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NEGOTIATORS AGREE DECISION TO ENHANCE TRANSPARENCY OF IMPORT CHARGES

Uruguay Round negotiators today reached provisional agreement on a measure which will assist traders in knowing the extent of duties and charges, over and above bound tariffs, they will face in importing goods. The text, adopted by the group negotiating on GATT Articles and based on a proposal made last year by the Government of New Zealand, is the first to be finalised since the Mid-term Review in April 1989.

The decision relates to Article II of the General Agreement on Tariffs and Trade which, under its paragraph 1(b), prevents customs duties being levied on imports in excess of those bound - or frozen - in national tariff schedules. The same paragraph also prohibits all other duties and charges in excess of those imposed at the time the tariff binding was first agreed - which, in some cases, might be as far back as 1948. The Article currently does not require these other duties and charges to be recorded alongside the bound tariff itself. Thus, there can be considerable uncertainty about the precise level of overall import charges.

Although no comprehensive list has been drawn up of these other duties and charges many examples have been cited, including: fiscal taxes, stamp taxes, port improvement taxes, import surcharges and landing taxes.

The decision, which is provisional pending the final outcome of the Uruguay round, will:

- require all "other duties and charges" to be published in schedules of bound tariff items and

- require all "other duties and charges" to be bound at the rates prevailing on the date of agreement of the Uruguay Round tariff protocol, thus eliminating the possibility of returning to previous higher rates.

The effect will be to introduce a high level of transparency in the charges faced by traders and to secure a degree of liberalization which cannot subsequently be reversed.

Attached is the text of today's decision and that of Article II:1(b) to which it relates.

ARTICLE II:1(b): RECORDING OF "OTHER DUTIES OR CHARGES"
IN THE SCHEDULES OF TARIFF CONCESSIONS*

Decision

1. It is agreed that in order to ensure transparency of the legal rights and obligations deriving from Article II:1(b), the nature and level of any "other duties or charges" levied on bound tariff items, as referred to in that provision, shall be recorded in the Schedules of tariff concessions against the tariff item to which they apply. It is understood that such recording does not change the legal character of "other duties or charges".
2. The date as of which "other duties or charges" are bound, for the purposes of Article II, shall be the date of the Uruguay Round Tariff Protocol. "Other duties or charges" shall therefore be recorded in the Schedules of concessions at the levels applying on this date. At each subsequent renegotiation of a concession or negotiation of a new concession the applicable date for the tariff item in question shall become the date of the incorporation of the new concession in the Schedules of concessions. However, the date of the instrument by which a concession on any particular item was first incorporated into the General Agreement shall also continue to be recorded in column 6 of the Loose-Leaf Schedules.
3. "Other duties or charges" shall be recorded in respect of all tariff bindings.
4. Where a tariff item has previously been the subject of a concession, the level of "other duties or charges" recorded in the Schedules of concessions shall not be higher than the level obtaining at the time of the first incorporation of the concession in the Schedules. It will be open to any contracting party to challenge the existence of an "other duty or charge", on the ground that no such "other duty or charge" existed at the time of the original binding of the item in question, as well as the consistency of the recorded level of any "other duty or charge" with the previously bound level, for a period of three years after the deposit with the secretariat of the Schedule in question.
5. It is agreed that the recording of "other duties or charges" in the Schedules of concessions is without prejudice to their consistency with rights and obligations under the General Agreement other than those affected by paragraph 4 above. All contracting parties retain the right to challenge, at any time, the consistency of any "other duty or charge" with such obligations.
6. For the purposes of this decision, the normal GATT procedures of consultation and dispute settlement will apply.
7. It is agreed that "other duties or charges" omitted from a Schedule at the time of its deposit with the secretariat shall not subsequently be added to it and that any "other duty or charge" recorded at a level lower than that prevailing on the applicable date shall not be restored to that level unless such additions or changes are made within six months of the deposit of the Schedule.
8. The decision in paragraph 2 above regarding the date applicable to each concession for the purposes of Article II:1(b) supersedes the decision regarding the applicable date taken by the GATT Council on 26 March 1980 (8ISD 27S/22).

*The legal form of this decision will be decided at a later stage.

Article II

Schedules of Concessions

1. (a) Each contracting party shall accord to the commerce of the other contracting parties treatment no less favourable than that provided for in the appropriate Part of the appropriate Schedule annexed to this Agreement.

(b) The products described in Part I of the Schedule relating to any contracting party, which are the products of territories of other contracting parties, shall, on their importation into the territory to which the Schedule relates, and subject to the terms, conditions or qualifications set forth in that Schedule, be exempt from ordinary customs duties in excess of those set forth and provided for therein. Such products shall also be exempt from all other duties or charges of any kind imposed on or in connection with importation in excess of those imposed on the date of this Agreement or those directly and mandatorily required to be imposed thereafter by legislation in force in the importing territory on that date.

(c) The products described in Part II of the Schedule relating to any contracting party which are the products of territories entitled under Article I to receive preferential treatment upon importation into the territory to which the Schedule relates shall, on their importation into such territory, and subject to the terms, conditions or qualifications set forth in that Schedule, be exempt from ordinary customs duties in excess of those set forth and provided for in Part II of that Schedule. Such products shall also be exempt from all other duties or charges of any kind imposed on or in connection with importation in excess of those imposed on the date of this Agreement or those directly and mandatorily required to be imposed thereafter by legislation in force in the importing territory on that date. Nothing in this Article shall prevent any contracting party from maintaining its requirements existing on the date of this Agreement as to the eligibility of goods for entry at preferential rates of duty.