

GENERAL AGREEMENT ON TARIFFS AND TRADE

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COMMITTEE ON TARIFF CONCESSIONS

Draft Minutes of the Meeting held in the Centre William Rappard on 11 December 1985

Chairman: Mr. A. Satuli (Finland)

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1. Adoption of the Agenda (GATT/AIR/2226)

1.1 The Chairman welcomed the participants to the eighteenth meeting of the Committee and called their attention to document GATT/AIR/2226 which contained the agenda and the list of relevant documents. He explained that the meeting had been called essentially to discuss policy issues related to the introduction of the Harmonized System and the forthcoming Article XXVIII negotiations. The agenda was adopted without modification.

2. Introduction of the Harmonized Commodity Description and Coding System

(a) Status of work on national conversions

2.1 The Chairman referred to the informal note prepared by the secretariat which gave the situation regarding the submission of Harmonized System documentation as of 5 December 1985.

2.2 The representative of the European Communities informed the Committee that his delegation had just submitted chapters 73-97 in the form of Annexes 3 and 4 and accordingly considered that its documentation was complete, covering chapters 1-97. He enquired when the Canadian delegation would be able to furnish its documentation in the form of Annexes 3 and 4, as envisaged by document L/5470/Rev.1.

2.3 The representative of Canada replied that it was his delegation's intention to submit Annexes 3 and 4 in the required format in early spring.

2.4 The representative of Australia stated that her authorities expected to submit chapters 40 to 97 in the form of Annexes 3 and 4 very shortly.

2.5 The representative of South Africa informed the Committee that his authorities had completed the transposition of nineteen further chapters which would be distributed very soon.

2.6 The representative of the United States made a plea to the delegations which had not submitted the entire documentation to do so as soon as possible.

2.7 The representative of New Zealand said that his delegation would also be in a position to submit further chapters for circulation very shortly.

2.8 The representative of Brazil confirmed the statement made at the last meeting that his delegation would be presenting the documentation relating to chapters 1 to 24 before the end of the year.

(b) Common data base

2.9 Mr. Raynal (secretariat) reported that the expert group on the data base of the Harmonized System had met as scheduled on 10 December in order to examine matters pending since its last meeting in September; since that meeting, the secretariat had received a new test tape from the United States delegation. In addition, the delegation of the European Communities had transmitted to the secretariat a tape containing all information for chapters 1-72, and the remaining chapters were to be furnished in the near future. With respect to the coverage of import statistics, the group had been of the opinion that the data should be loaded into the base as furnished by participating delegations, but that annexed or intermediary files would be maintained and used for purposes of analysis. The other discrepancies already noted in submissions should be reduced or even eliminated in the near future. With respect to the examination programme proposed by the secretariat, it appeared that programmes necessary for obtaining table 6 (overall and bilateral balance of tariff changes measured by theoretical duties collected) and table 9 (detail of effects of conversion to Harmonized System nomenclature) had priority. The agenda that had been prepared for the expert group contained a new item regarding the future of the data base after the Article XXVIII negotiations. The delegations present had been unanimous

in considering it necessary to continue the data base and enlarge the number of participating countries by considerably extending the coverage, which should perhaps no longer be limited to tariff matters alone. The group had also been of the opinion that as regards the question of enlarging the data base, it might be useful to have at the current meeting a first reaction from countries already participating in the tariff study as well as the reaction of other countries which might consider participating in an enlarged data base. The group had agreed that the matter would again be on the agenda for its next meeting, which could be held on the occasion of the next meeting of the Committee.

2.10 The representative of the European Communities confirmed that in the very near future his delegation would be supplementing the information on tape already communicated to the secretariat, and underlined that his delegation hoped that each of its partners participating in the common data base would do likewise as soon as possible, so as to allow the exchange of data and elaboration of calculations that would be very helpful not only for the coming negotiations but also for the technical consultations already proceeding. Referring to import coverage, he reiterated that in the view of his delegation, only statistics of Community imports from GATT partners would be taken into consideration. He supported the secretariat's proposal regarding enlargement of the data base so that a large number of partners could participate actively.

