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Committee on Tariff Concessions

COMMITTEE ON TARIFF CONCESSIONS

Minutes of the Meeting of the Committee held on 8 May 1989

Chairman: Mr. Alejandro de la Peña (Mexico)

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1. <u>Adoption of the agenda</u>	
1.1 The <u>Chairman</u> welcomed the participants to the first meeting of the Committee in 1989 convened by GATT/AIR/2770 dated 27 April 1989, which contained the agenda for the meeting. Under "other business", the Chairman suggested taking up the question of submission of national tariffs to the secretariat. The agenda was <u>adopted</u> with this addition.	
2. <u>Status of the implementation of the Harmonized System</u>	
2.1 The <u>Chairman</u> , referring to document TAR/W/74/Rev.4, noted that since the last meeting of the Tariff Committee in October 1988, quite a few additional countries had decided to implement the Harmonized System nomenclature as of 1 January 1989. He added that several of those countries had either put the new nomenclature into force without going through any GATT procedures, or had been granted a waiver in order to put the Harmonized System into effect and carry out Article XXVIII negotiations subsequently. In this context, he reminded the delegations which had	

obtained a waiver until 30 June 1989, that they had until 6 June at the latest to request an extension; those requests would be considered at the Council meeting of 21-22 June. This remark concerned the following countries: Bangladesh, Israel, Malaysia, Mexico, Morocco, Pakistan and Sri Lanka. He further stated that, on 3 February 1989, a new Geneva (1989) Protocol had been opened. So far, Yugoslavia was the first and only country having annexed its Harmonized System schedule to this Protocol, but it was expected that several additional countries would annex their schedules transposed into the Harmonized System in the course of the year, as they concluded their renegotiations under Article XXVIII. The Chairman asked whether there were further countries which expected to introduce the Harmonized System in the near future.

2.2 The observer for the Customs Co-operation Council (CCC), Mr. Kappler, reported on the status of signatories to the Harmonized System Convention and on some of the activities of the Council in promoting the use of the Harmonized System. He indicated that there were fifty Contracting Parties to the Harmonized System Convention (forty-nine countries and the European Economic Community). With the exception of one country (Malawi), all of the Contracting Parties had adopted the 6-digit Harmonized System in its entirety. Several other countries which had not yet signed the Convention, including Cyprus, Indonesia, Italy, the Philippines and Thailand, were applying the full 6-digit Harmonized System codes for their Customs tariff and statistical nomenclatures. A number of other countries were also working towards the adoption of the Harmonized System and were being assisted by the Council through its technical assistance programme. Earlier this year the Council's Secretariat had provided tariff transposition assistance to the Customs administration of Malta and the Council was presently providing similar assistance to the Chinese Customs Administration. The Council was also conducting training courses in the Harmonized System. In addition to courses in Brussels, the Council had recently participated in seminars in China, Thailand, Malaysia, the Philippines and Mali and would be conducting seminars in Saudi Arabia, the USSR, China and Zambia later this year. He recalled that the Harmonized System had been created to meet a vital need for a single classification system which would respond to the basic commodity description and coding requirements of the entire international trade community. This was a system not just for customs tariffs and for import/export statistics, but also for freight tariffs, for transport and production statistics and for various other commercial applications. He reported that the Management Committee for the Standard Goods Nomenclature (NCM) of the European railway networks had decided to replace the NCM with a nomenclature based on the Harmonized System. In addition, a number of freight conferences had switched to the Harmonized System as a basis for their freight tariffs or were actively considering such a move. The Council was working with a number of other international organizations with a view to encouraging the wider application of the Harmonized System. Finally, the Council had initiated a feasibility study with regard to the development of a so-called Commodity Descriptor List which would provide an extensive listing of short product descriptions covering goods in international trade. The list would be designed for use in electronic data transmission and would be

essential to ensuring and facilitating uniform classification by all users of the Harmonized System, particularly by non-customs interests. The observer from the CCC concluded his statement by expressing confidence in the continued close co-operation between the two organizations.

2.3 The representative of Zaire stated that, before indicating in document TAR/W/74/Rev.4 that his country had implemented the Harmonized System on 1 January 1989, he would have liked to receive the written confirmation from his Government since, to his knowledge, there were no indications to this effect.

