

GENERAL AGREEMENT ON  
TARIFFS AND TRADE

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COMMITTEE ON TARIFF CONCESSIONS

Draft Minutes of the Meeting held in the  
Centre William Rappard on 7 July 1980

Chairman: Mr. J. Dugimont  
(Commission of the European Communities)

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The Chairman welcomed participants to the second meeting of the Committee on Tariff Concessions and presented the agenda for the meeting which had been circulated in document GATT/AIR/1645. The agenda was adopted without amendment.

1. Introduction of a loose-leaf system for the schedules of tariff concessions  
(C/M/139, PAR/W/5 + Add.1, TAR/W/6, TAR/W/7 and TAR/W/9)

1.1 The Chairman recalled that at its meeting on 26 March the Council had approved the principle of introduction of a loose-leaf system for the schedules of tariff concessions and set certain time-limits for delegations to present their draft consolidated schedule. Since the Committee's last meeting the secretariat

had prepared several documents regarding, in particular, country abbreviations, abbreviations of legal instruments, the current situation of schedules, and a model loose-leaf schedule presentation.

1.2 The representative of Spain enquired about the lists of concessions which were to be incorporated in the Fifth Certification of Changes to Schedules. He asked when it would be issued and what symbol would be used for its reference.

1.3 Mr. Lindén (secretariat) informed the Committee that submissions for inclusion in the Fifth Certification were received continuously and that it was difficult to draw the line between what should be incorporated and what not. He said that it was planned to issue the draft document in a couple of months and that it would include everything that had been approved up to that date. What would be left over from the Fifth Certification would be directly incorporated in the loose-leaf system. The symbol to be used for reference to the Fifth Certification would be CCS5/80.

1.4 The representative of Norway referred to the model to be used for the loose-leaf system and said that since it had just been received in the capital, he might want to revert to this document and put questions to the secretariat at the next meeting of the Committee.

1.5 The Chairman explained that it was at the request of a number of delegations that the secretariat had prepared a model, but clearly the latter could be adjusted to particular problems that some delegations might encounter. He urged delegations to contact the secretariat and show it examples of difficult cases in connexion with presentation of their schedule.

1.6 The representative of the United States suggested, in view of the large amount of information to be squeezed into rather small spaces and the difficulty that might arise in binding the sheets, that the page might be broken in two and the three first columns put on one page and the others on the second page.

1.7 Mr. Lindén (secretariat) explained that the suggestion made by the representative of the United States would involve some technical disadvantages as any modification was likely to affect two pages instead of one. He added that the important problem of space would be studied further in relation to the use of text-processing machines. In this connexion, the secretariat would shortly circulate a document on the use of processing machines but no final decision had been yet taken on what type of machine the secretariat would use. In case the delay might cause difficulties to governments he would recommend that delegations type their schedules with the special ball called OCR B which could be used on any electrical typewriter. This way of handling the matter would greatly facilitate the secretariat's work since the schedules typed with those special types of letters could be transferred onto floppy disks by an optical reader. Mr. Lindén reminded delegations that there was no obligation to supply lists typed on text processing machines but it would mean substantial advantages to both the secretariat and the governments since

it would lead to less retyping and consequently less risk of errors. He also mentioned the fact that there might be a possibility to convert material from one type of text-processing machine to another; the secretariat would be happy to discuss with delegations any particular problem they might have concerning the preparation of their lists.

1.8 The representative of Canada pointed out that in order to meet the deadline for the submission of schedules - at the end of September - his country had started the work some time ago and would therefore submit their list in a normally typed form.

1.9 The Chairman recalled that following the recommendation made by the Committee, the Council had decided that the first draft consolidated schedules were to be submitted to the secretariat by 30 September 1980. Some practical questions were still outstanding, however, such as the format and the type of text-processing machine to be used. He suggested that those points be settled with the secretariat in the near future so that the work could proceed actively in capitals.

