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Committee on Tariff Concessions

COMMITTEE ON TARIFF CONCESSIONS

Draft Minutes of the Meeting held in the
Centre William Rappard on 27 March 1987

Chairman: Mr. F.I. Montgomery (United States)

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1. Adoption of the Agenda (GATT/AIR/2393)

1.1 The Chairman of the Committee welcomed the participants to the meeting and called their attention to GATT/AIR/2393 dated 16 March 1987 which contained the agenda and the list of relevant documents. The two above-mentioned items under "Other business" were added and the agenda was adopted with these two additions.

2. Submission of Harmonized System documentation for Article XXVIII negotiations

2.1 The Chairman referred to document TAR/W/67/Rev.2 which gave the latest situation regarding the submission of Harmonized System documentation and reported that to date thirteen countries had circulated the required HS documentation, Czechoslovakia having forwarded its documentation recently. The Chairman asked whether other countries were in a position to indicate when they intended to submit their HS documentation.

2.2 The representative of Iceland stated that preparations for the HS documentation were almost completed; it was hoped that it would be submitted within a short time. His authorities foresaw the possibility of applying the HS as of 1 September 1987.

2.3 The representative of Yugoslavia informed the Committee that her authorities had finished the transposition of the Yugoslav schedule into HS and that the relevant documentation would be submitted to the secretariat for distribution as soon as the Federal Executive Council had approved it.

2.4 The representative of the United States welcomed the indications given by Iceland and Yugoslavia and recalled that in order for the HS to become effective, as many countries as possible needed to participate. He expressed concern regarding a member of the Committee that had already implemented the HS and had not yet circulated any documentation. He also

enquired about the position of some countries, and in particular Korea, which had indicated at some stage that it was hoping to implement the HS together with the first group of countries.

2.5 The representative of Japan also welcomed the information given by Iceland and Yugoslavia. He reminded delegations that the Harmonized System had been adopted by the Customs Co-operation Council in 1983 after a long work aiming at the facilitation of international trade and harmonization of the classification of tariffs and statistics. In order to achieve this aim, it was important that as many countries as possible implement the HS.

2.6 The representative of the European Communities also urged delegations which had not done so, to supply the required documentation as rapidly as possible since it was important that as many countries as possible participate in this exercise.

2.7 The representative of Brazil recalled that his delegation had already provided the required HS documentation for Chapters 1 to 40 of its Schedule III in a draft form and would welcome comments from interested contracting parties.

3. Progress of negotiations and approximate timing of submission of schedules

3.1 The Chairman noted that since the last meeting in December, one country, Japan, had concluded its Article XXVIII negotiations and had

annexed its final schedule in HS nomenclature to the Protocol on 20 February 1987. As delegations were aware, the Geneva (1987) Protocol itself had been circulated in document L/6112 on 20 February. The Japanese schedule had been distributed to all contracting parties on 24 February 1987 with document L/6112/Add.1. As several countries were presently carrying out negotiations under Article XXVIII, the Chairman asked whether these countries could report on the progress achieved and the likely date at which they expected to be able to annex their schedules to the Protocol.

3.2 The representative of Chile indicated that although Japan considered having terminated its negotiations, it was not the case as far as his country was concerned.

3.3 The representative of Canada stressed the fact that in order to be able to annex its schedule to the Protocol by 31 July 1987 and given the amount of domestic work to be done, his country needed to conclude consultations and negotiations by 15 April. He therefore urged delegations which had not yet done so, to contact his delegation as soon as possible.

3.4 The representative of Austria reported that a number of contracting parties had already submitted specific requests to his delegation and that experts from Vienna would start consultations with these countries the following week. He also urged countries which had made general

reservations to submit specific requests to his delegation. He recalled that if Austria could not terminate the negotiations by the end of April, it would be very difficult for his country to have the HS legislation approved by Parliament in time.

3.5 The representative of Finland recalled that the target date established by his authorities was the end of January. Negotiations regarding the Finnish schedule had been concluded in February with all contracting parties that had submitted specific requests before the end of January. Some issues mostly concerning INRs, were still open with certain countries. The verification process would be started very soon. The Finnish authorities were preparing the internal legislative procedures for the Parliament which would meet in April. His delegation intended to annex the Finnish schedule to the Protocol in early July.

