

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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BORNEO FREE TRADE AREA

With reference to item 37 of the agenda for the nineteenth session (L/1622 and L/1580/Add.1) the Government of the United Kingdom has submitted the following communication, together with the text of the Borneo Free Trade Area Agreement:

1. The Agreement is presented to the CONTRACTING PARTIES for consideration under Article XXIV:7 before being submitted to the Legislatures of the two territories for final ratification in December with a view to being brought into effect on 1 January 1962.
2. It is considered that the introduction of a Free Trade Area will have valuable effects on the trade and economic development of the two territories, which are at a relatively early stage of development, with a population of no more than 1,200,000.
3. The objectives of the Borneo Free Trade Area are to promote in the area and in the territory of each participating government a sustained expansion of economic activity, increased productivity and the rational use of resources, financial stability and a continuous improvement in living standards.
4. The Agreement provides that each participating government shall admit free of import duties, and any other tariffs with equivalent effect, goods eligible for Area tariff treatment, that is to say goods consigned from the territory of one participating government to the territory of another participating government:
 - (a) where they are of Area origin in accordance with the rules of origin set out in Appendix A to the Agreement, or
 - (b) in case of goods imported from outside the Area, where the duties or charges levied by the territory in which the goods were first imported are not such as would cause "deflection of trade".

The goods excluded under (b) are limited to the nine categories set out in Appendix B on which the deflection of trade would result in a loss of revenue, which could not be justified either in the interest of the promotion of inter-territorial trade, or the development of local industry. This is the sole reason for the exclusion of such items from the Appendix. Where tariffs on certain

commodities differ in the two territories but a deflection of trade is not expected to occur the items in question have not been included in Appendix B. Although there is provision in the Agreement for further items to be added, should that be necessary, it is the firm intention of the two governments, that the provision should be used sparingly. Trade between the two territories in Area products listed in the Appendix B represents a small proportion only of the total trade between them.

5. The participating governments also agree not to intensify import or export restrictions on goods moving between them, and agree to relax such existing import restrictions progressively.

THE BORNEO FREE TRADE AREA

AGREEMENT, 1961

The Governments of SARAWAK and NORTH BORNEO having regard to the General Agreement on Tariffs and Trade have agreed as follows:

ARTICLE 1

1. A Free Trade Area (hereinafter referred to as the "Borneo Free Trade Area") is hereby established.
2. The Members of the Borneo Free Trade Area (hereinafter referred to as "Participating Governments") shall be the Governments of the territories of SARAWAK and NORTH BORNEO and such other Governments as may accede to it.
3. The area of the Borneo Free Trade Area (hereinafter referred to as the "Area") shall be the territories referred to in paragraph 2; excluding any Free Port situate within any such territory, and any reference in this Agreement to a territory shall be deemed to exclude the area of any Free Port situate within such territory.
4. An Economic Co-ordinating Committee as an Institution of the Borneo Free Trade Area is hereby established.
5. For the purposes of this Agreement:

"quantitative restrictions" means prohibitions or restrictions on imports from or exports to the territory of another Participating Government whether made effective through quotas, import or export licences, or other measures with equivalent effect, including administrative measures and requirements restricting import or export.

ARTICLE 2

The objectives of the Borneo Free Trade Area shall be to promote in the Area and in the territory of each Participating Government a sustained expansion of economic activity, increased productivity and the rational use of resources, financial stability and a continuous improvement in living standards.

ARTICLE 3

Each Participating Government shall admit free of import duties and any other charges with equivalent effect goods eligible for Area tariff treatment under Article 4.

ARTICLE 4

1. For the purpose of Article 3 goods shall be accepted as eligible for Area tariff treatment if they have been consigned to the territory of a Participating Government from the territory of another Participating Government under any one of the following conditions:

- (a) if they are of Area origin in accordance with the rules regarding Area origin (hereinafter referred to as the "Area origin rules") set out in Appendix A to this Agreement;
- (b) if they are imported goods not of Area origin provided the import duties or charges levied by the Participating Government into whose territory the goods were imported from outside the Area are not such as would cause deflection of trade.

