

GENERAL AGREEMENT ON

RESTRICTED

C/W/692

31 January 1992

TARIFFS AND TRADE

Limited Distribution

COUNCIL

18 February 1992

UNITED STATES - ANDEAN TRADE PREFERENCE ACT

Draft Decision

Taking note of the request of the Government of the United States¹ for a waiver from its obligations under paragraph 1 of Article I of the General Agreement, with respect to the establishment of tariff preferences for imports of eligible articles into the United States from beneficiary Andean countries, from 4 December 1991 until 4 December 2001, as provided in the Andean Trade Preference Act, P.L. No. 102-82 (hereinafter referred to as "the Act");

Bearing in mind the 1979 Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries²;

Considering that the stated objective of the Act is to assist the trade and economic development of beneficiary developing countries situated in the Andean region by encouraging the expansion of legitimate products as an alternative to the production and trafficking of illicit narcotics in response to more liberal access and to new trading opportunities for Andean countries;

Considering also that the tariff preferences provided under the Act are designed to promote the expansion of trade and economic development of beneficiaries in a manner consistent with the objectives of the General Agreement and with trade, financial and development needs of the beneficiary countries and not to raise barriers or to create difficulties for the trade of other contracting parties;

Considering, moreover, that the trade preferences provided under the Act should not prejudice the interests of other contracting parties not benefiting from such treatment and that it is expected that the extension of such tariff preferences will not cause a significant diversion of United States imports of articles eligible under the Act originating in contracting parties which are not beneficiary countries;

Considering that the tariff preferences provided under the Act by the Government of the United States shall not constitute an impediment to the reduction or elimination of tariffs and other restrictions to trade on a most-favoured-nation basis;

¹L/6980 and Add.1.

²BISD 26S/203.

Considering, furthermore, that the tariff preferences provided under the Act by the Government of the United States shall not adversely affect the maintenance, operation and improvement of the Generalized System of Preferences of the United States;

Noting, furthermore, the assurances given by the Government of the United States that it will, upon request, promptly enter into consultations with any interested contracting party with respect to any difficulty or matter that may arise as a result of the implementation of the trade-related provisions of the Act;

Having regard to the Guiding Principles to be followed in considering applications for waivers adopted on 1 November 1956³;

The CONTRACTING PARTIES, acting pursuant to the provisions of paragraph 5 of Article XXV of the General Agreement,

Decide that:

1. Subject to the terms and conditions set out hereunder, the provisions of paragraph I of Article I of the General Agreement shall be waived, until 4 December 2001, to the extent necessary to permit the Government of the United States to provide tariff preferences to eligible imports of Andean countries benefiting from the provisions of the Act, without being required to extend the same tariff preferences to like products of any other contracting party.
2. Such tariff preferences shall be designed not to raise barriers or create undue difficulties for the trade of other contracting parties.
3. The Government of the United States shall promptly notify CONTRACTING PARTIES of any trade-related measure taken under the Act, in particular any changes in the designation of beneficiary countries, as well as any modifications being considered in the list of eligible articles and the tariff preferences thereof, and shall furnish them with all the information they may deem appropriate relating to such action. Pursuant to the provisions of paragraphs 4 and 5, the United States Government shall consult with regard to any modifications being considered in the list of eligible articles.
4. The Government of the United States will, upon request, promptly enter into consultations with any interested contracting party with respect to any difficulty or matter that may arise as a result of the implementation of the trade-related provisions of the Act; where a contracting party considers that any benefit accruing to it under the General Agreement may be or is being impaired unduly as a result of such implementation, such consultations shall examine the possibility of action for a satisfactory adjustment of the matter.

³BISD 5S/25.

5. Any contracting party which considers that the trade-related provisions of the Act are being applied inconsistently with this waiver or that any benefit accruing to it under the General Agreement may be or is being impaired unduly as a result of the implementation of such trade-related provisions of the Act and that consultations have proved unsatisfactory, may bring the matter before the CONTRACTING PARTIES, which will examine it promptly and will formulate any recommendations that they judge appropriate.

6. The Government of the United States will submit annually to the CONTRACTING PARTIES a report on the implementation of the trade-related provisions of the Act. The CONTRACTING PARTIES will, one year from the date when this waiver comes into force and, annually thereafter, review its operation and consider if in the circumstances then prevailing any modifications to or termination of the provisions of the present waiver are required.