3.6 The representative of New Zealand said that his delegation had responded in writing to a number of queries for clarification submitted by delegations. A tariff team would be coming to Geneva around 27 April with the aim of concluding negotiations on the New Zealand schedule. In this connection, he also urged countries that had made blanket reservations, to submit detailed claims of interest to his delegation within the next few weeks.

3.7 The representative of Australia reported that his delegation had received twenty-eight requests and that in seventeen cases agreement had been reached. Consultations were being pursued regarding the remaining

cases. His delegation faced some difficulties with the blanket reservations received from some countries. Australia hoped to annex its schedule to the Protocol in July.

3.8 The representative of Yugoslavia referred to the negotiations of her country with Finland and said that there was still an item pending for which the rate had been increased and in which Yugoslavia had an interest, but where the main supplier was a country having a free-trade arrangement with Finland. She asked the Finnish delegation to reconsider the request by her country.

3.9 The representative of Finland informed the delegate of Yugoslavia that her request would be transmitted to his authorities.

3.10 The representative of Switzerland indicated that his country was presently negotiating with a number of countries on the Swiss schedule and that the deadline for the conclusion of negotiations was 15 April. He requested the countries which had not submitted specific requests, to do so within the next few days.

3.11 The representative of Korea reiterated the position of his country as reflected in the minutes of the last Committee meeting. His delegation had encountered language difficulties in analysing HS documentation not submitted in English.

3.12 The representative of Japan confirmed that his delegation had annexed its schedule to the Protocol on 20 February. The HS Convention and the Protocol containing the Japanese schedule were being submitted to the Diet. He regretted that the explanation given to Chile had not been considered satisfactory. He also noted that for his delegation it was difficult to examine HS documentation which was not in English and for which no balance sheet was provided.

3.13 The representative of Chile insisted on the fact that his country maintained a total reservation of its rights concerning the Japanese HS schedule.

3.14 The representative of Norway reported that consultations and negotiations had taken place with all the countries which had submitted specific requests. He also urged countries which had made blanket reservations to submit their eventual claims within the next few days since it would be difficult for his delegation to meet such requests after the end of March.

3.15 The representative of Austria said that part of the Austrian documentation (Annexes III and IV) was in German but pointed out that his authorities had prepared an unofficial translation (Annex VI) of the national tariff in English and that this document was available on request.

3.16 The representative of the European Communities informed the Committee that his delegation considered that while the negotiations had reached an

intensive phase with certain contracting parties and were progressing satisfactorily, they were far from being completed. Since the deadline indicated by the Community (1.3.1987) had passed, the delegations concerned were being asked to submit their requests as soon as possible. His delegation had encountered certain problems in the negotiations in connection with the transposition of partners' schedules which contained no statistical data on the trade effects of the transposition. He asked the delegations concerned to furnish the relevant information. With respect to the actual conduct of the negotiations, the possibility of the Community requesting a special meeting should not be excluded.

3.17 The representative of Hong Kong urged delegations which had not yet done so to submit their specific requests without delay. He recalled that Hong Kong had aimed to complete negotiations by 31 March and planned to annex its HS schedule to the Protocol before the end of July.

3.18 The representative of Sweden reported that great progress had been made in negotiations on the Swedish schedule as well as other countries' schedules and that his delegation was confident to terminate them well in time.

3.19 The representative of New Zealand referred to cases where his delegation had submitted specific claims to countries and for which no formal response had been received. He assumed that those claims had

been accepted since the contracting parties concerned had deemed that negotiations were to be shortly concluded. He noted this point in respect of contracting parties that had set certain final dates for the conclusion of negotiations.

3.20 The representative of the United States reported that good progress in the negotiations had been achieved on other countries' conversions. Concerning the US transposition, intensive negotiations were presently being carried out with a large number of parties and had been concluded with two of them. As indicated at the last meeting, in order to meet the domestic legislative and implementation requirements the negotiations had to be completed by the end of March. The US administration had already introduced in Congress a framework legislation providing for implementation of the Harmonized System but without a tariff schedule attached to it. This situation was not satisfactory from the point of view of the Congress which would want to see the new tariff. Therefore, any changes to take into account the interests of US trading partners must be agreed by mid-April. He appealed to the countries concerned to provide clear and detailed requests.

3.21 The representative of Yugoslavia expressed general concern regarding rights of developing countries after the implementation of the Harmonized System since they were rarely main suppliers and the products they exported were often not bound. Moreover, she pointed out that although the

transposition of schedules into the Harmonized System did not allow for changes in rates, it appeared that in certain sensitive sectors, important countries had used this opportunity to increase duty rates substantially. She suggested that developed countries provide, in addition to data relating to 1983 trade, information for more recent years on total current imports. She wondered whether these problems should be discussed in the Tariff Committee or elsewhere.