1.10 The representative of Australia said that regarding the deadline, Australia would make best endeavours and he asked the secretariat to let him know as soon as possible about the decision on the text-processing machine, so that he could pass it on to the people in charge of the work in his capital.

1.11 The Chairman expressed the hope that the material questions still outstanding could be settled within the next few days so that the work could proceed, and invited delegations to make every effort to respect the deadlines for submission of schedules. Progress in that regard was essential in order to arrive at a system for consolidation of the concessions granted by contracting parties in the various rounds of negotiations that had taken place within GATT.

2. Status of acceptances of the Geneva (1979) Protocol and the Supplementary Protocol (TAR/W/2/Rev.1 + Add.1 and 2)

2.1 The Chairman noted that the rate of acceptances had speeded up in recent months, but some countries had not yet accepted either Protocol; he invited them to indicate the current status of acceptance procedures.

2.2 The representative of the Federal Republic of Germany informed the Committee that the Bill accepting the results of the Tokyo Round had been passed by unanimous vote in both Houses of Parliament the week before so that the process of ratification would be terminated by the end of the month.

2.3 The representative of Spain said that at its meeting on 4 July 1980 the Council of Ministers had adopted, on a proposal by the Minister for Trade and Tourism, a decree regarding the entry into force of Spain's acceptance of the Geneva Protocol; an official communication would be transmitted to the secretariat in a few days' time.

2.4 The representative of Canada reported that their concessions came into effect on 1 January 1980 and that a notice of the ways and means had been tabled in Parliament on 2 June but that approval was still pending; procedures were, well advanced, however, and he was hoping to report to the Committee soon about the completion of the procedures.

2.5 The representative of Nigeria said that a GATT mission was at the moment in Nigeria in connexion with the implications of the MTN and, in a short time, his delegation would be in a position to make a categorical statement regarding the acceptance of various codes.

2.6 The representative of Brazil recalled that Brazil had signed the Supplementary Protocol ad referendum and said that the Congress was examining the question. He was hoping that within a short period of time it would be duly approved.

2.7 The representative of Israel mentioned that their list had not been approved yet by the Government but that administrative procedures were under way. He could, however, not give an exact date.

2.8 The representative of Romania said that his country had accepted the Protocol on 25 June 1980.

2.9 The representative of the Ivory Coast said that her Government had been instructed to take the necessary measures for ratification of the Supplementary Protocol, and she would inform the Committee as soon as they had been completed.

2.10 The Chairman thanked delegations for their explanations and recalled that the GATT Council, at its last meeting, had extended the deadline for acceptance until the end of the year. It would be useful if the secretariat continued to furnish information in the TAR/W/2 series on the various acceptances and the item might be retained in the agenda for the Committee's next meeting.

### 3. Implementation of MTN concessions (TAR/W/8 + Add.1)

3.1 The Chairman invited delegations which had not yet done so to give some indications regarding implementation of their tariff reductions.

3.2 The representative of the European Communities said that in accordance with the undertakings set forth in the explanatory notes to Tokyo Round concessions, the European Communities had implemented on 1 July the concessions in respect of chemical products falling within chapters 29, 32 and 39 of the Customs Co-operation Council nomenclature.

3.3 The representative of Romania informed the Committee that his country had implemented the first two steps of reduction on 16 June 1980, and asked the secretariat to update the document TAR/W/8/Add.1 so as to reflect that information.

3.4 The representative of the United States said that the Presidential proclamation which was issued last December put into effect most of the tariff concessions of the United States, the only rates which did not come into effect at that time being those associated with the Valuation Code, but as of 1 July, those had been implemented by proclamation so that all of the staged concessions were now in force.

3.5 The Chairman asked the secretariat to keep document TAR/W/8 up to date so as to take account of implementation in the various countries. Since that was an essential matter in the Committee's terms of reference, he suggested that the item be kept on the agenda for future meetings.