2.11 The representative of the United States referred to his delegation's most recent submission and pointed out that it should be considered as a test-tape; minor technical problems had remained unresolved. His delegation

was in the process of updating the data which had been used for the purposes of the technical consultations, taking into account the comments received. Changes that had been made to the TSUS since the end of 1983 would have to be accommodated in the data base submission as well as in the documentation to be supplied for the negotiations. On the question of loading information in the data base, his delegation saw no other way for the secretariat but to load the information as given by individual national administrations, leaving open the possibility of creating such sub-files as necessary for the negotiations and for supplementary analyses to be used in the negotiations. Regarding the compilation of information, he felt that Table 9 should be considered as top priority by the secretariat since this table would contain the information most relevant to the purposes of Article XXVIII negotiations. Table 6 would also be useful, particularly insofar as the added elements and balances were concerned. He associated his delegation with the comments made by the secretariat and the delegate of the Communities on the question of the future use of the data base.

2.12 The Chairman encouraged the contracting parties which did not for the moment take part in the data base to give their comments at the next meeting of the Committee regarding their possible participation and the future use of the data base.

(c) Technical consultations

2.13 The representative of the United States reported that his delegation had substantially completed the review of all the documentation available. His delegation had found the Phase I consultations very useful in narrowing the scope of the Article XXVIII negotiations. In order to be able to open the

negotiations as early as possible in 1986, his delegation needed a few months to incorporate the necessary changes in the documentation, which meant that by the end of 1985, his authorities wished to terminate the technical consultations, without of course preventing the exchange of comments among interested countries.

(d) Article XXVIII negotiations

- Opening of negotiations

2.14 The representative of the European Communities said that his delegation had been concerned for some time that the Harmonized System exercise, as far as the Geneva operation was concerned, had been running into certain difficulties which had tended to delay the process. The consequences were that the date originally foreseen for the implementation of the Harmonized System, i.e. 1 January 1987, had become increasingly unrealistic and that another date should be considered. His delegation was anxious to maintain the pressure and rythm of progress, particularly as regards the negotiations themselves; he did not think that all delegations could start at the same date and it was therefore important to earmark five or six months, starting for example on 1 February 1986, in order to conclude the bulk of the negotiations by July or at the latest in early autumn of 1986.

2.15 The representative of the United States said that the date of 1 January 1987 had been seen as increasingly unrealistic by a number of parties; his delegation, however, wished to maintain the target date of 1 January 1987 particularly in the absence of a viable new date to which all parties could commit themselves. At this stage, he was not in a position to agree to a new date; however, he shared the Community's concern that this

should not be interpreted as a cause for delay in the negotiations. His delegation would favour their opening as early as possible in 1986, with a view to completing the negotiations in time for the implementation date.

2.16 The representative of Japan was aware of the importance and necessity to implement the Harmonized System as early as possible. For this reason, as already stated on several occasions, his country was of the opinion that the Article XXVIII negotiations should be initiated and completed as early as possible. However, taking into account the situation, his authorities had come to the conclusion that the target date for implementation had become unrealistic and that 1 January 1988 would be a more realistic date. It was very important to set up a work programme which would enable each contracting party to initiate the necessary internal procedures. For Japan, in order to meet the new target date of 1 January 1988, the negotiations had to be concluded by the end of September 1986 and a legal instrument had to be published by the end of that year. This was due to Japanese domestic requirements. His country intended to start the negotiations early next year and would do its best to conclude them by September; he hoped that all participants would bear in mind the Japanese situation and co-operate in the coming negotiations. He also suggested discussing either bilaterally or multilaterally some concrete methods of expediting the negotiations.

2.17 The representative of Canada recalled the view expressed at the last meeting that, based on the analysis of the work that remained to be done in Ottawa, the January 1987 date was unrealistic; the situation was even more evident now. His country was prepared to expedite its work to the greatest extent possible, but certain domestic procedures needed to be completed

before the Article XXVIII documentation could be submitted, which meant that his delegation might have problems to meet the time-table envisaged by the European Communities. Nevertheless, even if the Canadian documentation could not be submitted until the early summer, it was his authorities' intention to conclude the Article XXVIII negotiations as quickly as possible thereafter. His delegation was prepared to co-operate with any contracting party which needed to complete the negotiating process at an early date.