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

3.1 The Chairman made reference to document TAR/W/67/Rev.7; since this document had been circulated, the delegation of the Philippines had submitted the required Harmonized System documentation in connection with the transposition of its schedule. He then invited those delegations which were still expected to submit the required Harmonized System documentation to indicate their position in this respect. The countries concerned were Bangladesh, Iceland, India, Israel, Madagascar, Malawi, Mexico, Morocco, Nigeria, Pakistan, South Africa, Sri Lanka, Zaire and Zambia.

3.2 The representative of the European Communities expressed concern over the gaps in the submission of documentation and over the fact that some countries had introduced the Harmonized System without having requested a waiver. Regarding the countries for which the waiver was due to expire, he was against an automatic renewal process and asked the delegations concerned to submit the required Harmonized System documentation without any further delay.

3.3 The representative of Australia supported the comments made by the EC and encouraged the countries concerned to submit the required documentation as soon as possible since it took considerable time for her delegation to transmit it to the capital, examine it and hold consultations.

3.4 The representative of Mexico indicated that his authorities had encountered certain technical problems in the preparation of the documentation, which had delayed its submission. He was hoping, however, that the problems would be solved soon so that Mexico could submit its documentation shortly.

3.5 The representative of Yugoslavia indicated that there was an error in document TAR/W/67/Rev.7 to the extent that Yugoslavia applied the Harmonized System since 1 January 1988 and not 1 January 1989 as indicated.

3.6 The representative of South Africa recalled that his delegation had submitted to the secretariat its Harmonized System documentation up to Chapter 73 including the information in all seven columns. He added that his authorities had completed the work related to the transposition of all

the remaining chapters which would be submitted for distribution as soon as possible. The process of transposition, due to mechanical problems, had taken longer than foreseen, but he assured delegations that the rights of contracting parties had not been affected.

3.7 The representative of Pakistan recalled that his country had had a waiver since 1978 and that, in 1987, the Council had granted Pakistan a new waiver in order to allow his country to introduce the Harmonized System and to negotiate its schedule in the new nomenclature. Pakistan was in the process of renegotiating a draft Harmonized System schedule with its trading partners. Since Pakistan did not have a CCCN schedule for a long time, it would not be possible for his delegation to submit documentation related to the transposition of Pakistan's schedule, but his delegation would submit very soon a new Schedule XV in the Harmonized System nomenclature.

3.8 The representative of Turkey explained to the Committee that the Harmonized System documentation related to the transposition of Schedule XXXVII had been circulated on 16 January 1989; during the ninety day period, Australia and the United States had reserved their rights but had not to date indicated the tariff items on which they intended to enter into consultations or negotiations. As stated in document SECRET/HS/22, the proposed schedule of Turkey had been compiled to reflect all existing bindings expressed in the Harmonized System nomenclature and the bound rates had not been changed; however, there had been some typing errors and his authorities were preparing revised pages which would be circulated as an addendum to SECRET/HS/22. Australia, Sweden and the United States had reserved their rights concerning initial negotiating rights; his authorities had not yet completed the preparation of the Turkish proposals for the INRs. Australia had been a great help to his authorities in formulating its demands on INRs in respect of HS concessions. Turkey would wish to complete the necessary negotiations and annex a new Schedule to the Geneva (1989) Protocol as soon as possible. In this context the Turkish delegate requested the delegations concerned to co-operate in supplying specific requests to his delegation.

3.9 The representative of Morocco informed the Committee that the ratification of the Harmonized System by the competent authorities had not taken place yet and therefore his country was not implementing the Harmonized System, although it had been granted a waiver last November to introduce the Harmonized System on 1 January 1989.