3.22 The Chairman replied that it was appropriate to raise these points in this forum but that solutions would be best worked out bilaterally.

3.23 The observer from the Customs Co-operation Council (CCC), Mr. Asakura, recalling that the HS Convention had been opened for signature until the end of last year, informed the Committee that fifty countries, members of the CCC, had signed the Convention on 31 December 1986, out of which nine countries had already accepted the Convention. Since the last meeting of the Tariff Committee, the three additional countries which had signed the Convention were: Botswana, Czechoslovakia and Zambia. Countries could now become contracting parties to the HS Convention by depositing the instrument of ratification or of accession. The CCC was hoping that sufficient countries would become contracting parties to the Convention as soon as possible in order to implement the HS on 1 January 1988.

3.24 The Chairman welcomed the progress of the negotiations as well as plans for the submission of additional HS documentation; he further noted

the need for specific requests to be submitted as early as possible, particularly in light of deadlines that had been indicated by various delegations; the Committee should also take note of requests made for additional assistance in order to conclude HS negotiations as soon as possible.

4. Content and presentation of the schedules for inclusion in the Protocol

4.1 The Chairman pointed out that, following the discussion which took place at the last meeting, the secretariat had prepared a revised version of document TAR/W/65 dealing with questions of a legal nature. Reference was also made to TAR/W/70 which contained a communication by Chile. He also recalled that schedules to be annexed to the Protocol should at least contain the information related to columns 1 to 5, i.e. including INRs on existing concessions, it being understood that the missing information would be provided at a later stage in order to fulfil the requirements of the loose-leaf system. He therefore asked delegations how they viewed the situation in relation to columns 6-8, bearing in mind that under the decision of the GATT Council of March 1980, information for these columns should also be provided.

4.2 The representative of Chile summarized the content of document TAR/W/70 and fully supported the statement made by the representative of Yugoslavia. He expressed concern regarding the ways and means to protect acquired rights by maintaining in the schedules annexed to the Protocol the

maximum level of information possible, in particular the history of the concessions. The effects of the transpositions of schedules had therefore to be thoroughly and carefully analysed. He felt that this matter should be submitted to a working party under the Tariff Committee.

4.3 The representative of Canada explained that negotiations with certain countries had fallen into two categories, i.e. negotiations on rates and on the maintenance of INRs on specific items in the current Canadian schedule. His delegation had decided that, because of the complexity of the Canadian transposition, it would deal in the first stage with the rates and only thereafter with INRs, without any intention to affect adversely INRs of exporting countries. His delegation could therefore not guarantee that information in column 5 would be included in the Canadian schedule to be annexed to the Protocol by 31 July 1987.

4.4 The representative of the European Communities, referring to the content of the schedules, said that bilateral negotiations on INRs should not hold up the process of introducing the Harmonized System. In his view the schedules annexed to the Protocol did not necessarily have to reflect all the results of negotiations on INRs since completion of those negotiations was not an essential condition for the Protocol to enter into force on 1 January 1988. Furthermore, the Community had always been in favour of simplifying the treatment of INRs in schedules because of the existence of a great many historical rights and partial rights on "waste areas" for which it was no longer possible to obtain statistical data.

The Community hoped that the new schedules would be clear and would indicate only INRs actually in effect and concerning entire headings. To that end, in negotiating with its partners the Community had proposed that they list the rights they wished to maintain. Those lists would be examined bilaterally with the aim of reaching a solution under which either certain partial rights would be extended to existing concessions or others would be eliminated in order to obtain an equitable balance of concessions. The Community had noted that in certain cases, partners had envisaged presenting their schedules of concessions on the basis of a 4-digit HS nomenclature. This would not concern developing countries. That situation would be unacceptable for the Community which was suggesting that the Committee take a stand so that in the schedules of tariff concessions, the provisions of the CCC Convention would be respected and tariff headings would be included in the schedules at the 6-digit level.

4.5 Referring to the statement by the delegate of the European Communities, the representative of New Zealand stated that although negotiations under way at the moment concerned primarily rate changes, the question of INRs should be examined carefully as a second step whilst safeguarding the legal rights of contracting parties involved. New Zealand had transposed all historical INRs into its new HS draft schedule and consequently expected that other contracting parties would do the same. His delegation could not accept a situation where historical INRs would disappear.

