

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

RESTRICTED

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Trade Negotiations Committee

Legal Drafting Group

HISTORICAL TARIFF PREFERENCES

Note by the Secretariat

The attention of delegations is drawn to the attached informal note and request for information drawn up by the secretariat at the request of the Legal Drafting Group.

Delegations maintaining, or benefiting from, preferences referred to in Articles I:2 and I:3 and Annexes A through F of the General Agreement, as described in the note, are asked to respond to the questions in paragraph 2 of the note by 31 January 1993, in order to permit the Group's evaluation of whether these provisions should be kept in their current state in the General Agreement.

GATT SECRETARIAT

UR-92-0114

15.12.92

### Historical Preferences

#### Informal Note and Request for Information by the Secretariat

1. At the 10 December meeting of the Legal Drafting Group, it was decided that the Secretariat would seek information from delegations as to the extent to which the historical tariff preferences referred to in Article I:2 and I:3 of the General Agreement are still being extended in fact and a reference to them may need to be maintained.

2. Accordingly, information is requested by the earliest practicable date in January 1993, and no later than 31 January, regarding the current status of the preferences listed in Articles I:2 and I:3 and Annexes A through F of the General Agreement. Governments maintaining or benefiting from these preferences are requested to contact the Secretariat (Mr. J. Croome) regarding the extent to which they:

- accord tariff preferences to the products of any other country or territory (including States and territories that are not contracting parties to the GATT) listed in the Annex corresponding to it; or
- benefit from such tariff preferences.

The information gathered in this manner will be used as the basis for the Group's evaluation of whether these provisions should be kept in their current state in the General Agreement.

#### Background

##### Historical tariff preferences

3. The lists of tariff preferences in Annexes A-G were established in 1947 during discussions on the GATT and the ITO Charter, on the principle that then-existing preferences would be permitted but that no new preferences could be created.

4. Annexes A, B and C have been updated in protocols of amendment or rectification; the present form of Annex B (territories of the French Union) dates from the Fourth Protocol of Rectifications and Modifications to the Annexes and to the Texts of the Schedules of the General Agreement on Tariffs and Trade, which was agreed at the Review Session of 1954-55 and entered into force on 23 January 1959. At that time certain territories which had been raised to the status of French départements on 1 January 1948 were deleted from the list as they form part of the metropolitan customs territory.

5. Article XXIV:9 of the GATT provides that "the preferences referred to in paragraph 2 of Article I shall not be affected by the formation of a customs union or of a free-trade area but may be eliminated or adjusted by means of negotiations with contracting parties affected. This procedure of negotiations with affected contracting parties shall, in particular, apply to the elimination of preferences required to conform with the provisions of paragraph 8(a)(i) and paragraph 8(b)." It is not clear how far the preferences referred to in Article I:2 and Annexes A through C of the General Agreement have been eliminated in such negotiations.

Article I:3

5. Article I:3 permits the creation of additional preferences by the use of the waiver power under Article XXV:5. It corresponds to Article 16:3 of the Havana Charter, which permitted creation of new preferences between these territories in accordance with Charter Article 15, which in turn provided for creation of new preferential agreements for economic development or reconstruction.

6. This preference exception was exercised on the occasion of the accession of the United Arab Republic in February 1970. The Protocol for the Accession of the UAR provides in paragraph 2(b) that

"(i) Notwithstanding the provisions of Article I, paragraph 1 of the General Agreement, this Protocol shall not require the elimination by the United Arab Republic of any preferences in respect of import duties and charges accorded by the United Arab Republic exclusively to one or more of the following countries: Jordan, Syria, Iraq, Lebanon, Libya, Saudi Arabia and Yemen, provided, however, that these preferences do not exceed the levels in effect on 13 November 1962;

"(ii) the preceding paragraph shall be deemed to be a Decision of the CONTRACTING PARTIES under Article XXV:5 of the General Agreement as if it were a Decision pursuant to paragraph 3 of Article I;

"(iii) in the event that the United Arab Republic should at some future date desire to modify the preferences referred to in sub-paragraph (i) above, including the addition of products not at present subject to preference, the matter shall be dealt with by the CONTRACTING PARTIES in accordance with paragraph 3 of Article I of the General Agreement;..."

In view of this paragraph the deletion of Article I:3 would not seem to be appropriate.