2.18 The representative of Sweden indicated that the Nordic countries had come to the conclusion that January 1987 did not appear to be a possible date for implementation. On the other hand, the Nordic delegations were prepared to work hard in order to complete what had to be done to implement the Harmonized System; to this end, they would submit the required documentation for the negotiations in the early part of 1986. They intended to proceed with the negotiations as soon as possible and expected them to last throughout most of 1986.

2.19 The representative of Switzerland recalled that his delegation's objective had always been implementation of the Harmonized System as from 1 January 1987 and that his authorities had undertaken the relevant internal procedures to that end. It was regrettable that certain partners had shown considerable delay in submitting documentation, and to learn that some delegations, among the most important ones, considered the 1987 date to be unrealistic. In those circumstances, the situation would have to be reviewed and a new date fixed, but only once the negotiations had commenced. His country was ready to start the negotiations as soon as possible in 1986, with the intention of concluding them in the autumn.

2.20 The representative of the United Kingdom speaking on behalf of Hong Kong agreed with the previous speakers that the process of negotiations should be started and carried forward in the course of 1986. Hong Kong was very interested in the Harmonized System and if its trading partners were to introduce this system, it would do the same. In carrying out the preparatory work, his authorities had kept the original implementation date in mind. In the course of the technical consultations held recently in Geneva, his delegation had come across a number of questions which still needed to be resolved. In this regard, the volume of work still to be done should not be underestimated. He felt that it might be difficult to respect the original implementation date but that it might be premature to look for an alternative date before the negotiations had actually started. Only during the negotiations would it be appropriate to review the situation and envisage a more realistic and attainable target date for the implementation of the Harmonized System.

2.21 The observer for the Customs Cooperation Council (CCC), Mr. Ariodante, reported to the Committee on progress made by the CCC in implementing the Harmonized System. He recalled that at its 61st/62nd sessions in 1983, the CCC had definitively adopted and opened for signature the Harmonized System Convention which was scheduled to enter into force on 1 January 1987. To date, thirty-eight countries had signed the Convention, of which three without any reservation as to ratification. The Convention would enter into force as soon as a total of seventeen countries had acceded to it without reservation. The CCC was continuing to make every effort to achieve that target and was firmly convinced that the date of 1 January 1988 for entry into force of the System should not be exceeded. In addition, the second

revision of the Explanatory Notes to the Harmonized System had been completed and the Council had adopted the final texts at its 65th/66th sessions in June 1985. A fully up-dated copy of those texts had been sent to national administrations and to the GATT secretariat. The CCC Secretariat had taken the necessary action for a printed edition of the Explanatory Notes and of the Convention itself to be published in March next. Those publications would be in the same form as the existing Nomenclature and its Explanatory Notes, and would be put on sale for the use of national administrations and the general public. In addition, the concordance tables between the existing Nomenclature and the Harmonized System had already been published in printed form, available from the CCC Secretariat for the past eight months. Those concordance tables had been very helpful to many national administrations in transposing their national tariffs. In that connection, the CCC had been officially informed that thirty-one states and two customs unions had already undertaken or completed the transposition of their national tariffs. In the context of the CCC's efforts to promote the Harmonized System and of the technical assistance that it furnished to the authorities of developing countries, it had already organized, in co-operation with certain developed member countries of the Council or with certain economic communities or regional organizations, seminars on the Harmonized System in Canada, Zambia, Burkina Faso, India and Brazil. Furthermore the CCC had decided to organize training courses on the Harmonized System at its Brussels headquarters. The first of those courses had taken place from 18-29 November 1985 and had been attended by eight-five participants coming from forty-three countries and two international organizations.

2.22 The Chairman noted that most delegations had expressed the view that the date for the implementation of the Harmonized System on 1 January 1987 was no longer realistic. Many delegations had emphasized the need to agree on a new target date. He asked all delegations to reflect on this question which would be reverted to at an early stage. He noted furthermore that most delegations had also felt the need to expedite the work and had stated that they were prepared to do so.

2.23 The Chairman drew the attention of the Committee to documents TAR/W/51, TAR/W/55 and Add.1 regarding legal issues. No discussion took place on these items at the meeting.