4.6 The representative of the United States associated his delegation to the points made by the European Communities concerning the presentation of schedules by certain developed countries. During the debates on the HS in Brussels there had been lengthy discussions on the important advantages that were to be derived from the full implementation of the HS by at least developed countries signing the Convention. He therefore appealed to those countries to reconsider their position. Concerning INRs, he considered that they represented an important expression of rights and had to be taken into account in the transposition of schedules. His delegation was hoping to conclude negotiations on current INRs at the same time as negotiations on tariff rates so that the US schedule annexed to the Protocol would contain information in columns 1 to 5 corresponding to the loose-leaf format. He recalled previous discussions on the information to be provided in column 7 and the consensus reached in the Committee to the effect that if this information was not provided and not negotiated, these rights, as expressed in earlier protocols, continued to exist as long as negotiations on INRs were not completed; his delegation had intended not to carry over partial INRs in the HS schedule and to treat historical INRs on a case-by-case basis at a later stage. Moreover, his authorities believed that column 6 also contained important information concerning the rights of contracting parties and felt that the Committee could consider the possibility of entering in column 6 for every new tariff position the earliest date among those applicable to any of the existing positions allocated to the new ones.

4.6 The representative of Chile expressed serious reservations concerning the bilateral negotiations described by the delegate of the Community as well as his mention of "areas of waste materials" which some developing countries could find very important; in his view, the principle of eliminating those "waste areas" seemed dangerous for the developing countries. He stressed the importance of maintaining initial rights, whether partial or historical.

4.7 The representative of Turkey said that he could not concur with the view of certain countries that, in the interest of simplification, historical INRs and partial rights should not be included in the HS schedule of concessions; that attitude was not consistent with the legal context of concessions. In his view, elimination of those rights without any counterpart would be tantamount to withdrawal of rights without negotiation. His delegation considered that in the absence of any bilateral agreement i.e. explicit consent by the country holding those rights, elimination of such rights could not be envisaged.

4.8 The representative of Australia indicated that his country placed considerable importance on the retention of INRs. His delegation had noted, however, in the course of consultations with other parties, a disposition on the part of some contracting parties to adjust these rights to primarily ease administration. While Australia had no objection to exploring bilaterally a package on INRs which might be acceptable to both

parties, it could not accept the proposition that any contracting party could terminate those rights without the agreement of its trading partner. Regarding the presentation of schedules in HS at 6-digit level, he observed that the results of the Article XXVIII negotiations should be a schedule of concessions in loose-leaf format which related to the tariff expressed in HS. However, it was not clear that there needed to be mirror compatibility between the GATT schedules and the HS Convention at the 6-digit level.

4.9 The representative of Korea referred to INRs granted by his country at the time of its accession to GATT on CCCN 4-digit items which would greatly increase in number when transposed into HS 6-digit items. Korea would find it difficult to renegotiate all those INRs and would therefore prefer not to transpose them into its HS schedule.

4.10 The representative of the European Communities said that his delegation had no intention of eliminating historical or partial INRs without negotiation; on the contrary, the Community was asking its partners to furnish lists of the rights they wished to maintain, with the aim of reaching a solution equitable for everyone; in certain cases that might imply an extension of historical or partial INRs to compensate the elimination of others. With respect to the 4-digit HS nomenclature, that was clearly not a matter of legal compatibility but of transparency; the HS negotiations were to be the basis for other, still more important negotiations. In that regard it was essential not only to use the 6-digit HS nomenclature but also to indicate the effects of transposing the entire tariff, including non-bound headings, into the HS.

4.11 The representative of Switzerland shared the view that negotiations on the transposition of INRs should not hold up negotiations on rights, and that it was possible to separate those negotiations in time, the results of negotiations on INRS being communicated at a later date; nevertheless, it was clear that historical and partial INRs could not be eliminated unilaterally and must be the subject of negotiation. Although Switzerland's position on the matter did not coincide with that of the Community, his delegation was prepared to examine the compromise that had been proposed. In his view, schedules of concessions should be presented in the 6-digit HS and the HS documentation to be furnished should include all tariff headings, in pursuance of Article X of GATT and the understanding of 1979 which called on contracting parties to notify any changes in their regulations - including tariffs - which affected trade policy. With respect to column 6, it would be useful to indicate first the earliest date of a concession.

