

GENERAL AGREEMENT ON

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TARIFFS AND TRADE

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Committee on Tariff Concessions

COMMITTEE ON TARIFF CONCESSIONS

Minutes of the Meeting of the Committee held on 11 May 1988

Chairman: Mr. James H. Lau (Hong Kong)

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1. Adoption of the agenda

1.1 The Chairman welcomed the participants to the first meeting of the Committee in 1988, which was convened by GATT/AIR/2585 dated 19 April 1988. In order to facilitate the examination of the various issues before the Committee, an annotated agenda containing also the list of relevant documents had been circulated in document TAR/W/75. The agenda was adopted without modification.

2. Status of implementation of the Harmonized System

2.1 The Chairman drew the attention of the participants to a new document prepared by the secretariat (TAR/W/74) which reflected the existing situation related to the application of the Harmonized System by GATT contracting parties.

2.2 The representative of the European Communities referred to the countries mentioned in the document as having implemented the Harmonized System but not yet submitted any documentation. He requested those countries, in particular India, to furnish the required documentation as early as possible.

2.3 The representative of Israel indicated that his authorities were preparing the required documentation related to the transposition of the Israeli schedule and hoped that it would be distributed in a near future.

2.4 The representative of Mexico informed the Committee that his country would implement the Harmonized System as from 1 July 1988. Mexico would submit the required documentation to the secretariat for distribution very soon. In changing over to the Harmonized System, Mexico would ensure that there would be no changes in either the bound levels nor the initial negotiating rights. His authorities would in due time request a waiver in order to be able to apply the Harmonized System at the beginning of July.

2.5 The representative of South Africa pointed out that his delegation had submitted the first twenty-four chapters of its documentation including information in all seven columns to the secretariat and was hoping to make information on chapters 25 to 49 available within the next few weeks. Work was progressing for the preparation of the remaining chapters and it was hoped that the complete documentation would be distributed before the end of the summer.

2.6 The representative of the United States regretted that her country had not been able to meet the 1 January 1988 target date for the implementation of the Harmonized System and said that the United States' plans were now to implement it on 1 January 1989. She added that the delay in the Harmonized System implementation was due to legislative complications not directly related to the Harmonized System.

2.7 The representative of Japan referred to the delegations that had asked for a waiver until 30 June 1988 and expressed the hope that they would respect the time-limit contained in the waivers for the completion of the renegotiations.

2.8 The Chairman stated that the concern expressed by some delegations regarding the missing documentation would be transmitted to the members concerned. He also reminded those delegations which had a waiver until 30 June 1988 that, if they could not finish their negotiations by that time, they would have to request extensions early enough for consideration by the Council on 15 June 1988.

3. Pending negotiations and submission of documentation related to the Harmonized System

3.1 The Chairman referred to document TAR/W/67/Rev.6 which showed that several delegations were negotiating under Article XXVIII and enquired whether some of them would expect to annex their HS schedules to a new protocol soon.

3.2 The representative of Czechoslovakia reported that his delegation had practically terminated the negotiations under Article XXVIII on columns 1 to 5 and was thus hoping, subject to internal legislative procedures, to introduce the Harmonized System on 1 July 1988.

3.3 The representative of Thailand informed the Committee that her delegation had not received any specific request for consultation and that, given the time-limit of 30 June 1988 contained in the waiver, Thailand expected to annex its schedule to a new protocol before that date.

3.4 Mr. Kautzor-Schröder (secretariat) explained that in consultation with the delegations concerned, the secretariat intended to open shortly a Geneva (1988) Protocol which would essentially have the same contents as the Geneva (1987) Protocols with the exception of paragraph 3 dealing with the deadlines for annexation. The major difference between the 1988 protocol and 1987 protocols would be that in 1988, there would be only one protocol to which all countries in a position to do so could annex their schedules. Participants would be able to annex their schedules at any time until 31 December 1988 and the protocol would also be open for acceptance until that date. The entry into force of the protocol would be, say, 1 June 1988 for those participants which would have accepted it on or before that date, and for participants accepting it after that date, the protocol would enter into force on the dates of acceptance. This provision of paragraph 3(c) would allow for sufficient flexibility and would make it unnecessary to have a series of protocols in the same year.

