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ESTABLISHMENT OF A LOOSE-LEAF SYSTEM FOR THE
SCHEDULES OF TARIFF CONCESSIONS

Note by the Secretariat

Attached hereto is a note by the secretariat on the establishment of a loose-leaf system for the schedules of tariff concessions. This note is circulated for consideration by contracting parties.

Table of Contents

		<u>Page</u>
I.	Description of the existing system	3
II.	Problem with the existing system	4
III.	Possible solution	4
III.1	Legal status of a loose-leaf system of consolidated schedules	5
III.2	New decision for procedures for modification and rectification	6
III.3	Form and content of the loose-leaf pages	7
III.4	Translation of the loose-leaf pages	7
III.5	Estimated costs for a loose-leaf system	8
III.6	Proposed time-scheduler	9
ANNEX	Proposed model	10

ESTABLISHMENT OF A LOOSE-LEAF SYSTEM
FOR THE SCHEDULES OF TARIFF CONCESSIONS

I. Description of the existing system

1. GATT schedules of tariff concessions are legal instruments which are parts of the General Agreement. New tariff concessions, made in connection with negotiating rounds under Article XXVIII bis or in connection with separate negotiations for accession under Article XXXIII, are contained in Protocols that are signed or otherwise accepted by all contracting parties. The original texts of the Protocols are drawn up in the English and French languages. The authentic language of schedules attached to the Protocols is either English or French (with exception of a few schedules which are authentic in both these two languages).¹ In addition, translations of the Protocols, including the attached schedules, are made into English or French respectively. The original Protocols are deposited with the Director-General of the GATT who furnishes a certified copy thereof to each contracting party. Extra copies are printed of the original which, together with the translated versions of the Protocols, are used as working documents by permanent delegations, national administrations, the GATT secretariat and others.

2. Rectifications of a purely formal character, as well as modifications made under Article II:5, Article II:6, Article XVIII, Article XXIV, Article XXVII and Article XXVIII are included, since 1969, in Certifications of Changes to Schedules (from 1948 to 1959 in Protocols of Rectifications and Modifications and from 1963 to 1967 in Certifications Relating to Rectifications and Modifications). In these Certifications, consolidations of schedules and schedules established under Article XXVI:5(c) are also included. After having been approved in accordance with established procedures (cf. BISD 16S/16), the Certifications are deposited with the Director-General of the GATT, who furnishes a certified copy thereof to each contracting party. In addition, extra copies are printed to be used as working documents by permanent delegations, national administrations, the secretariat and others. During the last ten years, no translation has been made of the lists of concessions annexed to the Certifications. The changes made to the schedules, as well as consolidated schedules and schedules established under Article XXVI:5(c) are consequently expressed in the authentic language only.

¹Starting with the Geneva (1979) Protocol, Spanish has also been recognized as an authentic language for schedules, provided that the contracting party concerned also supplies an official translation of the schedule into English or French.

II. Problem with the existing system

3. There is, in theory, one GATT schedule of tariff concessions for each contracting party (e.g. Schedule I - Australia). In practice, however, a separate schedule is established for each contracting party after every round of tariff negotiations. After the Kennedy Round, it was estimated that the total number of items that had been bound in the GATT was well over 50,000 (a large number of those concessions were, however, bindings of duties on different levels on the same items; if the bindings on higher levels on the same items are excluded, the actual number of items bound in the GATT would probably be somewhere between 30,000 and 40,000).

4. Because each contracting party's tariff concessions are frequently changing through new rounds of negotiations, and through rectifications and modifications, the tariff concessions are spread over many legal instruments. At present the total number of instruments containing valid tariff concessions (Protocols and Certifications) exceeds forty. Because of this, extensive and time-consuming research efforts are necessary in order to find out the status of a particular concession. As a consequence it is extremely difficult to make the necessary preparations for tariff negotiations or to do the necessary checking in connection with rectifications or modifications of schedules. No agreement has so far been reached to solve this problem. Even if some contracting parties do consolidate their schedules from time to time, there exists no common instrument or document which embodies all tariff concessions of all contracting parties. In 1952, a set of consolidated schedules was put together, but it was not kept up-to-date. A second effort was made in 1956, but a number of contracting parties refrained from taking part in that exercise. Most recently, the idea of carrying out a new general consolidation of schedules was discussed at the end of the Kennedy Round. The idea was, however, never pursued.

III. Possible solution

5. Suggestions have recently been made that contracting parties make a new concerted effort to consolidate their schedules. It has also been suggested that these consolidated schedules be presented in loose-leaf form so that they could easily be kept up-to-date when rectifications, modifications, withdrawals and new concessions are made. A presentation of the GATT tariff concessions in loose-leaf form is in fact the only practical way for anyone to find the exact legal text and rate of a particular concession at any moment. For the same reason, the national tariffs of many contracting parties are published in loose-leaf form.

