10,565						
Total imports 1967	25,531						
Listed imports as percentage of total	58.6%						

Explanation of terms

1. Old tariff

Column D included (except for thirteen items to which Column C applied) imports from United Kingdom Dependencies and the independent African, Caribbean and Mediterranean Countries of the Commonwealth. Other Commonwealth Countries, South Africa, and Ireland fell generally under Column C. The preferential margins in respect of South Africa, Australia and Canada, however, are greater than those shown in Column C for many tariff items (and greater than those in Column D in a substantial number of cases).

2. New tariff

Column 5 covers South Africa and Ireland and all Commonwealth Countries other than the United Kingdom which falls under Column 6.

Annex II

SUPPLEMENTARY LIST OF COMPARISONS OF "BOUND" AND "NEW" MARGINS  
OF PREFERENCE ON TARIFF HEADINGS ACCOUNTING IN 1967 FOR  
IMPORTS BETWEEN £75,000 AND £100,000

Product description	Imports 1967 (£L,000)	Preferential margin 1955		Preferential margin in new tariff		
		Tariff number	M.f.n. rate minus Column C rate	Tariff number	M.f.n. rate minus Column 5 (Common- wealth) rate	M.f.n. rate minus Column 6 (UK rate)
Milk and cream, preserved, for infants	86	21(1)	10%	04.02.01	1d/lb.	1d/lb.
Sugar, refined, for retail sale	85	43(a)(iii)	Nil	17.01.01	Nil	Nil
Food preparations, n.e.s.	78	Various	Various	21.07.99	10%	10%
Chemicals, margarine	80	Various	Various	28.00	5%	5%
Paints, varnishes, etc.	89	203(1)(a)	10%	32.09.99	Nil	10%
Plywood etc., n.e.s.	78	273(a)	Nil	44.15.99	5%	5%
Rope and twine	81	78	20%	59.04.99	20%	20%
Garments, knitted, n.e.s.	91	65	Nil	60.04.99	Nil	10%
*Iron and steel roofing sheets	291	122(1)(b)	5%	73.09.02	5%	5%
Hand tools, mechanics' and artisans'	99	146	5%	82.02.99	5%	5%
Pumps, industrial, etc.	80	136(1)(a)(d)	2½% or 5%	84.10.02	5%	5%
*Machinery for food processing	101	118(c)	5%	84.30	5%	5%
Machinery, textile	94	118(c)	5%	84.36	5%	5%
Primary batteries	84	119	5%	85.03	15%	15%
Radios and amplifiers, transistor	88	154(b)	Nil	85.14.03	Nil	15%
Coaches and omnibuses	97	129(a)(ii)	Nil	87.02.03	Nil	5%
Total of imports Annex II	1,602					
Imports over £100,000 Annex I	14,966					
Other imports in 1967	16,568					
Total imports in 1967	8,963					
Listed imports (Annex I and II) as percentage of total	25,531					
	64.9%					

\* Items overlooked in drawing up list of imports over £100,000.

Note: Explanation of terms, see Annex I.

Annex III

ANALYSIS OF THE COMPARISON OF PREFERENTIAL MARGINS  
CONTAINED IN ANNEX I AND ANNEX II

	<u>Number of tariff numbers</u>	<u>Trade 1967 £1,000</u>
I. Preferential margins unchanged in both columns	42	10,239
II. Margins reduced in one or both columns	14	2,885
III. Margins not directly comparable (e.g. specific duty became ad valorem duty, former items combined, etc.)	8	2,624
IV. Margins increased in one or both columns	6	695
V. Margin reduced in one column, increased in the other	1	125
	<hr/> 71	<hr/> 16,568

The fourteen items the preferential margins of which were reduced in one or both columns are new tariff numbers:

Annex I 17.01.99; 30.03.99; 48.01.97; 56.07; 61.01.03; 84.06.99;  
85.01.99; 85.19; 85.23.99; 87.02.05; 87.06.99; 88.00.

Annex II 17.01.01; 60.04.99.

The six items the preferential margins of which were increased in one or both columns are:

Annex I 61.01.06; 73.21.99; 82.01.01;

Annex II 44.15.99; 84.10.02; 85.03.