2. Notwithstanding the provisions of paragraph 1 of this Article, Participating Governments may agree to exclude any goods or class of goods from Area tariff treatment. Such goods or classes of goods are set out in Appendix B to this Agreement and this Appendix may be amended from time to time by mutual agreement. When such goods or classes of goods are transferred from the territory of one Participating Government to the territory of another Participating Government in the case of goods or classes of goods imported from outside the Area and so excluded, the difference between the import duties levied by the Participating Government shall be refunded or collected as the case may be. In the case of goods or classes of goods of Area origin so excluded, such goods or classes of goods shall on transfer from the territory of one Participating Government to the territory of another Participating Government be treated as if they had been manufactured in the territory of the other Participating Government and subject to the excise in force in the receiving territory together with any import duties levied in that territory on components of such goods or classes of goods, and any difference in the total of import duty and excise shall be collected or refunded as the case may be.

3. Nothing in this Agreement shall prevent a Participating Government from accepting as eligible for Area tariff treatment any goods or classes of goods imported from the territory of another Participating Government provided that like goods or classes of goods are accorded reciprocal treatment by that Participating Government.

4. The Economic Co-ordinating Committee shall from time to time examine in what respect Area origin rules can be amended to make them simpler and more liberal and these rules may be amended from time to time by mutual agreement.

ARTICLE 5

1. For the purposes of Article 4 and of this Article, trade is said to be deflected:

- (a) when imports of a particular product into the territory of a Participating Government from the territory of another Participating Government are increasing:
 - (i) as a result of the elimination of import duties and charges on that product in accordance with Article 3, and
 - (ii) because import duties or charges levied by the exporting Participating Government on imports from outside the Area of the product in question, or of raw materials or intermediate products used in the production of the product in question, are significantly lower than the corresponding import duties or charges levied by the importing Participating Government, and
- (b) this increase in imports causes or would cause serious injury to the revenues of the importing Participating Government or to production which is carried on in the territory of that Participating Government.

2. The Economic Co-ordinating Committee shall keep under review the question of deflections of trade and their causes. It shall recommend to Participating Governments such action as is necessary to deal with the causes of deflection of trade by amending the Area origin rules or the level of import duties or by such other means as it may consider appropriate.

3. If a deflection of trade of a particularly urgent nature occurs, any Participating Government may refer the matter to the Economic Co-ordinating Committee. The Committee shall make its recommendations as quickly as possible and in general within one month. Participating Governments undertake to take early action on any such recommendations; and if a Participating Government does not, or is unable to, comply with a recommendation of the Economic Co-ordinating Committee it shall inform the Committee of the reasons therefor and the other Participating Governments may then take measures to safeguard their position.

4. A Participating Government which is considering the reduction of the effective level of its import duties or charges on any product not eligible for Area tariff treatment shall, as far as may be practicable, notify the Co-ordinating Committee before such reductions come into effect, and shall consider any representations made by another Participating Government that the reduction is likely to lead to deflection of trade.

5. When considering changes in their duties or charges on any product not eligible for Area tariff treatment Participating Governments shall have due regard to the desirability of avoiding consequential deflections of trade.

ARTICLE 6

1. Participating Governments shall not:

- (a) apply directly or indirectly to imported goods of Area origin any fiscal charges in excess of those applied directly or indirectly to like domestic goods, nor otherwise apply such charges so as to afford effective protection to domestic goods, or
- (b) apply fiscal charges to imported goods of Area origin of a kind which they do not produce, or which they do not produce in substantial quantities, in such a way as to afford effective protection to the domestic production of goods of a different kind which are substitutable for the imported goods of Area origin which enter into direct competition with them and which do not bear directly or indirectly in the country of importation, fiscal charges of equivalent incidence.

2. For the purposes of this Article:

"fiscal charges" means internal taxes and other internal charges on goods and revenue duties and excludes import duties.

ARTICLE 7

1. Each Participating Government may refuse to accept as eligible for Area tariff treatment goods which benefit from drawback allowed by Participating Governments. In applying this paragraph, each Participating Government shall accord the same treatment to imports from the territories of all Participating Governments.

2. For the purposes of this Article:

"drawback" means an arrangement for the refund wholly or in part of import duty paid on imported goods or materials re-exported either unchanged or as parts or ingredients of other goods;

"remission" includes exemption for materials brought into Free Ports and other places which have similar customs privileges.

ARTICLE 8

1. Participating Governments shall not charge export duties on any goods which are transferred to the territory of another Participating Government.

