

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

TAR/W/55/Add.1  
28 November 1985

Limited Distribution

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Committee on Tariff Concessions

LOOSE-LEAF SCHEDULES BASED ON  
HARMONIZED SYSTEM NOMENCLATURE

Note by the Secretariat

Addendum

At its meeting on 28 October 1985, the Committee on Tariff Concessions considered the note by the secretariat, contained in document TAR/W/55, which had been established at the request of the Committee in connection with the paper submitted by the delegation of Japan (TAR/W/51). In the course of the discussion, a certain number of questions were raised and the secretariat was asked to respond to them in an addendum to TAR/W/55.

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1. Tariff protocols which were established at the end of multilateral rounds of tariff negotiations have, subsequent to 1959, been signed only by those contracting parties whose schedules were annexed to the protocol. This applied not only to those cases where the new schedules contained exclusively tariff reductions, but also to a case such as the Dillon Round Protocol in which both tariff reductions and tariff increases (resulting from Article XXVIII and Article XXIV:6 negotiations) were embodied.

2. Contracting parties have as a general rule submitted the results of their tariff negotiations for inclusion in a protocol at a time when they had concluded all, or at least most, of their bilateral negotiations. The results of negotiations which had not yet been terminated at that time, as well as improvements in the concessions initially granted, were incorporated in supplementary protocols established after the end of a tariff conference. In the context of the Harmonized System exercise, it can be expected that, should the protocol approach be adopted, supplementary protocols would become necessary as not all contracting parties changing over to the Harmonized System will be ready to submit their new schedules at the time the main protocol is opened for signature.

3. It should be recalled that annexing schedules to a protocol is only binding on the contracting parties in question which thereby commit themselves to apply in the future the new (normally reduced) rates of duty. This does not, on the other hand, commit other contracting parties which, in the case of increased duty rates and in the absence of an agreement, retain their right to withdraw substantially equivalent concessions (e.g. under Article XXVIII:3(a) in the case of the Dillon Round or in the Harmonized System negotiations).

4. It follows from the above that a protocol (together with the schedules attached) does not require the approval or signature of other contracting parties than those that have schedules annexed to it. The rights of these other contracting parties are, as mentioned above, protected in all cases where agreement could not be reached. However, in order to avoid that technical errors find their way into the new schedules, the practice has been to provide countries which have participated in the negotiations the opportunity to verify that the results of the negotiations have been correctly incorporated into the schedules that are to be annexed to a protocol. In the Tokyo Round, for instance, contracting parties were invited to circulate their draft schedules to the countries with which they had negotiated not later than 1 June 1979, the period of verification having been limited until 22 June, by which date the contracting parties in question had to transmit to the secretariat the necessary number of copies of their final schedules for distribution to all MTN participants; the Geneva (1979) Protocol was opened for signature on 30 June 1979 by the contracting parties having annexed their schedules to it.

5. The general practice for certifications which are presently governed by the Decision of the GATT Council of 26 March 1980 (BISD 27S.25) on procedures for modification and rectification of schedules of tariff concessions, has been that notifications received (at irregular intervals) from contracting parties concerning changes in tariff schedules are circulated to all contracting parties in a TAR-document. In this document it is indicated that if no objection is notified to the secretariat within three months, the respective change in the tariff schedule (modification or rectification) will be deemed to be approved and will be included in the next certification of changes to schedules. When a sufficient number of notifications have been approved, a (collective) draft certification is being prepared and circulated by the secretariat to all contracting parties. This draft certification contains a proviso to the effect that if no objection is raised by a contracting party within three months from the date of its circulation on the ground that the draft does not correctly reflect modifications which have (already) entered into force, or that the rectifications (included in the draft) are not of a purely formal character, the draft will become a certification under paragraph 3 of the 1980 Decision mentioned above. The last three certifications (third, fourth and fifth) entered into force in October 1974, April 1979 and August 1981, respectively. At the present time, the Sixth Certification of Changes to Schedules is being prepared (see GATT/AIR/2096 of 21 January 1985).

6. In the context of the discussions leading to the establishment of a loose-leaf system of tariff schedules, the question of certification of loose-leaf schedules was examined in detail. It was understood at that time that in order to simplify and accelerate the certification process, a consolidated loose-leaf schedule - and subsequent amendments to it - would be certified if, upon its initial circulation in a TAR-document, no objections had been raised within the three-month period mentioned above, thus obviating the need for a second circulation of a (collective) draft certification. This procedure on a schedule-by-schedule basis thus avoided the delay of a second three-month period for verification and possible objections.

7. As indicated in the preceding paragraphs, in the case of tariff protocols, countries can put the results of tariff negotiations into effect by annexing the latter to the protocol, it being understood that the rights

of those contracting parties with which agreement has not been reached are fully safeguarded. If, however, a key-country approach were to be adopted for the purpose of the Harmonized System, the protocol would not be opened for acceptance until the schedules of each and every contracting party designated as a key country were ready and had been annexed to it. Certifications, on the other hand, require the tacit approval of all contracting parties before being approved, by virtue of the (first) three-month period during which objections against proposed changes in tariff schedules can be raised. A contracting party with which agreement concerning the proposed changes has not been reached can thus indefinitely block the entry into force of the certification.