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GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL

INDIA - RENEGOTIATION OF SCHEDULE XII

Draft Decision

A request for a waiver from the obligations under Article II of the General Agreement has been received from the Government of India in a communication dated 19 January 1976 (L/4298). The following draft is circulated in order to facilitate the consideration by the Council of the Indian request.

Considering that the CONTRACTING PARTIES on 16 March 1973 decided to suspend the application of the provisions of Article II of the General Agreement to the extent necessary to enable the Government of India to apply the rates of duty, resulting from the rationalization of its tariff aiming at a change-over to the Nomenclature of the Customs Co-operation Council, which might exceed those bound in Schedule XII, pending the completion of negotiations for the modification or withdrawal of concessions in that Schedule subject to the conditions provided for in the Decision[1];

Noting that paragraphs 2 and 4 of the conditions of the Decision provided that the Government of India as promptly as possible should enter into negotiations or consultations with interested parties, the negotiations or consultations to be completed not later than 30 June 1974, which period was, by the Decision of the CONTRACTING PARTIES on 31 August 1974[2], extended until the end of the thirtieth session of the CONTRACTING PARTIES;

Noting that the results of the negotiations are embodied in document SECRET/227;

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[1] BISD, 20S/26

[2] BISD, 21S/26

Considering that the Government of India has notified the CONTRACTING PARTIES that it had not been possible to complete the necessary legislative procedures for a change-over to the Nomenclature of the Customs Co-operation Council at that time and that therefore only limited adjustments in the tariff structure had been made;

Considering that the Government of India has explained that the required legislative procedures have been completed and that the Indian Parliament has enacted a new Customs Tariff Act introducing a customs tariff based on the Nomenclature of the Customs Co-operation Council which is proposed to be brought into force on 1 April 1976;

Considering that the composition of the product coverage in the new tariff has changed considerably as compared to the structure of the existing tariff and that these changes necessitate modifications of a number of duties bound in Schedule XII; and

Recognizing the desirability of maintaining a general level of mutually advantageous concessions that will favour high and expanding levels of trade,

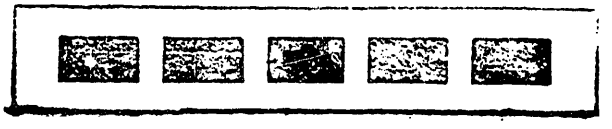
The CONTRACTING PARTIES acting pursuant to the provisions of Article XXV:5 of the General Agreement and in accordance with the procedures adopted by them on 1 November 1956,

Decide, in view of the exceptional circumstances, to suspend the application of the provisions of Article II of the General Agreement to the extent necessary to enable the Government of India to apply the rates of duty resulting from the rationalization of its tariff and the adoption of the Nomenclature of the Customs Co-operation Council, which rates may exceed those bound in Schedule XII, pending the completion of negotiations for the modification or withdrawal of concessions in that Schedule, subject to the following conditions:

1. The Government of India will as promptly as possible and in any case not later than six months after the modifications are made enter into negotiations or consultations with interested contracting parties pursuant to paragraphs 1 and 3 of Article XXVIII. The negotiations or consultations shall be related to the concessions to be offered by the Government of India as compensation for the modifications and withdrawals of concessions at present specified in Schedule XII as amended in documents L/3874 with addenda and SECRET/227, and to any requests made by interested contracting parties for other or additional compensation with a view to reaching a satisfactory adjustment consistent with the requirements of paragraph 2 of Article XXVIII.

2. Part IV of the General Agreement, including Article XXXVI:8, is applicable to the negotiations between India and the contracting parties which have accepted the Protocol amending the General Agreement on Tariffs and Trade to introduce a Part IV on Trade and Development; and other contracting parties negotiating with India, likewise accept the principle enunciated in Article XXXVI:8 as applicable to the negotiations.

3. The negotiations or consultations mentioned above shall be completed not later than /31 December 1977/.

4. Pending the entry into force of the results of the negotiations or consultations mentioned above, the other contracting parties will be free to suspend concessions initially negotiated with India to the extent that they consider that adequate compensation, bearing in mind the provisions of paragraph 2 of this Decision, is not offered within a reasonable time by the Government of India (subject to the right of any third contracting party having a principal supplying interest or a substantial interest therein to withdraw substantially equivalent concessions initially negotiated with such other contracting parties).

5. Except as may be otherwise provided in this Decision, the negotiations or consultations mentioned above shall be conducted in conformity with the relevant provisions of Article XXVIII.