4. Completion of columns 5, 6 and 7 in the Harmonized System schedules

4.1 The Chairman recalled that the Harmonized System schedules annexed to the protocols which did not contain entries in all seven columns were considered as legally valid, but incomplete consolidated schedules. He added that in order to comply with the Council Decision of 26 March 1980 (BISD 27S/22) on the introduction of the Loose-Leaf System, all the columns of a schedule had to be completed. As indicated in the annotated agenda, he noted that of the thirteen schedules annexed to the three HS Geneva (1987) Protocols, only two - Hong Kong and Zimbabwe - contained all the required information. He further stated that regarding the information required in column 6 (concession first incorporated in a GATT schedule), one possibility would be to indicate only the first instrument containing the concession, in whole or in part, the other possibility being to insert only the most recent legal instrument. In order to accelerate the process of completing the information in columns 5, 6 and 7, the Chairman proposed the end of 1988 as a target date for the submission of the missing information.

4.2 The representative of Australia was wondering whether, in fixing a cut-off date at the end of 1988, there would be enough time to carry out the necessary negotiations on INRs.

4.3 The representative of New Zealand expressed strong reservation concerning the suggestion of indicating only the most recent legal instrument in column 6.

4.4 The representative of the United States advised the Committee that regarding columns 5 and 7, her delegation expected to complete the work by the end of the year as suggested. The United States would submit offers related to the contents of those columns in the near future. Regarding column 6, her delegation had some reservations and reminded the Committee of the United States suggestion to insert the earliest date when for a new HS number there was more than one date attached to a concession. In her view, column 6 was very important because of its relevance to Article II:1(b) of the General Agreement. Decisions regarding column 6 could affect legal rights and obligations of contracting parties.

4.5 The representative of Korea did not object to the target date proposed but felt that a certain flexibility was necessary to complete the information in all columns.

4.6 The representative of Turkey pointed out that, as stated on previous occasions, his country attached great importance to the maintenance of INRs, whether existing, partial or historical and would not favour simplifications which would run counter to GATT procedures without the explicit and written agreement of the interested countries.

4.7 The representative of Switzerland informed the Committee that his delegation would make offers to interested contracting parties concerning the transposition of INRs into the Swiss HS schedule before the end of the year; he expected that other delegations would proceed in the same way without having to approach them individually. Regarding column 6, his delegation was also in favour of indicating the first date at which a concession was granted, although the ideal situation would be to insert all the dates affecting a concession.

4.8 The representative of the European Communities said that after the withdrawal of earlier schedules of the Community, there was now only one schedule for the twelve member states and that the information in column 6 would be the same as that in column 4, i.e. G/HS/87/3.

4.9 The representative of Japan underlined the importance of the completion of columns 5, 6 and 7 as early as possible. As far as his delegation was concerned, column 5 had already been completed; regarding column 7, he was in favour of simplifying procedures to expedite the work. Japan was still examining the possibilities to complete column 6.

4.10 The representative of New Zealand reserved the position of his delegation regarding the approach to be used by the Community with regard to column 6. Before such a course of action could be considered, it would be

useful to have a thorough clarification of the legal implications, particularly for those contracting parties that enjoyed certain rights under earlier concessions.

4.11 The representative of the United States, referring to the position taken by the Community in relation to column 6, pointed out that according to the requirements of the loose-leaf system, columns 4 and 6 had distinct purposes and their implications needed further consideration.

4.12 The representative of Canada accepted the target date proposed for the completion of columns 5-7 and said that his authorities were studying the methods to transfer INRs from the former nomenclature into the HS as well as the way to deal with historical INRs. As for column 6, Canada needed more time to reflect on what would be the implications of adopting any given approach especially vis-à-vis Article II.

4.13 The Chairman confirmed that the target date of end-December 1988 for the completion of columns 5, 6 and 7 was applicable to the contracting parties having annexed their schedules to three Geneva (1987) Protocols. He noted the different views expressed by some members of the Committee about column 6 and felt that there would be a need for informal consultations in order to examine further the implications of the content of column 6. He suggested to hold an informal meeting before the summer break.

5. Decision on floating Initial Negotiating Rights (INRs) for the Harmonized System schedules

5.1 The Chairman explained that a decision, similar to those taken at the end of the Kennedy and Tokyo Rounds, would have to be taken by the Council with regard to the concessions resulting from the transposition of schedules into the Harmonized System and which had been granted on a multilateral basis, in order to determine the Initial Negotiating Rights for the purpose of, inter alia, Article XXVIII. The text of a draft decision was circulated to the members of the Committee. The Chairman invited the Committee to consider the draft decision which, if no objections were raised, would be presented to the GATT Council for adoption at its meeting of 15-16 June 1988.