3.10 The representative of the European Communities asked the delegations of Pakistan and India when the required documentation related to the transposition of their schedule into HS could be expected. Concerning Turkey, the documentation was being reviewed and questions, if any, would be addressed directly to the Turkish delegation. As regarded Morocco, even if the HS had not yet been implemented, this should not prevent Morocco from submitting in advance the necessary documentation. Discussions by the EC had been completed (except on INRs) with Japan, Hong Kong, Switzerland, Sweden, Finland, Norway, New Zealand, Australia,

Canada, Austria, Czechoslovakia, Korea, Thailand, Yugoslavia and Singapore; negotiations were pursued with the United States. Replies to questions raised by the EC had been outstanding since 1987 from Zimbabwe and, more recently, from Indonesia. The documentation from Brazil and Malaysia had been examined and questions forwarded to these delegations. Regarding the question of INRs, the Community had sent last November proposals to contracting parties concerned; some reactions had been received but a few more were expected. The Community was expecting to terminate the negotiations on INRs by July.

3.11 The representative of the United States said his delegation had expected more concrete information about the documentation to be submitted from some of the countries which had been granted a waiver. He also pointed out that his delegation was against an automatic renewal of waivers; the United States was willing to give those countries the necessary time to prepare the required documentation but wanted to see evidence that progress was made. He referred to the case of Pakistan and its intention to submit directly a new schedule in the Harmonized System nomenclature; he noted that although Pakistan had had a waiver for many years, there had been a starting base for the negotiations and the Government of Pakistan should recognize the existence of that base in transposing its schedule into the Harmonized System.

3.12 The representative of Pakistan replied that the submission of a new Schedule XV by his authorities depended also on the reactions of some other delegations, not only on Pakistan.

3.13 The representative of Morocco, replying to the comments made by the delegation of the European Communities, said that Morocco would very shortly submit the required HS documentation.

3.14 The representative of India said that his authorities were working on the matter, but he could not indicate a precise date at which this work would be completed.

3.15 The representative of Chile reiterated his country's full reservation regarding all the rights deriving from Article XXVIII and other rights pertaining to Chile in connection with the negotiations related to the implementation of the Harmonized System. He informed the Committee that his delegation had requested technical assistance from the secretariat for a study, on the basis of which Chile would start, in the case of some contracting parties, implementing in practice this reservation. Referring to document TAR/W/23/Rev.20 dealing with the situation of pre-HS schedules in loose-leaf format, the Chilean delegate was wondering whether the objection raised by the United States against Chile meant that there could be any doubt about the concessions granted by his country. He wanted to know from the secretariat what the exact meaning of such objection was.

3.16 Mr. Kautzor-Schröder (secretariat) confirmed that Chile had bound its whole tariff at a uniform rate of 35 per cent, and that this concession remained valid.

3.17 The representative of the United States stated that he would clarify the exact nature of his country's objection to the Chilean schedule. He added that his delegation was certainly not complaining about an incomplete binding situation since Chile was relatively unique among countries represented in the Committee in having bound the totality of its tariff. With regard to the broader question, and referring also to document TAR/W/23/Rev.20, the US representative noted that according to Chile's interpretation, only very few contracting parties would have any tariff obligations in GATT.

3.18 The representative of Chile added that as far as Chile's situation was concerned, it was clear that there was a global binding of 35 per cent, but in cases of more complex situations he regretted the absence of an impartial body which could determine the status of bindings granted by contracting parties. This could be the rôle of the secretariat which registered the bindings for transparency purposes, but for the moment since countries could object to any schedules and it was left to each country to accept or not that a binding existed, this proved that the process was not transparent.

3.19 The representative of Indonesia informed the Committee that his country's HS documentation had been revised in order to fulfil Indonesia's commitments and maintain a transposition as neutral as possible; his Government was making the necessary arrangements to send a team of officials to Geneva in order to conduct the consultations and negotiations with interested contracting parties; the secretariat and delegations would be informed of the exact dates.

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

4.1 The Chairman noted that several delegations were in the process of completing the information required in the remaining columns of the schedules annexed to one of the Protocols and, for this purpose, were carrying out negotiations on existing or historical initial negotiating rights. He recalled that at the last meeting, several delegations had indicated that they expected to complete columns 5 and 7 by the end of the year. The Chairman asked the delegations concerned to report on the progress of their negotiations and consultations related to the indication of INRs in columns 5 and 7.