Meat arrangements referred to in Annex A and Article XIV:5(b)

7. The negotiating history of the GATT indicates that it was agreed that paragraph 2 of Article I refers only to preferences in the form of tariff margins and has nothing to do with quotas or quantitative restrictions.

8. When the UK entered into the Ottawa Agreements in 1932 with Australia and New Zealand, and into the UK-Canada bilateral trade agreement in 1937, the UK undertook to give preferential treatment to imports from the Dominions of certain meat products, not through tariff preferences but through preferential treatment under UK quantitative restrictions on such imports. For instance, imports of frozen mutton and lamb and chilled and frozen beef from Australia were exempt from quantitative restrictions which were applied to other imports to promote home production. (EPCT/158 and Attached Note from UK Delegation). During the negotiation of the GATT and the Charter the UK secured provisions in Article XIV and Annex A covering these arrangements.

9. When the UK, Denmark and Ireland acceded to the EEC, Article XXIV:6 negotiations were conducted. The meat quota preferences may have been partially or totally eliminated at that point. There is no reference to the fate of these preferences in official documents of the GATT.

Countries and territories named in Annexes A-G

NOTE: All original names have been retained.

Argentina  
Commonwealth of Australia  
Dependent territories of the Commonwealth of Australia  
Belgian Congo  
Belgium and Luxembourg, Economic Union of  
Bolivia  
Burma  
Cameroons under French Trusteeship  
Canada  
Ceylon  
Chile  
France  
French West Africa  
French Equatorial Africa (Treaty Basin of the Congo and other territories)  
French Somali Coast and Dependencies  
French Establishments in Oceania  
French Establishments in the Condominium of the New Hebrides  
India (as on 10 April 1947)  
Indo-China  
Republic of Indonesia  
Ireland  
Lebanon  
Madagascar and Dependencies  
Morocco (French zone)  
Netherlands  
Netherlands Antilles  
New Guinea  
New Zealand  
Dependent territories of New Zealand  
New Caledonia and Dependencies  
Newfoundland  
Palestine  
Peru  
Republic of the Philippines  
Ruanda Urundi  
Saint-Pierre and Miquelon  
Southern Rhodesia  
Surinam  
Syria  
Togo under French Trusteeship  
Transjordan  
Tunisia  
Union of South Africa including South West Africa  
United Kingdom of Great Britain and Northern Ireland  
Dependent territories of the United Kingdom of Great Britain and Northern Ireland  
United States of America (customs territory)  
Dependent territories of the United States of America

## **PART I**

### **Article I**

#### ***General Most-Favoured-Nation Treatment***

2. The provisions of paragraph 1 of this Article shall not require the elimination of any preferences in respect of import duties or charges which do not exceed the levels provided for in paragraph 4 of this Article and which fall within the following descriptions:

- (a) Preferences in force exclusively between two or more of the territories listed in Annex A, subject to the conditions set forth therein;
- (b) Preferences in force exclusively between two or more territories which on July 1, 1939, were connected by common sovereignty or relations of protection or suzerainty and which are listed in Annexes B, C and D, subject to the conditions set forth therein;
- (c) Preferences in force exclusively between the United States of America and the Republic of Cuba;
- (d) Preferences in force exclusively between neighbouring countries listed in Annexes E and F.

3. The provisions of paragraph 1 shall not apply to preferences between the countries formerly a part of the Ottoman Empire and detached from it on July 24, 1923, provided such preferences are approved under paragraph 5 † of Article XXV, which shall be applied in this respect in the light of paragraph 1 of Article XXIX.

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† The authentic text erroneously reads " sub-paragraph 5 (a) ".

ANNEX A

LIST OF TERRITORIES REFERRED TO IN PARAGRAPH 2 (a)  
OF ARTICLE I

United Kingdom of Great Britain and Northern Ireland  
Dependent territories of the United Kingdom of Great Britain and Northern  
Ireland  
Canada  
Commonwealth of Australia  
Dependent territories of the Commonwealth of Australia  
New Zealand  
Dependent territories of New Zealand  
Union of South Africa including South West Africa  
Ireland  
India (as on April 10, 1947)  
Newfoundland  
Southern Rhodesia  
Burma  
Ceylon

Certain of the territories listed above have two or more preferential rates in force for certain products. Any such territory may, by agreement with the other contracting parties which are principal suppliers of such products at the most-favoured-nation rate, substitute for such preferential rates a single preferential rate which shall not on the whole be less favourable to suppliers at the most-favoured-nation rate than the preferences in force prior to such substitution.