4.12 In summarizing the debate, the Chairman expressed the view that the negotiations were at a stage that countries became concerned about being able to conclude negotiations on a timely basis. There were also concerns relating to the rights and obligations derived from INRs which could not be eliminated unilaterally but should be negotiated bilaterally. In this respect, useful advice was provided by the secretariat in document TAR/W/65/Rev.1 which indicated that while contracting parties had agreed upon a loose-leaf system, it might not be possible in the first instance to fill in all the columns and that, in certain circumstances, additional

information might be supplied later. In respect of the presentation aspect, transparency was of concern to many delegations. The Committee would come back to these subjects in future meetings.

5. Common Data Base

5.1 Mr. Raynal (secretariat) informed the Committee that the Technical Group on the HS common data base had met that morning with the following matters on its agenda;

- tests on the possibility of linking non-tariff measures and tariffs;
- possibility of carrying out analyses on the tariff situation at the present juncture;
- new definition of product categories;
- inclusion of multiple and bilateral AVEs in the data base.

Under "other business" the following two items had been discussed:

- summary tables requested by the Technical Co-operation Division in the context of GATT technical assistance activities;
- future of the Technical Group.

5.2 On the first point, mention had been made of difficulties encountered by the secretariat in linking non-tariff measures to the tariff study. The Group had also discussed the question of which nomenclature should be used as the basis for the tests - the existing CCC nomenclature or the HS. The secretariat had been asked to consider whether it would be feasible, at the 4-digit level, to transpose non-tariff measures from the CCCN into the HS. On the second point, two views had been expressed regarding analysis of the tariff situation: one in favour of using the HS, the other the existing nomenclature. The Group had urged the secretariat to finalize material for the analysis.

5.3 It had furthermore been agreed that delegations would furnish at a later date their comments on the new definition of product categories prepared by the secretariat. Meanwhile the new definition could be used for test results. It had likewise been suggested to introduce bilateral and multiple AVEs into the HS data base as soon as possible; delegations had accepted the revised format proposed by the secretariat for submission of data.

5.4 With regard to the form that technical assistance could take on the basis of information in the tariff study or the HS data base, delegations had requested more time to consider the type of information that could be communicated to the Technical Co-operation Division. With respect to the future of the Technical Group on the tariff data base, it had been

recognized that the issues examined went well beyond the purely tariff framework. The Group had recommended that its Chairman propose to the GATT Director-General the organization of high-level consultations before the next meeting of the Group of Negotiations on Goods in order to envisage the establishment of a technical group with the task of discussing the needs of the various negotiating groups in respect of computerized data in the context of an integrated data base.

6. Other business

- Canada - Review clause

6.1 The representative of Canada introduced a new proposal, for consideration by the Committee, relating to a review mechanism to correct unforeseen errors in the conversion exercise, applicable for a temporary period after HS implementation. This proposal has subsequently been circulated to all contracting parties in document TAR/W/68/Add.1.

6.2 The representative of the European Communities asked who was to determine the accuracy or inaccuracy of trade allocations calculated on the basis of well-defined data; moreover, if no request was made, there was no reason to make any change. His delegation nevertheless reserved the right to revert to that proposal.

6.3 The representative of the United States pointed out that his authorities were faced with similar uncertainties in their conversion. His delegation was, however, more concerned with the remedy proposed than

the potential problems and was hoping that the Canadian authorities would consider the misgivings that had been expressed concerning this issue.

6.4 The representative of Korea could identify several problems that could arise in the future if such a procedure were to be used. He had doubts about the establishment of a standing panel, as suggested in the Canadian proposal; he further wondered how an incorrect trade allocation would be determined. He also referred to changes of description which could be as important as changes of rate.

6.5 The representative of Switzerland asked the Canadian representative whether his authorities considered that on the basis of HS import statistics a country could decide, after one year or more, that a different allocation should have been made and a different rate introduced, and whether in its proposal Canada made any differentiation between the rate applied and the bound rate.

6.6 The representative of Canada replied that the bound rates applied in principle to products and that his authorities' concern laid in the case where a product would appear bound in the conversion, which was not meant to be bound. He would transmit the comments made by some delegations to his capital and was hoping to revert to this matter at the next meeting of the Committee.

Date of the next meeting

6.7 The Chairman suggested holding the next meeting of the Committee tentatively in the week beginning 29 June 1987, at a date to be fixed in consultation with delegations.