#### 4. Procedures for negotiations under Article XXVIII (TAR/2)

4.1 The Chairman recalled that the item had been included in the agenda for the meeting at the request of some delegations, and that the secretariat had been asked to prepare a document thereon. He suggested that the Committee consider what action should be taken on that document; if the latter was approved by delegations, it would seem desirable to draw the Council's attention to the procedures described so as to secure formal approval.

4.2 The representative of Japan said that his authorities were still in the process of examining the paper which was before the Committee and that he was not able to take a position at that stage. He wished however to take up two specific points: (1) in respect of paragraph 2, 11th line, he requested the deletion of the words "whenever possible" pointing out that the provision of import statistics had to be made by the applying contracting party except in very exceptional circumstances provided for already in footnote 1 to paragraph 4; (2) with reference to the last sentence of paragraph 3 "whether it is prepared to offer compensatory adjustments and, if so, the nature and amount thereof" - he noted that the sentence had been modified from the previous version of the document and suggested reverting to the former version contained in L/4651/Rev.1 dated 13 September 1978 which read "a compensatory adjustment which it is prepared to offer".

4.3 The representative of the European Communities supported the first proposal made by the Japanese delegation, for the deletion of the words "whenever possible". As regards the second proposal he was favourably inclined, subject to further examination. With reference to paragraph 10, it would be desirable, in his view, to have a detailed example of renegotiation under Article XXIV:6 in view of the possible magnitude of such negotiations.

4.4 The representative of Australia drew the attention of the Committee to paragraph 2, second sentence of the document and said that his delegation had some difficulties with the notion that it was practicable to notify in advance whether or not it was intended to modify or to withdraw a concession. The fact of notifying in advance which of the two changes were envisaged might prejudice the negotiations themselves. He therefore suggested deleting the second sentence of paragraph 2. He added that if contracting parties had to draw a distinction between modification and withdrawal it would then be essential to clarify and define these terms in a very precise manner.

4.5 The representative of Sweden offered a few comments on the comments already made. He favoured the suggestion made by Japan for deleting "whenever possible". He had the impression that paragraph 3 was not necessary but wanted to reflect further. Concerning the Australian problem regarding paragraph 2, he did not agree entirely and thought it was essential to know whether a concession was intended to be modified or withdrawn in order to decide whether there was an interest to negotiate. He agreed, however, that sometimes it was only after the negotiations that it was known whether a tariff would be rebound at a higher rate or unbound. He wondered whether the concern of Australia was not met by the use of the word "should". If a country could give such an information it would certainly be useful. Referring to Annex C, page 6, he asked whether it was necessary to indicate that agreement had not been reached with certain countries. He would prefer to have this heading deleted.

4.6 Mr. Lindén (secretariat) replied to the last point made by the Swedish delegation and explained that the cases where the heading would be used referred to a situation where it had not been possible for the renegotiating country to reach agreement with countries with which it had to negotiate under Article XXVIII, i.e. the initial negotiators and principal suppliers. His view was that such indication was a sort of reassurance for initial negotiators with a relatively limited supplying interest that their rights would be taken into account. Experience had proved that it had strengthened the position of such countries in reaching an agreement with the renegotiating country.

4.7 The representative of Japan commented on the proposal made by Australia as to whether a concession was intended to be modified or withdrawn and agreed fully with the comments made by the representative of Sweden. Going back to the point he had raised concerning paragraph 3 he wanted to ask the representative of Sweden why he thought that paragraph was not necessary. He underlined that he had only suggested reverting to the original version, not deleting it.

4.8 The representative of Czechoslovakia referred to the comments made by the delegations on the words "whenever possible". He reminded them that renegotiations under Article XXVIII had shown that the provision of detailed statistical evidence by contracting parties initiating the negotiations could sometimes create difficulties. In view of their statistical system or

services certain countries had not been in a position to comply with all the requirements of the procedures concerning the provision of statistics. The procedures, as drafted, could become an obstacle for those countries, preventing them from carrying out negotiations under Article XXVIII. He added that the guidelines for renegotiations should remain flexible in this respect and suggested that the words "whenever possible" be kept in the text. However, if the majority were to support the deletion of those words, his delegation would not object.