6. It is commonly recognized that a general exercise of consolidation of schedules should, for practical purpose, take place in connection with or after a round of multilateral trade negotiations. In the present case, each contracting party should consequently add to the concessions agreed upon in

the Tokyo Round the bound rates on items that have not been subject to negotiations in this Round but have been granted in previous rounds. This task would not be too difficult; the major task for the contracting parties in a general consolidation exercise would rather be to check the draft consolidated schedules of other contracting parties. It is suggested that consolidated schedules be prepared and transmitted to the secretariat by 30 June 1980.

III.1 Legal status of loose-leaf consolidated schedules

7. If there is a concerted view that a general consolidation exercise shall take place after the conclusion of the Tokyo Round and that the schedules of tariff concessions shall be presented in loose-leaf form, careful preparations are necessary. It is suggested in this connection that the loose-leaf schedules be given the status of being the legal source presenting GATT tariff concessions.

8. There is an understanding in the GATT concerning consolidated schedules that earlier schedules and negotiating records should be considered as proper sources in interpreting concessions contained in consolidated schedules (BISD, 7 S/115-116). It is proposed that this understanding will remain under the loose-leaf system until the system is fully established and until the contracting parties have had a reasonable amount of time to ensure that all "Initial Negotiating Rights" have been duly incorporated in the consolidated schedules. A cut-off date should be fixed, as of which the loose-leaf schedules will become the only legal source for presenting GATT tariff concessions. This will require appropriate decisions by the GATT Council.

9. Article II:1(b) of the General Agreement specifies that the date, as of which "other charges" on importation are bound, shall be the date of the General Agreement, and subsequent protocols of accession and of supplementary concessions have in each case specified that for the schedules annexed to each protocol, the date should be the date of that protocol. It has also been agreed that the date applicable to any concession in a consolidated schedule should be, for the purpose of Article II, the date of the instrument by which the concession was first incorporated into the General Agreement (BISD, 7 S/115-116). It would therefore be necessary to indicate in the loose-leaf schedule the date on which the concession was first incorporated in a GATT schedule.

10. The loose-leaf schedules should be established and kept up-to-date under the procedure of certification, which could be simplified and made less time-absorbing in order to meet the purposes of the new system (cf. paragraph 13 below). When a consolidated schedule is submitted to the secretariat, the schedule would be circulated in an L-document for approval within the traditional period of sixty/ninety days. If there are no objections, the secretariat would circulate the schedule thus certified in the form of dated and certified loose-leaves with an explanatory note. One original copy of the certification would be bound and kept by the secretariat in order to

conform to legal requirements. When changes to the schedules are submitted for certification, the secretariat would circulate in an L-document the submission from the country in question. This submission should contain a statement of the reasons for the changes (e.g. a change in the nomenclature, concluded Article XXVIII negotiations, etc.) and references to possible underlying documents. The new legal text of each concession to be certified should be submitted in the same way as rectifications and modifications are made today (e.g. "This item shall read: ...". "The rate of the duty shall read: ..."). The document would also contain new draft loose-leaf pages (the amended items being identified e.g. with an asterisk). If there are no objections within the sixty/ninety days' period, the secretariat would distribute the certification in the form of dated and certified loose-leaf pages with an explanatory note which would contain a reference to the previous L-document. An original of the certification would be bound and kept by the secretariat. The new loose-leaf pages thereby supersede the old pages as a legal statement of the contracting party's concessions.

11. The explanatory notes, with which the new certified consolidated schedules and subsequent new loose-leaf pages would be distributed, should be circulated in non-restricted documents in order to enable public references to the various certifications to be made (cf. paragraph 14 below). The pages would be prepared by means of text-processing machines, which will minimize the risk of clerical errors in connection with the subsequent production of up-dated schedules. Since the information will be recorded magnetically, it can easily be used also for statistical and analytical purposes.

12. In order to give contracting parties and others a possibility to ensure that their sets of loose-leaf schedules are up-to-date, a control sheet should be issued periodically, e.g. once a year. Such a control sheet should list the pages in every schedule by date and tariff items covered. The control sheets as well as the explanatory notes should be given a form suitable for filing in the schedule folders (cf. paragraph 15 below).

III.2 New decision for procedures for modification and rectification

13. A new decision to supersede the existing procedures for modification and rectification (BISD, 16S/16) would seem to be required in order to legally establish the simplified certification procedure as described above. It should be considered in this connection whether a requirement should not be included in such a new decision that contracting parties submit for certification all changes in their customs tariff that affect concessions, even amendments of a formal and technical character in the tariff nomenclature. Such a requirement does not exist today which results in inconsistencies between the items included in the GATT schedules and the same items as expressed in national customs tariffs.