The imposition of an equivalent margin of tariff preference to replace a margin of preference in an internal tax existing on April 10, 1947 exclusively between two or more of the territories listed in this Annex or to replace the preferential quantitative arrangements described in the following paragraph, shall not be deemed to constitute an increase in a margin of tariff preference.

The preferential arrangements referred to in paragraph 5 (b) of Article XIV are those existing in the United Kingdom on April 10, 1947, under contractual agreements with the Governments of Canada, Australia and New Zealand, in respect of chilled and frozen beef and veal, frozen mutton and lamb, chilled and frozen pork, and bacon. It is the intention, without prejudice to any action taken under sub-paragraph (h) † of Article XX, that these arrangements shall be eliminated or replaced by tariff preferences, and that negotiations to this end shall take place as soon as practicable among the countries substantially concerned or involved.

The film hire tax in force in New Zealand on April 10, 1947, shall, for the purposes of this Agreement, be treated as a customs duty under Article I. The

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† The authentic text erroneously reads "part I (h)".

renters' film quota in force in New Zealand on April 10, 1947, shall, for the purposes of this Agreement, be treated as a screen quota under Article IV.

The Dominions of India and Pakistan have not been mentioned separately in the above list since they had not come into existence as such on the base date of April 10, 1947.

ANNEX B

LIST OF TERRITORIES OF THE FRENCH UNION REFERRED  
TO IN PARAGRAPH 2 (b) OF ARTICLE I

France  
French Equatorial Africa (Treaty Basin of the Congo <sup>1</sup> and other territories)  
French West Africa  
Cameroons under French Trusteeship <sup>1</sup>  
French Somali Coast and Dependencies  
French Establishments in Oceania  
French Establishments in the Condominium of the New Hebrides <sup>1</sup>  
Indo-China  
Madagascar and Dependencies  
Morocco (French zone) <sup>1</sup>  
New Caledonia and Dependencies  
Saint-Pierre and Miquelon  
Togo under French Trusteeship <sup>1</sup>  
Tunisia

ANNEX C

LIST OF TERRITORIES REFERRED TO IN PARAGRAPH 2 (b) OF ARTICLE I  
AS RESPECTS THE CUSTOMS UNION OF BELGIUM, LUXEMBURG  
AND THE NETHERLANDS

The Economic Union of Belgium and Luxemburg  
Belgian Congo  
Ruanda Urundi  
Netherlands  
New Guinea  
Surinam  
Netherlands Antilles  
Republic of Indonesia

For imports into the territories constituting the Customs Union only.

ANNEX D

LIST OF TERRITORIES REFERRED TO IN PARAGRAPH 2 (b)  
OF ARTICLE I AS RESPECTS THE UNITED STATES OF AMERICA

United States of America (customs territory)  
Dependent territories of the United States of America  
Republic of the Philippines

<sup>1</sup> For imports into Metropolitan France and Territories of the French Union.

The imposition of an equivalent margin of tariff preference to replace a margin of preference in an internal tax existing on April 10, 1947, exclusively between two or more of the territories listed in this Annex shall not be deemed to constitute an increase in a margin of tariff preference.

**ANNEX E**

**LIST OF TERRITORIES COVERED BY PREFERENTIAL ARRANGEMENTS BETWEEN CHILE AND NEIGHBOURING COUNTRIES REFERRED TO IN PARAGRAPH 2 (d) OF ARTICLE I**

Preferences in force exclusively between Chile on the one hand, and

1. Argentina
2. Bolivia
3. Peru

on the other hand.

**ANNEX F**

**LIST OF TERRITORIES COVERED BY PREFERENTIAL ARRANGEMENTS BETWEEN LEBANON AND SYRIA AND NEIGHBOURING COUNTRIES REFERRED TO IN PARAGRAPH 2 (d) OF ARTICLE I**

Preferences in force exclusively between the Lebano-Syrian Customs Union, on the one hand, and

1. Palestine
2. Transjordan

on the other hand.