4.9 The representative of Switzerland thanked the secretariat for the document, which, in his view, contributed to clarify the situation. At the current juncture, he could make only preliminary comments. The Japanese representative had raised an important problem when suggesting deletion of the words "whenever possible" in paragraph 2, and he could support that proposal in principle. He wondered, however, whether the text and the model notifications took sufficient account of the position of countries which, without being initial negotiators or principal suppliers, nevertheless had a substantial interest. There seemed to be a clear differentiation between negotiations with the former and consultations with the latter; he would wish to take a more specific position on that problem on another occasion. In that same context, with reference to Annex C, he would have preferred that an indication be included of the countries with which consultations or discussions had taken place in general, and also an indication as to the countries with which agreements had been reached.

4.10 The representative of the United States regretted that his authorities in Washington had not had time to examine the document but, as a preliminary comment, he could indicate that they would have a problem with paragraph 3 - the same problem as that mentioned by the representative of Japan - and reserved his right to come back to that question at a subsequent meeting.

4.11 The representative of Israel supported the comments made by the Swiss representative especially concerning suppliers which did not have a main supplying interest - a question which had arisen during the MPN. He agreed, moreover, with the observations made by the representative of Czechoslovakia concerning the supply of statistical data and reminded the members of the Committee of the problem related to "ex-out" items for which no specific statistical number was available. He had, however, the impression that footnote 1 on page 2 was sufficient.

4.12 The representative of Nigeria said that with reference to paragraph 2 of document TAR/2 it was important to maintain flexibility in view of the different levels of development of various countries involved in the negotiations. The words "whenever possible", according to him, reflected such flexibility.

4.13 Summing up the discussion on the item, the Chairman noted that some delegations had requested time to reflect before making any final pronouncement on document TAR/2. Various suggestions had been made in regard to the

text itself and had generated reactions in some cases, particularly with respect to paragraphs 2, 3 and 10 and Annex C. Delegations having comments to make on the document should present them to the secretariat so that at its next meeting the Committee could discuss the matter further and agree on procedures for negotiations under Article XXVIII, so as to be able to make a recommendation to the Council.

4.14 The representative of Sweden wished to raise the question of transparency and discipline related to Article XXVIII negotiations and said that the Committee could play a useful rôle in that respect. His delegation had in mind the establishment of a reporting system, an annual report for instance, where one would find data on negotiations that had taken place over the year. Three main points would be mentioned: (1) the date when the negotiations started, (2) the countries with which the negotiations were being carried out and (3) the date for agreement or an indication that negotiations were still going on. He believed that such a report would put a certain pressure on the countries negotiating in order to terminate the negotiations quickly.

4.15 The representative of Japan appreciated the concern expressed by the delegate of Sweden regarding the length of Article XXVIII negotiations, but because of the basic need to respect the strictly bilateral character of the negotiations, he wanted more time to consider the concrete proposal made by Sweden.

4.16 The representative of Australia, as a preliminary reaction, said that his delegation would have no objection to giving a supervising rôle to the Committee in terms of Article XXVIII negotiations. He felt, however, that if the Committee assumed such a rôle, examination in the Committee would remove the need for separate annual country reports.

4.17 The representative of Canada associated himself with the statement made by the representative of Japan. He thought that the procedures at present followed under Article XXVIII and outlined in the document TAR/2 were giving an adequate amount of transparency and that there was no need at that stage for any additional rôle to be played by the Committee.

## 5. Adjustment of specific duties under Article II:6(a) (L/4938, TAR/M/1)

5.1 The Chairman recalled that at the last meeting he had suggested that the Committee should play a certain rôle in the field of adjustment of specific duties. The Committee requested him to make a proposal to that effect to the Council.