2. Whenever goods liable to export duty are transferred under the provisions of paragraph 1 of this Article and are subsequently exported from the Area, export duty shall be payable, and the Participating Government from whose territory the goods are exported shall collect on behalf of and pay to the Participating Government of the territory from which the goods are transferred the export duties levied in respect of such goods in that territory.

3. The provisions of this Article shall not prevent any Participating Government from taking such measures as are necessary to prevent evasion, by means of transfer and export, of duties which it applies to exports to territories outside the Area or to prevent serious injury to its revenues.

ARTICLE 9

Each Participating Government agrees not to alter import or export duties or excise, or any other charge with equivalent effect, on any goods without prior consultation with other Participating Governments.

ARTICLE 10

Participating Governments shall take appropriate measures, including arrangements regarding administrative co-operation, to ensure that the provisions of this Agreement are effectively and harmoniously applied, taking account of the need to reduce as far as is possible the formalities imposed on trade and of the need to achieve mutually satisfactory solutions of any difficulties arising out of the operation of these provisions.

ARTICLE 11

1. Participating Governments shall not introduce or intensify quantitative restrictions on imports of any goods from the territory of another Participating Government.

2. Each Participating Government shall relax any such quantitative restrictions progressively in such a way that a reasonable rate of expansion of trade is not frustrated.

3. Each Participating Government shall apply the provisions of this Article in such a way that all other Participating Governments are given like treatment.

ARTICLE 12

1. Participating Governments shall not, except as provided for by paragraph 3 of Article 8, introduce or intensify prohibitions or restrictions on exports to the territory of another Participating Government, whether made effective through quotas or export licences or other measures with equivalent effect.

2. The provisions of this Article shall not prevent any Participating Government from taking such measures as are necessary to prevent evasion, by means of transfer and export, of restrictions which it applied to exports to territories outside the Area.

ARTICLE 13

Provided that such measures are not used as a means of arbitrary or unjustifiable discrimination between Participating Governments or as a disguised restriction on trade between Participating Governments, nothing in Articles 11 and 12 shall prevent the adoption of or enforcement by any Participating Government of measures:

- (a) necessary to protect public morals;
- (b) necessary for the prevention of disorder and crime;
- (c) necessary to protect human, animal or plant life or health;
- (d) necessary to protect copyrights or to prevent deceptive practices;
- (e) imposed for the protection of national treasures of artistic, historic or archaeological value;
- (f) undertaken in pursuance of obligations under inter-governmental commodity agreements conforming to the principles approved by the Economic and Social Council of the United Nations in its resolution of 28 March 1947, establishing an Interim Co-ordinating Committee for International Commodity Arrangements.

ARTICLE 14

Participating Governments shall not maintain or introduce any form of aid, the main purpose or effect of which is to frustrate the benefits expected from the removal or absence of duties and quantitative restrictions on trade between Participating Governments.

ARTICLE 15

1. Participating Governments shall accord to residents of any other Participating Government no less favourable treatment than is accorded to their own residents in the establishment and operation of economic enterprises in their territories.

2. Nothing in this Article shall prevent the adoption and enforcement by a Participating Government of measures for the control of entry, residence, activity and departure of non-residents where such measures are justified by reasons of public order, public health or morality, or national security.

ARTICLE 16

1. Nothing in this Agreement shall prevent any Participating Government from taking action against the import of dumped or subsidized products. If any industry in the territory of any Participating Government is suffering or is threatened with material injury as the result of the import of dumped or subsidized products into the territory of another Participating Government, the latter shall, at the request of the former, examine the possibility of taking such action as is consistent with its international obligations to remedy the injury or prevent the threatened injury.

2. For the purposes of this Article, a product shall be deemed to be "dumped" if the price of the product exported from one territory to another:

- (a) is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country; or
- (b) in the absence of such domestic price is less than either:
 - (i) the highest comparable price for the like product for export to any third territory in the ordinary course of trade, or
 - (ii) the cost of production of the product in the territory of origin plus a reasonable addition for selling cost and profit.

Due allowance shall be made in each case for differences in conditions and terms of sale, for differences in taxation and for other differences affecting price comparability.

3. For the purposes of this Article, a product shall be deemed to be subsidized if any bounty or subsidy has been granted, directly or indirectly on its manufacture, production or export, in the country of origin or exportation, including any special subsidy in respect of its transportation, provided that no product of any pioneer industry, within the meaning of any law in the exporting territory relating to pioneer industries, shall be deemed to be subsidized by reason only of the fact that it receives preferential treatment as a pioneer product.