- Initial Negotiating Rights

2.24 The representative of the United States said that, as indicated in the past, his delegation was eager to use the renegotiations to simplify the question of INRs at least to a certain extent. His delegation had earlier expressed a preference to eliminate historical INRs and continued to hold this view.

2.25 The representative of Canada indicated that his authorities had had difficulties in transposing INRs from the existing schedule into the proposed Harmonized System schedule, particularly as concerned historical INRs. His delegation favoured an approach to eliminate the latter except in those cases where individual countries had a specific interest for those INRs to be maintained. Regarding current INRs, his delegation was prepared to discuss them with individual countries on a bilateral basis.

- Definition of suppliers' rights

2.26 The representative of Switzerland recalled that his delegation had already presented some ideas for improvement of Article XXVIII in order to take better account of the interests of exporting countries. Those ideas had been reproduced in a working document, as the Committee had requested.¹ The Swiss proposal was basically that account should be taken of the interest of the exporter having the highest level of exports per head of population to a given country. He suggested that during the Harmonized System negotiations the Committee might decide to carry out a test by asking the secretariat to make the necessary calculations for establishing a list, by tariff heading, of the countries that would also have a negotiating right on the basis of the criteria described in that document. No doubt, delegates had had only little time to study that proposal and the matter would have to be taken up once more at the next meeting; nevertheless it would be interesting to hear a few preliminary comments.

2.27 The representatives of Sweden, Hungary, Australia and New Zealand thanked the Swiss delegation for its interesting proposal. Since they had not had sufficient time to examine it in detail, they suggested to revert to this question at the next meeting of the Committee for a more substantial discussion.

2.28 The representative of Australia added that at the July meeting her delegation had reserved its position on suppliers' rights and she was now in a position to say that her country was of the view that suppliers' rights

¹Subsequently distributed as document TAR/W/57.

should be determined on the basis of m.f.n. trade, with trade from developing countries treated as though it was dutiable at m.f.n. rate.

2.29 The Chairman confirmed that this question would be kept on the agenda with a view to having a more substantial discussion at the next meeting.

- Documentation

2.30 The Chairman drew the attention of the Committee's members to an informal secretariat note dated 12 November 1985, which contained details regarding the contents of the various annexes.

Annex 1 - Up to date consolidated schedule of concessions in the existing nomenclature in loose-leaf form.

2.31 The representative of the United States indicated that for the purposes of Article XXVIII negotiations his delegation would resubmit an up-dated version of its loose-leaf schedule.

Annex 2 - Proposed consolidated schedule of concessions in Harmonized System nomenclature

2.32 The representative of Canada said that his authorities intended to submit information only in respect of points 1 (Harmonized System tariff item number), 2 (complete Harmonized System description) and 3 (proposed rate of duty).

2.33 The representative of Australia appreciated the difficulties that might be encountered in presenting information on INRs in Annex 2 but emphasized again the importance that her country attached to their retention in some form in that Annex.

2.34 The representative of the European Communities said that his delegation concurred with the position expressed by Canada and in regard to Annex 2 would furnish only the three first headings. With respect to INRs, he considered that the matter should be taken up bilaterally with each partner.

2.35 The representative of the United States indicated that his authorities would only be providing the first three elements for Annex 2 and would regard the other elements as matters for negotiation.

2.36 The representative of Switzerland recalled that his delegation shared the view expressed by Australia and that his country likewise attached great importance to the retention of historical INRs.

2.37 The representative of the United States underscored the importance to include in Annex 2 the complete description of bound sub-headings, both for purposes of Article XXVIII negotiations, as well as for future use of the loose-leaf schedules in the Harmonized System nomenclature. This was especially important for bound residual sub-headings which were currently only described as "other" and for which it was very difficult to determine the coverage.

2.38 The representative of Sweden stated that the Nordic countries attached great importance to maintaining current INRs rights in principle.

2.39 The representative of Austria recalled that her country likewise attached great importance to INRs; while linear transposition of those rights into the Harmonized System would involve problems, it should be

possible to reach agreement bilaterally to determine rights of equivalent value that would be bound in the new schedules. Her country was not prepared to give up existing INRs, since for a country that was a principal supplier of only a few tariff headings those rights were the only way by which it would not be totally excluded from the Article XXVIII negotiations. Her delegation also reserved the possibility of reverting to the Swiss proposal, which it found interesting but had not yet had time to study in detail.