## 6. Other problems in the tariff field

### 6.1 Tariff reclassification

6.1.1 The representative of the European Communities recalled that the Committee's task was to provide a forum for discussion of questions relating to tariffs; in that context the Community wished to raise a problem that was

causing it increasing concern, namely the tariff reclassification currently under way in certain countries. Such reclassification could be decided on either by the competent authorities, generally the customs authorities, or by the courts. There was no cause for concern on the part of the Committee where the earlier headings were not bound or if the tariff reclassification involved no increase in customs duty; but where a product falling within a bound heading was withdrawn from the latter and transferred to another heading bearing a higher tariff rate, the concession became to some extent meaningless. The problem became still more serious where under new rules entire groups of products were transferred to tariff headings subject to higher duty rates. Such practices could bring into question a balance that had been painfully acquired in negotiations. The Community hoped that the Committee would examine the problem to seek agreement as to how such cases could be solved satisfactorily. Provision had been made for such cases by Article II:5 of the General Agreement, and the representative of the European Communities outlined the relevant procedures. He noted, however, the disadvantage of implying negotiations a posteriori and of applying any compensatory measures once the decision had already been taken. In his view there should be simpler solutions. In the majority of cases, the current practice was to transfer to the new heading the portion affected by the reclassification with its former bound rate, and the relevant procedure was that of rectification of schedules. In certain reclassification operations, however, it was difficult to avoid a tariff increase. In such cases the method to be applied should be the normal procedure laid down under Article XXVIII for withdrawal of a concession. Where the reclassification decision was made by an authority of the importing country, it should be possible to postpone implementation of the decision until the procedures laid down under Article XXVIII had been completed. The European Communities would prefer to abide by those provisions which provided for negotiations before any tariff rate change. If those provisions could not be applied, recourse could be had to Article II:5 but the initiative would then lie with the party considering itself injured. It would be more equitable, in his view, for the party intending to make a reclassification to notify that intention. Furthermore transparency should be ensured in the relevant negotiations so that interested parties could be advised of the opening of such negotiations. The representative of the European Communities invited delegations to express their comments and underlined the need to have within GATT clear and specific rules for new negotiations resulting from the adoption by many countries of the new nomenclature known as the "harmonized system". As a result of that adoption, very many headings or parts of headings were likely to be shifted and a procedure laid down in detail by the Committee would facilitate the tariff reclassification exercise.

6.1.2 The representative of Japan said that his authorities were also concerned with the problem introduced by the representative of the European Communities. He thought that if such practices were to prevail, they would constitute a loophole in the GATT system and would represent a damaging precedent; it would also endanger the objective of maintaining and strengthening the open trading system. He therefore strongly supported the proposal made by the representative of the European Communities that the problem be examined by the Committee. The way of handling the matter would have to be discussed in the Committee itself but in the first instance the secretariat might be asked to study the range of problems involved in a paper which would be considered by the Committee for further examination. The study could be undertaken in the light of the provisions of Article II:5 and Article XXVIII. For instance, greater clarity was required as to the relationship between GATT bound rates of duty and tariff reclassifications. The study could also consider the possibility of having a clearer GATT procedure related to tariff reclassification.

6.1.3 The representative of Switzerland recognized the importance of the problem raised by the representative of the European Communities; it would be appropriate for the Committee to examine the matter.

6.1.4 The representative of Sweden understood and shared the concern expressed. He supported the proposal made by the delegate of Japan that the secretariat should look at the matter and prepare a paper in order to discuss it at the next meeting.

6.1.5 The representative of the United States said that his first impression was that it was an interesting proposal which merited some discussion and he thought that the proposal made by the representatives of Japan and Sweden would appeal to his delegation, i.e. that the secretariat provide a background paper and that the matter be brought up again for consideration at a subsequent meeting. If a study would be undertaken it should be in general terms, i.e. to examine the general question of tariff reclassification rather than particular aspects of it.