4.2 The representative of the United States stated that his authorities had erroneously distributed Schedule XX without an indication in column 5 of INRs which had been agreed with contracting parties in the HS negotiations; in order to rectify this situation, the US delegation had forwarded to the secretariat replacement pages for distribution to contracting parties (document TAR/174). With regard to INR negotiations which were still under way, the US delegation was expecting to have INR offers submitted to its trading partners in June. The US would attempt to restate the existing INRs in Schedule XX as accurately as possible while avoiding undue complexities. His delegation was expecting a similar approach from those countries which had not yet submitted any offer.

Concerning historical INRs, his delegation was engaged in negotiations on a case-by-case basis and was hoping to present offers to countries which were interested in maintaining historical INRs on a reciprocal basis within the next month.

4.3 The representative of the European Communities repeated that EC proposals for columns 5 and 7 had been made available to contracting parties on 28 November 1988; discussions were under way with countries concerned and the EC was hoping that all problems would be resolved by next July.

4.4 The representative of Korea reported that his delegation had had an initial exchange of views on columns 5 and 7 of the HS Korean schedule with other delegations. Korea was hoping to expedite consultations with its trading partners so as to conclude them by the end of June.

4.5 The representative of Australia stated that her delegation had completed negotiations on INRs with most countries; since agreements, especially on historical INRs, still needed to be reached with the European Communities and the United States, she welcomed the fact that these two delegations expected to conclude their negotiations by the end of June.

4.6 The representative of Canada stated that, like the transposition of the Canadian tariff, completion of columns 5 and 7 was a time-consuming and laborious task. As indicated at the last meeting of the Committee and in an attempt to facilitate work in this area, her delegation had distributed lists of pre-HS INRs on a country-by-country basis. Canada had received comments from a number of interested countries and would be considering these lists in order to make the necessary adjustments. Her delegation had appreciated specific requests made by certain delegations on HS-based concessions, which facilitated greatly Canada's work on this matter. She invited others who had not made specific requests to do so if they had interests in this area.

4.7 The representative of Switzerland indicated that his country would be ready to send out the remaining offers within a month's time and expected to conclude the consultations on column 5 before the summer break.

4.8 The representative of Sweden said that unfortunately his delegation had not been able to conclude all negotiations related to columns 5 and 7 as foreseen, but was hoping to finalize them shortly.

4.9 On the question of column 6, the Chairman reminded the Committee that, according to the guidelines prepared for the establishment of loose-leaf schedules, this column should indicate the time when a concession had first been incorporated in a GATT schedule. Some discussion had already taken place in previous meetings, without, however, arriving at a common approach on this subject. He asked whether there were any further views on this matter and how delegations envisaged dealing with this problem.

4.10 The representative of Australia stated that her authorities had prepared a list of indications for column 6 which they intended to

circulate; her delegation would consult the secretariat regarding the best way to handle this matter and also to find out what would be the abbreviation for the Sixth Certification. Replying to a question raised by the US representative, she added that disparate dates would be indicated in column 6.

4.11 The representative of the United States referred to the difficulty in establishing a list of concessions in column 6 based on a common approach. He recalled the suggestion made earlier by his delegation that countries adopt a common approach with regard to column 6, and utilize the earliest date applicable to any constituent component of an HS position. The United States could accept the possibility mentioned by some delegations that the earliest constituent component be limited to those items actually bearing trade. He informed the Committee that the United States intended to fill in column 6 as indicated earlier. He stated that his delegation would reserve its rights to interpret column 6 in this way for all other countries. Since it appeared that no common approach could be reached on this matter, the US delegate suggested that the secretariat study the implications that would arise from a situation in which contracting parties would use different approaches. He also proposed eliminating this item from the agenda of further meetings.

4.12 The Chairman referred to document TAR/M/27, paragraph 4.1 which summarized the various views expressed earlier on this problem. He felt that in view of the lack of a common approach, a temporary solution would be to discuss this question in an informal meeting where an exchange of views could more easily take place with a view to reaching a common opinion.

4.13 The representative of Chile noted that this topic was intimately connected with the concern he had raised earlier. In principle, it should not be for each contracting party to determine its own commitment; there should be a monitoring system operated by the secretariat. It would then be up to the secretariat to bear the responsibility and register all commitments taken by contracting parties.