ARTICLE 17

Nothing in this Agreement shall prevent any Participating Government from taking any action which it considers necessary for the protection of its essential security interests:

- (i) relating to fissionable materials or the materials from which they are derived;

- (ii) relating to the traffic in arms, ammunition, and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;
- (iii) taken in time of war or other emergency in international relations; or

from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

ARTICLE 18

Participating Governments recognise that the economic and financial policies of each of them affect the economies of the other Participating Governments and intend to pursue those policies in a manner which serves to promote the objectives of the Borneo Free Trade Area. They shall periodically exchange views on all aspects of those policies. The Economic Co-ordinating Committee may make recommendations to Participating Governments on matters relating to those policies to the extent necessary to ensure the attainment of the objectives and the smooth operation of the Borneo Free Trade Area.

ARTICLE 19

1. If any Participating Government considers that any benefit conferred upon it by this Agreement or any objective of the Borneo Free Trade Area is being or may be frustrated and if no satisfactory settlement is reached between the Participating Governments concerned, any of those Participating Governments may refer the matter to the Economic Co-ordinating Committee. The Committee shall promptly make arrangements for examining the matter and shall make such recommendations as it considers appropriate.

2. If a Participating Government does not or is unable to comply with a recommendation of the Economic Co-ordinating Committee to rectify the situation set out in paragraph 1 of this Article it shall inform the Committee of the reasons therefor and then the Participating Government bringing the matter forward may take measures to safeguard its position.

ARTICLE 20

1. It shall be the responsibility of the Economic Co-ordinating Committee:

- (a) to exercise such powers and functions as are conferred upon it by this Agreement;
- (b) to supervise the application of this Agreement and keep its operation under review;

- (c) to consider whether further action should be taken by Participating Governments in order to promote the attainment of the objectives of the Borneo Free Trade Area and to facilitate the establishment of closer links with other territories; and
 - (d) to meet at regular intervals and at any other times the Chairman considers necessary.
2. Each Participating Government shall be represented in the Committee by one official and two unofficial members appointed by the respective Governments.
3. The Chairman of the Committee shall be an independent person not employed by any of the Participating Governments. He shall be appointed by unanimous agreement of the Participating Governments.

ARTICLE 21

1. A Participating Government shall collect on behalf of and pay to another Participating Government:
- (a) the import duties and excise imposed in respect of:
 - (i) goods which are eligible for Area tariff treatment; and
 - (ii) goods which are excluded under the provisions of paragraph 2 of Article 4 to the extent that the duties are not refunded under the provisions of that paragraph,

when such goods have been imported into its territory or manufactured therein and subsequently transferred to the territory of another Participating Government; and
 - (b) the export duties imposed in respect of goods which have been transferred into its territory under the provisions of paragraph 1 of Article 8 and which are subsequently exported outside the Area.
2. A Participating Government shall, in the case of goods manufactured in the territory of another Participating Government and containing dutiable components imported from outside the Area and which are subsequently transferred to the territory of the first Participating Government, be entitled to claim the amount of import duties involved, and the second Participating Government shall, on receipt of the claim, pay the amount of duties involved.

ARTICLE 22

Any Government may accede to this Agreement, provided that the original Participating Governments approve its accession. This Agreement shall enter into force in relation to an acceding Government on the date indicated in that approval.

ARTICLE 23

Any Participating Government may withdraw from this Agreement provided that it gives twelve months' notice in writing to other Participating Governments and at the same time informs the Chairman of the Economic Co-ordinating Committee.

ARTICLE 24

This Agreement may be amended from time to time by consent of the Participating Governments.

ARTICLE 25

This Agreement may be cited as the Borneo Free Trade Area Agreement, 1961, and shall come into force on the first day of January, 1962, and shall continue in force subject to the provisions of Article 23.

A P P E N D I X A

AREA ORIGIN RULES

For the purpose of determining the origin of goods, the following Rules shall have effect.

