

PROCEDURES FOR NEGOTIATIONS UNDER ARTICLE XXVIII

BISD 27S/26-28

*Guidelines adopted on 10 November 1980
(C/113 and Corr.1)*

1. A contracting party intending to negotiate for the modification or withdrawal of concessions in accordance with the procedures of Article XXVIII, paragraph 1 - which are also applicable to negotiations under paragraph 5 of that Article - should transmit a notification to that effect to the secretariat which will distribute the notification to all other contracting parties in a secret document.¹ In the case of negotiations under paragraph 4 of Article XXVIII the request for authority to enter into negotiations should be transmitted to the secretariat to be circulated in a secret document and included in the agenda of the next meeting of the Council.

2. The notification or request should include a list of items, with corresponding tariff line numbers, which it is intended to modify or withdraw indicating for each item the contracting parties, if any, with which the item was initially negotiated. It should be indicated whether the intention is to modify a concession or withdraw it, in whole or in part, from the schedule. If a concession is to be modified, the proposed modification should be stated in the notification or circulated as soon as possible thereafter to those contracting parties with which the concession was originally negotiated and those which are recognized, in accordance with paragraph 4 below, to have a principal or a substantial supplying interest. The notification or request should be accompanied by statistics of imports of the products involved, by country of origin, for the last three years for which statistics are available. If specific or mixed duties are affected, both values and quantities should be indicated, if possible.

3. At the same time as the notification is transmitted to the secretariat or when the authorization to enter into negotiations has been granted by the Council - or as soon as possible thereafter - the contracting party referred to in paragraph 1 above should communicate to those contracting parties, with which concessions were initially negotiated, and those which have a principal supplying interest, the compensatory adjustments which it is prepared to offer.

4. Any contracting party which considers that it has a principal or a substantial supplying interest in a concession which is to be the subject of negotiation and consultation under Article XXVIII should communicate its claim in writing to the contracting party referred to in paragraph 1 above and at the same time inform the secretariat. If the contracting party referred to in paragraph 1 above recognizes the claim, the recognition will constitute a determination by the CONTRACTING PARTIES of interest in the sense of Article XXVIII:1.² If a claim of interest is not recognized, the contracting party making the claim may refer the matter to the Council. Claims of interest should be made within ninety days following the circulation of the import statistics referred to in paragraph 2 above.

5. Upon completion of each bilateral negotiation the contracting party referred to in paragraph 1 above should send to the secretariat a joint letter on the lines of the model in Annex A³ attached hereto signed by both parties. To this letter shall be attached a report on the lines of the model in Annex B³ attached hereto. The report should be initialled by both parties. The secretariat will distribute the letter and the report to all contracting parties in a secret document.

6. Upon completion of all its negotiations the contracting party referred to in paragraph 1 above

¹ The date for submission of a notification for negotiation under Article XXVIII, paragraph 1, shall comply with the provisions of interpretative note 3 to paragraph 1 of Article XXVIII.

² If, in exceptional circumstances, the contracting party referred to in paragraph 1 above is not in a position to supply relevant import statistics, it shall give due consideration to export statistics provided by contracting parties claiming an interest in the concession or concessions concerned.

³ The Annexes are not reproduced.

should send to the secretariat, for distribution in a secret document, a final report on the lines of the model in Annex C attached hereto.

7. Contracting parties will be free to give effect to the changes agreed upon in the negotiations as from the first day of the period referred to in Article XXVIII:1, or, in the case of negotiations under paragraph 4 or 5 of Article XXVIII, as from the date on which the conclusion of all the negotiations have been notified as set out in paragraph 6 above. A notification shall be submitted to the secretariat, for circulation to contracting parties, of the date on which these changes will come into force.

8. Formal effect will be given to the changes in the schedules by means of Certifications in accordance with the Decision of the CONTRACTING PARTIES of 26 March 1980.⁵

9. The secretariat will be available at all stages to assist the governments involved in the negotiations and consultations.

10. These procedures are in relevant parts also valid for renegotiations under Article XVIII, paragraph 7, and Article XXIV, paragraph 6.

⁵ See S/27 page 25.

ANNEX A

MODEL

To the Director General,
GATT
Geneva.

SECRET

(Date)

NEGOTIATIONS RELATING TO SCHEDULE ...¹

The delegations of _____ and
, have concluded their negotiations under Article XXVIII for the modification or withdrawal of
concessions provided for in Schedule _____ as set out in the
report² attached.

signed for the delegation of

signed for the delegation of

¹ Insert number of Schedule and name of country.

² See Annex B.

ANNEX B

MODEL

SECRET¹

Results of Negotiations Under Article XXVIII for
the Modification or Withdrawal of Concessions in the
Schedule of
Initially Negotiated with

CHANGES IN SCHEDULE²

A. Concessions to be withdrawn

Tariff item number	Description of products	Rates of duty bound in existing schedules

B. Bound rates to be increased³

Tariff item number	Description of products	Rates of duty bound in existing schedules	Rates of duty to be bound

C. Reduction in rates of bound in existing schedules³

Tariff item number	Description of products	Rates of duty bound in existing schedules	Rates of duty to be bound

D. New concessions on items not in existing schedules

Tariff item number	Description of products	Rates of duty at present in force	Rates of duty to be bound

¹ Each page should be marked SECRET.

² Insert number of schedule and name of country.

³ If the modification implies an extension of an initial negotiating right to a further country or countries or is a change in the description of the product rather than an increase or decrease in the bound rate of duty, or if the modification is a conversion of the type of duty that is considered to constitute neither an increase nor a decrease in the margin of protection or is of any other character not falling under the headings "B" or "C", such modifications should be reported under a separate, appropriate heading.

ANNEX C

MODEL

SECRET

NEGOTIATIONS UNDER ARTICLE XXVIII

Report by the delegation of _____ relating to negotiations under Article XXVIII with respect to Schedule _____

1. Negotiations resulted in agreement with:

Country (SECRET/-/Add.-)
" (SECRET/-/Add.-)
etc.

2. Agreement was not reached with:

.....

3. Consultations have been held with:

.....