4.14 The Chairman said that he would contact the delegations that had shown interest in the matter and arrange an informal meeting to discuss the outstanding problems related to the completion of column 6, with a view to arriving at a generally-accepted solution. Replying to a query put by the Swiss delegate, the Chairman confirmed that this topic would be maintained on the agenda of the next meeting when he would hope to be able to report on the work accomplished in the informal meeting.

4.15 The representative of the United States said that his delegation was not against finding a solution to this problem, but reiterated his concern in case a common solution could not be found. His delegation would be very interested in having the secretariat's views on the possibility of using different methods for completing column 6.

4.16 Mr. Kautzor-Schröder (secretariat) replied that the question of column 6 went beyond being of a purely technical nature. A study of the

kind suggested to be carried out by the secretariat had already been undertaken; it was contained in document MTN.GNG/NG7/W/47 in relation to Article II:1(b) put forward by New Zealand. It concerned the importance of column 6 in the loose-leaf schedules of contracting parties in relation to "other duties and charges" under Article II:1(b). Invocation of the right to impose other duties and charges would depend on the indication contained in column 6 of the HS loose-leaf schedules.

4.17 The representative of the United States was aware of the importance of column 6 and of the existence of the New Zealand proposal. His concern was aimed more at the issue related to the eventuality of the Committee deciding to fill in this column according to different approaches; in case of disagreement, he asked what would be the legal recourse.

4.18 The representative of Australia shared the concern expressed by the US delegate and considered the issue as going even farther than fees and charges; the recording of the date at which a concession was first granted was an important factor in determining a contracting party's obligations. Therefore, the question raised by the US delegate would need to be carefully considered. It might, however, be premature to undertake a study on the possible implications before having had a thorough discussion in an informal meeting on this matter.

4.19 The representative of Chile agreed fully with the comments made by the delegates of the US and Australia and supported the suggestion to discuss the question of completing column 6 in an informal group. His delegation believed that this question was of such importance that it should be submitted to the Council.

4.20 The Chairman drew the attention of the Committee to document TAR/W/23/Rev.20 concerning the status of Pre-HS Loose-Leaf Schedules. He added that the schedule of Austria had been approved and certified. He asked delegations to give an indication as to whether they would continue to follow up the status of those schedules, so that a maximum number of pre-HS tariff schedules could be approved and certified, these schedules continuing to be an important source for the interpretation of existing tariff concessions.

4.21 The representative of the European Communities recalled that the schedules of Spain and Portugal had been withdrawn and replaced by a new EC common Schedule LXXX, before the introduction of the Harmonized System.

4.22 Mr. Kautzor-Schröder (secretariat) explained that the secretariat intended to keep the schedules of Portugal and Spain as separate sources, since there might later be queries about Portugal's or Spain's commitments before they joined the European Communities.

4.23 The representative of the United States felt it useful to continue to reflect the schedules which existed before the introduction of the Harmonized System, including those of the EC, Spain and Portugal, especially in view of the fact that there were still some outstanding objections as indicated in this document.

4.24 The representative of Chile recalled that the EC had a pending debt to Chile concerning the entry of Portugal and Spain; statements to this effect had been made in the Council, at sessions of the CONTRACTING PARTIES and in various notes which had been sent to the European Communities. While Chile had made a general and full reservation of its rights concerning all contracting parties, it wished to make a more specific reservation concerning the case of the Communities in particular, in particular relation to cod fish, as long as the required negotiations had not been completed.

5. Other business

- Submission of national tariffs to the secretariat

5.1 The Chairman raised the question related to contracting parties supplying a copy of their national tariffs for consultation to the secretariat. As could be seen from document TAR/W/40/Rev.6, certain tariffs dated back more than 10-15 years. This question would also be taken up in the context of the Negotiating Group on Tariffs, but he urged the members of the Committee to make every effort to obtain a copy of their national tariffs presently in force, directing his request especially to all those countries which had introduced a new tariff in the Harmonized System nomenclature.

5.2 The representative of Chile stated that in the case of his country, the situation was very easy, since the rate "en general" applied was 15 per cent throughout the whole Chilean tariff.

6. Date of next meeting

6.1 The Chairman suggested that the next meeting take place in early autumn, at an exact date to be fixed in consultations with delegations, leaving open the possibility of holding informal meetings in the meantime concerning particularly column 6.