Rule 1. Interpretative Provisions

In these Rules:

1. "Continental Shelf" means, in respect of the territory of any Participating Government, that part of the Continental Shelf which is, by the law of that territory, recognised as being part of that territory;
2. energy, fuel, plant, machinery and tools used in the production of goods within the Area, and materials used in the maintenance of such plant, machinery and tools, shall be regarded as wholly produced within the Area and therefore of Area origin when determining the origin of those goods;
3. "materials" includes products, parts and components used in the production of goods;
4. "produced" and "a process of production" includes the application of any operation or process, with the exception of any operation or process which consists only of one or more of the following:
 - (a) packing, wherever the packing materials may have been produced;
 - (b) splitting up into lots;
 - (c) sorting and grading;
 - (d) marking;
 - (e) putting up into sets.

Rule 2. Goods wholly produced within the Area

The following are among the goods which shall be regarded as wholly produced within the Area and therefore of Area origin:

- (a) mineral products extracted from the ground within the Area and from the Continental Shelf;

- (b) vegetable products harvested within the Area;
- (c) live animals born and raised within the Area;
- (d) products obtained within the Area from live animals;
- (e) products obtained by hunting or fishing conducted within the Area;
- (f) marine products taken from the sea by a vessel of a Participating Government;
- (g) used articles fit only for the recovery of materials, provided that they have been collected from users within the Area;
- (h) scrap and waste resulting from manufacturing operations within the Area;
- (i) goods produced within the Area exclusively from one or both of the following:-
 - (1) products within sub-paragraphs (a) to (h) of this Rule;
 - (2) materials containing no element imported from outside the Area or of undetermined origin.

Rule 3. Goods partly produced within the Area

1. Goods not qualifying under Rule 2 shall nevertheless be regarded as of Area origin provided that they have been produced within the Area and provided further that the value of any materials imported from outside the Area or of undetermined origin which have been used at any stage of the production of the goods does not exceed seventy-five per cent of the export price of the goods.

2. The value of any materials which can be identified as having been imported from outside the Area shall be their c.i.f. value accepted by the customs authorities on clearance for home use, or on temporary admission, at the time of last importation into the territory of the Participating Government where they were used in a process of production.

3. If the value of any materials imported from outside the Area cannot be determined in accordance with paragraph 2 of this Rule, their value shall be the earliest ascertainable price paid for them in the territory of the Participating Government where they were used in a process of production.

4. If the origin of any materials cannot be determined, such materials shall be deemed to have been imported from outside the Area and their value shall be the earliest ascertainable price paid for them in the territory of the Participating Government where they were used in a process of production.

5. The export price of the goods shall be the price paid or payable for them to the exporter in the territory of the Participating Government where the goods were produced, that price being adjusted, where necessary, to a f.o.b. or free at frontier basis in that territory.

6. The value under paragraphs 2, 3 and 4 or the export price under paragraph 5 of this Rule may be adjusted to correspond with the amount which would have been obtained on a sale in the open market between a buyer and seller independent of each other. This amount shall also be taken to be the export price when the goods are not the subject of a sale.

Rule 4. Unit of qualification

1. Each article in a consignment shall be considered separately.
2. For the purposes of paragraph 1 of this Rule, goods shall be treated as a single article if they are so treated for purposes of assessing customs duties by the importing Participating Government.
3. An unassembled or disassembled article which is imported in more than one consignment because it is not feasible for transport or production reasons to import it in a single consignment shall, if the importer so requests, be treated as one article.

Rule 5. Segregation of Materials

1. For those products or industries where it would be impracticable for the producer physically to segregate materials of similar character but different origin used in the production of goods, such segregation may be replaced by an appropriate accounting system, which will ensure that no more goods receive Area tariff treatment than would have been the case if the producer had been able physically to segregate the materials.
2. Any such accounting system shall conform to such conditions as may be agreed upon by the Participating Governments concerned in order to ensure that adequate control measures will be applied.

Rule 6. Treatment of Packing

1. Where, for the purposes of assessing customs duties the Participating Government treats goods separately from their packing; it may also, in respect of its imports from the territory of another Participating Government, determine separately the origin of such packing.
2. Where paragraph 1 of this Rule is not applied, packing shall be considered as forming a whole with the goods and no part of any packing required for their transport or storage shall, when determining the origin of the goods as a whole, be considered as having been imported from outside the Area.
3. For the purpose of paragraph 2 of this Rule, packing with which goods are ordinarily sold by retail shall not be regarded as packing required for the transport or storage of goods.