5.2 The representative of the European Communities had no objection to the text submitted to the Committee but regretted the complicated language used in the drafting of the text. He invited the secretariat to propose a more simplified language for such a text to be used in the future.

5.3 The Chairman confirmed the approval by the Committee of the text of the draft decision which would be forwarded to the Council of 15-16 June 1988.¹

¹Subsequently issued as document C/W/550.

6. Submission of results of bilateral Harmonized System negotiations

6.1 The Chairman recalled that, according to the procedures for negotiations under Article XXVIII as recorded in BJS/D 27S/26, paragraphs 5 and 6, contracting parties were expected to send to the secretariat, upon completion of bilateral negotiations, a joint report and that upon completion of all its negotiations, the contracting parties concerned should send to the secretariat a final report for distribution to all contracting parties. However, as agreed previously in the Committee, the secretariat would not circulate the bilateral nor the final reports on the Harmonized System negotiations since the results of negotiations had already been included in the Harmonized System schedules which had been circulated to all contracting parties. The secretariat would simply keep these records for reference and possible subsequent consultation by interested delegations. The Chairman invited delegations which had not yet done so to send to the secretariat, as soon as possible, reports on their negotiations in whatever form they existed.

6.2 The representative of Japan recalled that his delegation had suggested earlier on to incorporate the results of bilateral negotiations directly into the consolidated Harmonized System schedules; delegations were therefore not expected to submit the bilateral reports as described in the above documents. Following this understanding, his delegation had no objection to submit their reports on the condition that the other countries accepted this procedure as well.

6.3 The Chairman confirmed the Japanese understanding that it would not be necessary to prepare the bilateral reports as described in Annexes A and B of C/113 + Corr.1 and that any reports, in whatever form, were to be sent to the secretariat.

7. Status of loose-leaf schedules

7.1 The Chairman indicated that a revision 19 of document TAR/W/23 had been circulated. He noted that out of ninety-six contracting parties, seventy-two had tariff commitments incorporated in sixty-one schedules (sixteen industrial countries plus the Community of twelve, and forty-four developing countries); twenty-four contracting parties thus had made no tariff commitments. To date, a total of forty-two schedules had been circulated in loose-leaf format and only thirteen of these had been approved. Additional schedules in loose-leaf format had been prepared by the secretariat but authorization from the governments concerned had not yet been given. In order to make further progress towards the approval of as many loose-leaf schedules as possible, the Chairman urged the delegations concerned to react to the comments that had been forwarded to them.

7.2 The representative of the European Communities was surprised to see that the Schedules of Portugal and Spain were still included in document TAR/W/23/Rev.19, since in his view these Schedules did not exist any more. He added that the Community had recently forwarded comments to Argentina,

Brazil, Cuba, Israel, Philippines and that letters to South Africa and Yugoslavia would follow soon. Earlier comments had been sent by the Community to Hungary, Malawi and Romania but no replies had been received. Regarding Turkey, the Community was ready to lift its objection and would inform the secretariat accordingly.

7.3 The representative of the United States felt it useful to complete the review of all loose-leaf schedules listed in document TAR/W/23/Rev.19; only few of them remained to be examined by the United States. In a number of cases, her delegation had sent letters to the contracting parties concerned and was awaiting replies. Moreover, a number of countries had made reservations on the US schedule and her delegation would be grateful to receive comments from those that had not sent them yet. Her delegation found the secretariat document helpful and wished to keep it in its present form.

7.4 The representative of Japan said that there was no need to certify the old schedules of countries which had annexed their new HS schedule to a protocol. He requested a confirmation from the secretariat of his understanding.

7.5 Mr. Kautzor-Schröder (secretariat) recalled earlier discussion on this subject and said that even the schedules expressed in a former nomenclature, although not operational any more due to the introduction of the Harmonized System, would be useful sources of interpretation of existing concessions. The certification of those old schedules would therefore have a certain value.

7.6 The representative of Japan took note of this explanation and said he would forward it to his capital for further consideration.

8. Date of next meeting

8.1 The Chairman informed the Committee that it was intended to hold the next formal meeting in the autumn, at an exact date to be fixed in consultation with the delegations.