2.40 The representative of New Zealand said that his country also placed great importance on INRs and, in principle, would like to see them retained. He accepted, however, that in practice there might be a need to take up this question in bilateral discussions.

2.41 The representative of Japan pointed out that Japan's basic position was to avoid any further delay in the negotiations due to difficulties in the transposition of INRs. His delegation considered it desirable to eliminate the historical INRs and simplify the existing ones to the extent possible.

Annexes 3 et 4: Concordance tables

2.42 The representative of the European Communities informed the Committee that in regard to point 6 (breakdown of trade values) his delegation would furnish the information not by country of origin but globally, i.e. for the Community, of all its GATT member partners. With respect to bilateral trade statistics, the import listings would be communicated bilaterally to each partner for all the tariff headings in which the country concerned had a negotiating interest. He underlined the importance for successful conduct of the negotiations of including in Annexes 3 and 4 a clear, legal or abridged description of goods.

2.43 The representative of Canada asked the delegate of the European Communities whether the trade statistics to be submitted bilaterally would be on a normal Article XXVIII basis, i.e. a listing of all suppliers for each tariff line or whether the information would be limited to a specific country.

2.44 The representative of the European Communities replied that his delegation would furnish all the import listings that could be of interest to the Community's partners in the negotiations, and could understand that they were interested in knowing not only their own bilateral imports but also the situation of other partners in regard to a given product. In addition, it was important that Annexes 3 and 4 should also contain the relevant information on non-bound products.

2.45 The representative of the United States said that his delegation intended to make 200 copies of Annexes 3 and 4 available to the secretariat. Those Annexes would be based on global allocations only in order to avoid an incredibly complicated situation that would arise if one attempted to insert in those documents all the suppliers' information. As an additional document, again in 200 copies, the United States would supply a listing by present tariff position; for each of those positions, the principal suppliers and the substantial suppliers, as well as the countries holding INRs, would be listed; moreover, his delegation was considering the preparation of a bilateral trade run for each individual trading partner which should be seen as a tool designed to facilitate and expedite the negotiations.

2.46 The representative of Switzerland underlined that for his delegation the idea put forward by the Community of including in Annexes 3 and 4 not only bound headings but also non-bound headings was very important; from the documentation furnished for the technical consultations, he had seen that certain countries had not included non-bound headings and he hoped that the documentation would be supplemented with a view to the Article XXVIII negotiations.

Annexes 5 and 6: list of items proposed for certification and list of items for renegotiation

2.47 The representative of the European Communities said that his delegation would not furnish Annexes 5 and 6, but would replace them by certain symbols to be introduced in Annex 2.

2.48 The representative of the United States said that his country would follow a similar approach and did not intend to supply Annexes 5 and 6; instances of changes would be indicated in the documentation to be submitted.

- Circulation of documentation

2.49 The representative of Australia referred to the idea that the results of the bilateral negotiations would not, contrary to normal practice, be circulated to other contracting parties. Although her delegation agreed, from an administrative viewpoint, that it would be desirable to incorporate the results of negotiations directly into Harmonized System loose-leaf schedule, it seemed to her delegation that the circulation of the outcome of negotiations would serve in assisting the negotiating process; she would therefore be in favour of their circulation to contracting parties.

2.50 The representative of the United States indicated that his delegation could go along with the secretariat's suggestion that it be furnished with copies of the results of the bilateral negotiations but did not believe that this information needed to be circulated to all contracting parties given the volume of the paperwork involved.

2.51 The representative of Canada suggested that the secretariat would consider only circulating those results which would change the original submission of documentation.

2.52 The representative of the European Communities agreed with the statement made by the delegate of the United States.

3. Date of next meeting

3.1 The representative of the United States suggested, given the stage of the deliberations and the important questions still to be examined, that consideration be given to holding another meeting in the second half of January 1986.

3.2 The representative of the European Communities supported the proposal to hold a meeting of the Committee in the second half of January 1986.

3.3 The Chairman took note of the two statements and added that the date of the next meeting would be fixed in consultation with delegations and the secretariat.