Rule 7. Documentary Evidence

1. A claim that goods shall be accepted as eligible for Area tariff treatment shall be supported by appropriate documentary evidence of origin and consignment. The evidence of origin shall consist of either -
 - (a) a declaration of origin completed by the last producer of the goods within the Area, together with a supplementary declaration completed by the exporter in cases where the producer is not himself or by his agent the exporter of the goods; or
 - (b) a certificate given by a governmental authority or authorised body nominated by the exporting Participating Government and notified to the importing Participating Government, together with a supplementary declaration completed by the exporter of the goods.

These declarations, certificates and supplementary declarations shall be in such form as may be prescribed by agreement between the Participating Governments concerned.

2. The exporter may choose either of the forms of evidence referred to in paragraph 1 of this Rule:

Provided that the authorities of the country of exportation may, for certain categories of goods, require that evidence of origin shall be furnished in the form indicated in sub-paragraph (b) of that paragraph.

3. In cases where a certificate of origin is to be supplied by a governmental authority or an authorised body under sub-paragraph (b) of paragraph 1 of this Rule, that authority or body shall obtain a declaration as to the origin of the goods given by the last producer of the goods within the Area. The governmental authority or the authorised body shall satisfy themselves as to the accuracy of the evidence provided; where necessary, the authority or body shall require the production of additional information, and shall carry out any suitable check. If the importing Participating Government so requires, a confidential indication of the producer of the goods shall be given.

4. Nominations of authorised bodies for the purpose of sub-paragraph (b) of paragraph 1 of this Rule, may be withdrawn by the exporting Participating Government if the need arises. Each Participating Government shall retain, in regard to its imports, the right of refusing to accept certificates from any authorised body which is shown to have repeatedly issued certificates in an improper manner, but such action shall not be taken without adequate prior notification to the exporting Participating Government of the grounds for dissatisfaction.

5. In cases where the Participating Governments concerned recognise that it is impracticable for the producer to make the declaration of origin specified in sub-paragraph (a) of paragraph 1 or in paragraph 3 of this Rule, the exporter may make that declaration, in such form as the Participating Governments may for the purpose specify.

Rule 8. Verification of Evidence of Origin

1. The importing Participating Government may as necessary require further evidence to support any declaration or certificate of origin furnished under Rule 7.
2. The importing Participating Government shall not prevent the importer from taking delivery of the goods solely on the grounds that it requires such further evidence, but may require security for any duty or other charge which may be payable.
3. Where, under paragraph 1 of this Rule, the importing Participating Government has required further evidence to be furnished, those concerned in the territory of the exporting Participating Government shall be free to produce it to a governmental authority or an authorised body of that Participating Government, who shall, after thorough verification of the evidence, furnish an appropriate report to the importing Participating Government.
4. Where it is necessary to do so by reason of national legislation, a Participating Government may prescribe that requests by importing Participating Governments for further evidence from those concerned in the territory of the former Participating Government shall be addressed to a specified governmental authority who shall, after thorough verification of the evidence, furnish an appropriate report to the importing Participating Government.
5. If the importing Participating Government wishes an investigation to be made into the accuracy of the evidence which it has received, it may make a request to that effect to the exporting Participating Government concerned.
6. Information obtained under the provisions of this Rule by the importing Participating Government shall be treated as confidential.

Rule 9. Sanctions

1. Participating Governments undertake to introduce legislation making such provision as may be necessary for penalties against persons who, in their territory, furnish or cause to be furnished a document which is untrue in a material particular in support of a claim in the territory of another Participating Government that goods should be accepted as eligible for Area tariff treatment. The penalties applicable shall be similar to those applicable in cases of untrue declarations in regard to payment of duty on imports.

2. A Participating Government may deal with the offence out of court if it can be more appropriately dealt with by a compromise penalty or similar administrative procedure.

3. A Participating Government shall be under no obligation to institute or continue court proceedings under paragraph 1 of this Rule, or take action under paragraph 2 of this Rule:

- (a) if it has not been requested to do so by the importing Participating Government to which the untrue claim was made; or
 - (b) if it is satisfied, on the evidence available, that the proceedings or action would not be justified.
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A P P E N D I X B

Goods excluded under the provisions of
Article 4

Alcoholic beverages.

Petroleum products.

Cosmetics and perfumery.

Dyes and chemicals.

Machinery, plant, apparatus and machined components and fashioned parts therefor.

Metals and metal manufactures, including composition goods, mainly metal.

Sugar.

Textiles and wearing apparel.

Vehicles, including parts and accessories therefor.