6.1.6 The representative of Australia shared the concern expressed by the representative of the European Communities and recalled that it was not long ago that such a problem had arisen and had damaged some of Australia's trade. He stressed that where a concession was incorporated in a GATT schedule, the obligation remained regardless of whether the product was reclassified in the national tariff. He said that his delegation too would like to see the document requested by Japan and would look forward to participating in its examination and in the future work of the Committee as it developed.

6.1.7 Summing up the discussion on this agenda item, the Chairman noted that several delegations had underlined the importance of the problem of tariff reclassifications, and that on a proposal made by the Japanese delegation and supported by other delegations, the secretariat had been requested to prepare a note covering the legal aspects, any precedents, as well as the procedure to be followed in such cases. The item would be included in the agenda for the next meeting.

## 6.2 Tariff study

6.2.1 The representative of Sweden raised the question of updating the Tariff Study which had been initiated after the Kennedy Round and had proved very useful for the last round of tariff negotiations. He said that at various occasions, the need for updating the Tariff Study had been discussed. He felt that the Committee should play a rôle in the further work on the Tariff Study and that if a decision was necessary on how to proceed, it would be taken by the Committee. His authorities would be ready to undertake such a work with priority and they would like to see the coverage of the study expanded in order to include as many countries as possible. He added that similar studies had been made in respect of developing countries and those should be included in the Tariff Study. In his view, a decision on the updating of the Tariff Study should be taken as quickly as possible and preferably at the next meeting of the Committee.

6.2.2 The representative of the European Communities supported the Swedish proposal and hoped that the updating of the tariff study could be put in hand as soon as possible.

6.2.3 The representative of Japan gave his support to the proposal made by the Swedish delegation. He associated his delegation with the view that the Committee should play a central rôle with regard to the Tariff Study. He also agreed that the enlargement of the scope of the Tariff Study should be examined by the Committee and added that the whole structure of the Tariff Study should be reviewed in order to ascertain whether it could not be improved.

6.2.4 The representative of Switzerland also supported the Swedish proposal, adding that the Committee should first reconsider the methodology of the tariff study in the light of needs after the Tokyo Round, and then consider expanding its coverage and try to secure some transparency of its utilization. In that spirit, he firmly supported the proposal that updating of the tariff study and further work on it should be entrusted to the Committee.

6.2.5 The representative of Norway raised the question whether the Committee should not look at the question of tariff escalation and its methodology. He made reference to the document prepared for the Committee on Trade and Development (COM.TD/W/316). He suggested that the secretariat could reflect on the possibility of bringing certain such questions for consideration by the Committee.

6.2.6 The Chairman confirmed that it would be appropriate to update the tariff study already made in preparation for the multilateral trade negotiations. Several delegations had drawn the Committee's attention to the need to consider the methodology to be used for updating the study, having regard in particular to the new tariff situation resulting from the Tokyo Round; suggestions had also been made for expanding the tariff study

to cover a larger number of countries. In addition, it had been suggested that the Committee should consider not only the collection and presentation of basic data, but also the various possible utilizations of those data in studies that the secretariat might have to undertake. The matter could be taken up again for discussion at a future meeting on the basis of more specific suggestions by delegations and also on the basis of the technical experience that the secretariat had acquired in preparing and carrying out the tariff study.

7. Date of the next meeting

7.1 The Chairman expressed the view that it would be useful for the Committee's next meeting to take place before the annual session of the CONTRACTING PARTIES; the exact date would be fixed in consultation with delegations.

8. Other business

8.1 The Chairman raised the question of the Committee's report. He suggested that, as for the first meeting, the secretariat might prepare detailed minutes of the current meeting. He invited delegations to reflect on the report that the Committee had to make to the Council on its first year of activity, and to present any remarks on the subject to the Committee at its next meeting.