III.3 Form and content of the loose-leaf pages

14. The loose-leaf pages should not contain less information than has been hitherto included in the schedules as presented in the Protocols and Certifications. Some additional information could, however, usefully be added. A proposed model for the loose-leaf pages is contained in Annex I. The first three columns would contain the information which is now usually included in the existing schedules. The tariff item number to be indicated in column 1 should be the complete number, rather than an "ex" followed by the four-digit CCCN number or other corresponding number. The product description to be inserted in column 2 should be complete in order to make cross-references to national customs tariffs unnecessary. In column 4, a reference should be made to the legal instrument whereby a concession on the item was first introduced into the schedules of the country concerned (cf. paragraph 9 above). In column 5, the instrument should be indicated through which the concession at the actual rate was introduced into the schedule. In column 6, any Initial Negotiating Rights concerning the actual bindings should be indicated. An indication of the INR's will no doubt facilitate the work for the contracting parties when modifications or rectifications of concessions are considered. As to the INR's of previous bindings at higher levels, they should be indicated in column 7, in order to provide full transparency of the status of the concessions in question. As this would necessitate some research into old negotiating files, it is suggested that this column not be established at the outset but at a later stage (see paragraph 21 below). In column 8, space is given for those who want to insert annotations of various kinds. In that column, notes affecting individual bound items could for example be inserted.

15. The size of the folders, wherein the loose-leaf schedules would be contained, should also be reasonably handy, corresponding e.g. to the size of "GATT - Status of Legal Instruments". It would seem practical to have one folder for each of the major schedules, while of course the smaller schedules will have to be assembled into common folders. Even if the pages of each schedule should be numbered, it would seem impractical to have a page-numbering throughout all the schedules as e.g. in the Geneva (1967) Protocol, since such a system could lead to an excessive exchange of loose-leaf pages when changes in the schedules occur.

III.4 Translation of the loose-leaf pages

16. As is indicated in paragraph 1 above, the schedules annexed to the Protocols have been translated into English and French, while the text of the schedules annexed to the certifications have, during recent years, been reproduced in the authentic language only. It seems reasonable that the loose-leaf system should be kept in the authentic languages only, at least during an initial period when the system is being built up and the necessary experience is being gained. It seems somewhat complicated to start with procedures requiring three or four parallel versions (one authentic and two or three translated versions). If requests for translations should be made, this question could be resolved later. In the following paragraph, the cost calculations are made on the understanding that only authentic versions of the loose-leaf schedules are prepared.

III.5 Estimated costs for a loose-leaf system

17. The total number of pages for the loose-leaf consolidated schedules of all contracting parties could, very roughly, be estimated at about 5,000-6,000 pages (Tokyo Round concessions amounting to about 4,000 pages, to which should be added earlier concessions which have not been subjected to reductions in the Tokyo Round). It would seem reasonable to give three sets free of cost to each contracting party, as has normally been done with all official Protocols so far (further copies could be sold to contracting parties and to the public as is done today). The total number of sets to be given free of costs and to be used in the secretariat would then amount, roughly to 350. If the sales of the Kennedy Round Protocol are used as a basis, an additional number of 1,350 sets should be prepared for sale. The costs for the sets to be given free to the contracting parties, to be used in the secretariat and to be sold would then amount to about Sw F 240,000- Sw F 280,000 (the main costs arise in the preparation of the offset plates; the cost of printing additional copies is small). A part of these costs will of course be recovered by the revenues from the sets that will be sold.

18. The costs of the folders could be estimated to about Sw F 15.- each. The number of folders to contain one set of all schedules could be estimated at about fifteen. The costs of the folders for a total of 1,700 sets would then amount to about Sw F 380,000. It should further be borne in mind that a part of these costs will be recovered by the revenues from the sets that will be sold.

19. In addition, two text processing machines would have to be rented during the time the loose-leaf system is built up. One machine would be needed once the system is established. The rent for a text processing machine amounts to Sw F 12,000 a year. Two to three secretaries would also have to learn to operate the machines.

20. About Sw F 600,000 will thus constitute the initial expense to set up the loose-leaf system. The costs of running the system would be much less. It is of course impossible to have an idea about how many changes in the schedules would occur in the coming years. The loose-leaf system would, however, if it is operated in the way intended, lead to many more rectifications and modifications than previously. The annual printing costs should, however, hardly exceed Sw F 50,000-75,000, to which should be added the annual costs of renting a text processing machine. From these costs should, of course, be deducted the revenues of the loose-leaf pages to be sold. If, in addition, account is taken of the savings in time and trouble for national administrations and permanent delegations of the contracting parties as well as for the secretariat in consulting the GATT concessions, the costs of the new system would seem reasonable.

III.6 Proposed time-schedule

21. The possible time-schedule for the establishment of the system might be as follows:

- (a) by 30 June 1980 - establishment of the loose-leaf system along the lines proposed in Annex I, excluding column 7;
- (b) by 30 June 1981 - indication in column 7 of any INR's of previous bindings;
- (c) 30 June 1986 - termination date for legal validity of earlier schedules and negotiating records. As of this date the loose-leaf system will become the only legal source presenting GATT tariff concessions and related rights.

(Date of the loose-leaf)

SCHEDULE (number - country)

This schedule is authentic only in ...

Part I/II

Most-favoured-nation tariff/Preferential tariff

Tariff item number	Description of product	Rate of duty	Concession first incorporated in a GATT schedule in	Present concession established in	Initial negotiating right (INR) on the concession	INR's on earlier concessions	Annotations

¹The schedule number and country, the indication of Part I or II of the schedule and the page date should appear on all pages of the schedule.

