

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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CONTRACTING PARTIES  
Fourteenth Session

## SPECIAL CUSTOMS TREATMENT ACCORDED BY BY AUSTRALIA TO PRODUCTS OF PAPUA-NEW GUINEA

### Note by the Australian Delegation

1. Under the Decision of 24 October 1953 as amended by the Decision of 13 November 1956<sup>1</sup> the CONTRACTING PARTIES waived the provisions of paragraphs 1 and 4(b) of Article I to the extent necessary to permit the Government of Australia to grant or continue to accord duty-free treatment to primary products of the Territory of Papua-New Guinea and to products of that Territory substantially derived from such primary products not then specified in Schedule I (Australia), without regard to the rates of duty applicable to like products of any other contracting party, subject to specified procedures.
2. All items in Schedule I which are the subject of concessions on customs duties are exempt from primage duties. For some items, however, the concessions in Schedule I are limited to exemption from primage duties only. These concessions are denoted by the symbol...../B in the Australian Schedule and on these items the freedom to increase the unbound most-favoured-nation rate is retained.
3. At the Thirteenth Session the Australian Delegation reported a technical difficulty in the invocation of the waiver in respect of item 78 (H) (I) - unshelled almonds. In accordance with the provisions of paragraph 1 of the waiver the Australian Government wished to raise the most-favoured-nation rate of duty on this item while continuing to afford nominal duty-free entry to imports from Papua-New Guinea. It was precluded from doing so, however, since, although the most-favoured-nation rate was unbound, a concession on the item in the form of exemption from primage duty was specified in Schedule I. The withdrawal of the latter concession, therefore, although not required to increase the most-favoured-nation rate, would have been necessary to invoke the waiver merely because of a purely technical point arising out of the text thereof. The Australian delegation stated at the time that it would not be in the best interests of the CONTRACTING PARTIES to withdraw the concession on primage in order to invoke the waiver and accordingly sought permission to take action as proposed leaving the concession intact.

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BISD, Fifth Supplement, page 34.

4. The CONTRACTING PARTIES concurred with this request and the Chairman, commenting thereon, pointed out that: "following consultations on this matter with a group of interested contracting parties, it appeared to him that the text of paragraph 1 of the Waiver of 24 October 1953 went beyond the intention of those who drafted it in the sense that in a case such as this where the concession in Schedule I was limited to the exemption from primage duty it was not intended to debar Australia from increasing an unbound customs duty, while continuing to grant free entry to the same product from Papua-New Guinea. Therefore, it would not be in the interests of the CONTRACTING PARTIES to oblige Australia to withdraw the concession from Schedule I (exemption from primage duty) in order to allow her to raise the unbound rate... He suggested that at the next session the CONTRACTING PARTIES examine the Waiver granted to Australia with a view to bringing it into conformity with the intention of the CONTRACTING PARTIES at the time the Waiver was granted." (SR.13/21).

The procedure proposed by the Chairman was approved by the CONTRACTING PARTIES and accordingly item II "Australian/Papua-New Guinea Waiver" appears on the agenda of this Session.

5. The Australian delegation considers that the intention of the CONTRACTING PARTIES when the waiver was granted could be effectively secured by amending paragraph 1 of the waiver as indicated below:

"Subject to the provisions of paragraphs 2 and 3 of this Decision, the provisions of paragraphs 1 and 4(b) of Article I of the General Agreement shall be waived to the extent necessary to permit the Government of Australia to grant or continue to accord duty-free treatment to primary products of the Territory of Papua-New Guinea and to products of that Territory substantially derived from such primary products for which no rate of customs duty or margin of preference is /not then/ specified in Schedule I to the General Agreement, without regard to the rates of duty applicable to like products of any other contracting party."

6. The Australian delegation considers that the above amendment would ~~not~~ in any way materially modify the intent or effect of the waiver when it was originally granted and would avoid any further technical difficulties similar to that which occurred at the thirteenth session.