

GENERAL AGREEMENT ON
TARIFFS AND TRADE

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EXPLANATORY NOTES ON PROCEDURES FOR FIXING AND
MODIFYING TARIFF RATES

Addendum

In accordance with the Agreement reached - see MTN/4, paragraph 16 and MTN/TAR/3, paragraph 9 - delegations were invited to submit explanatory notes describing their national procedures for fixing and modifying tariff rates. Notes received up to 9 March 1976 were circulated in document MTN/TAR/W/6 and Addenda 1, 2, 3 and 4.

The following explanatory notes have been received from the Missions of Mexico and New Zealand.

MEXICO

Legal Basis and Procedure for Fixing and
Modifying Import Charges

Legally, under Articles 49 and 131 of the Constitution of the United Mexican States, the Federation has exclusive authority to fix and modify the levels of charges on articles entering into foreign trade.

Under the legislation in force, this authority has been delegated to the President of the Republic who exercises it through the Department of Finance and Public Credit and the Department of Industry and Commerce, in accordance with the implementing Law for Article 131, paragraph 2 of the Constitution, as may be seen from the following:

"Article 131. - The Federation shall have exclusive authority to impose charges on goods imported or exported ...".

"The Executive may be authorized by the Congress of the Union to increase, reduce or eliminate duty rates in the export or import tariffs, as established by Congress, and to establish other ones, and likewise to restrict and prohibit imports, exports and ...".

The above-mentioned implementing Law stipulates as follows:

"Article 1. - In order to secure optimum use of national financial resources and to regulate the national economy through the maintenance of reasonable import levels for foreign goods, the Federal Executive is authorized under the present Law:

- I. To increase, reduce or eliminate the duty rates in the general import and export tariffs, and to establish other ones;
- II. To fix the maximum amount of financial resources applicable to certain specified imports, and to supervise observance of the relevant decisions, so that they do not exceed the limits established."

"Article 2. - The authority granted under Article 1, sub-paragraph I of this Law shall be exercised by the Federal Executive through the Department of Finance and Public Credit and the Department of Industry and Commerce, in accordance with the provisions in force."

"Article 3. - The authority mentioned in Article 1, sub-paragraph II of this Law shall be exercised by the Federal Executive through the Department of Finance and Public Credit, in respect of determination of the maximum total amount of the financial resources applicable to imports. On the basis of that amount, the Department of Industry and Commerce shall determine restrictions by product groups, and shall establish such import restrictions as may be necessary."

Accordingly, by a Law published in the Official Gazette of the Federation dated 31 December 1949, the Federal Executive established the Tariff Commission. Under Article 1, sub-paragraph II of the Law establishing it, this body is empowered to study ex officio or at the request of the interested party and to propose to the Executive any reforms and modifications that it considers desirable in respect of the general import and export tariffs.

The Commission comprises representatives of various government departments who, under the legal arrangements established by the general import or export tariffs, present proposals for the modification, establishment or elimination of tariff sub-headings or of duty levels for final approval by the Secretary of State

for Finance and endorsement by the Secretary of State for Industry and Commerce, who then submit them to the President of the Republic for consideration and signature of the relevant Decree.

The latter document enters into force after its publication in the Official Gazette of the Federation, on the date stipulated therein for that purpose.

At the end of the fiscal year, during the regular session of the Congress of the Union, the President of the Republic submits to Congress, for approval, a report on the use made of the authority conferred upon him under the Constitution, including his authority in respect of import and export charges.

This procedure is compulsory under the provisions of Article 131 and of Article 6 of the implementing Law.

Accordingly, in practice, requests for the modification of charges on tariff headings, which are customarily addressed in writing to the Department of Finance and Public Credit, are referred to the General Directorate for Financial Studies and International Affairs which forwards them to its Tariff Department for study and subsequent processing.

In making the relevant study, where appropriate, the latter Department prepares a preliminary draft modification that is presented in due course to the Tariff Commission which, after discussing it and making any necessary amendments, approves it for preparation of the corresponding Decision; after the latter has been signed by the Secretary of State for Finance, it is forwarded to the Secretary of State for Industry and Commerce, and, finally, is submitted for signature to the President of the Republic, after which it is transmitted to the Official Gazette of the Federation for publication, this being the last formality.

NEW ZEALAND

Explanatory Notes on Procedures for Fixing and Altering Tariff Rates

The New Zealand Customs Tariff is based on the Brussels Tariff Nomenclature but the tariff items are expressed in a 7-digit form with the initial 4 digits being those of the Brussels Nomenclature. Separate tariff items have in many instances been created to provide statistical information.

Structure

The tariff is divided into two parts. Part I is known as the Standard Tariff while Part II provides for duty concessions and the entry of certain classes or kinds of goods at rates more favourable than those of the Standard Tariff.

Duty categories

The current tariff is presented in a three duty column form:

Normal tariff (Column one)

These are the maximum rates payable and apply to all countries not entitled to preferential entry under Bilateral Trade Agreements, British preferential rates, or non-contractual arrangements such as those special rates granted to developing countries.

British preferential (Column two)

These preferences are being phased out and will equate with normal rates by 1 July 1977.

Other preferential (Column three)

Other preferential rates are shown in this column and include rates stemming from bilateral trade agreements as well as non-contractual rates for developing countries.

Legal

The Customs Tariff is part of the Customs Act 1966 and the authority to alter the tariff and vary the rates of duty is contained in that Act.

Variation of rates

These are implemented by an Order-in-Council made by the Governor-General and in some cases require subsequent validation by an Act of Parliament (an amendment to the Customs Act). Sections 123 to 128 of the Customs Act 1966 refer. This is the procedure used to implement such changes as those stemming from bilateral agreements, GATT negotiations, acceptance of recommendations made by the Industries Development Commission.

Concessions

The Act authorizes the Minister of Customs to approve entry of certain classes of goods at rates lower than those specified in the Standard Tariff. The Minister is also entitled at his discretion to withdraw such approvals. In practice the bulk of the concessions granted will be for a notified period and then subject to review and, if necessary, renewal.

Temporary duty changes

When a tariff change is of a temporary nature originating, for example, from a recommendation made to the Minister of Customs by the Emergency Protection Authority then the alteration will be made in accordance with Section 124 of the Customs Act and will require validation by Parliament within one year. If not so validated the rates return to the original levels.

Tariff alterations are made when the circumstances are appropriate, there being apart from the New Zealand Australia Free-Trade Agreement no specific time or date laid down for changes.