

GENERAL AGREEMENT ON TARIFFS AND TRADE

Committee on Tariff Concessions

HARMONIZED SYSTEM NEGOTIATIONS
UNDER ARTICLE XXVIII

Note by the Secretariat

At its meeting on 28 April 1986, the Committee on Tariff Concessions requested the secretariat to prepare a note on a possible time-table and format of a protocol incorporating the results of the tariff negotiations, to be conducted under Article XXVIII prior to the introduction of the Harmonized Commodity Description and Coding System (Harmonized System).

This note is without prejudice to the position of any delegation as to the use of the protocol approach.

1. It is recognized that the process leading to the introduction of the Harmonized System by contracting parties has, in view of the magnitude of the exercise involved, special characteristics. For this reason, some contracting parties may wish to use the protocol approach for the purpose of introducing their new schedules of tariff concessions in Harmonized System nomenclature.

2. Schedules of tariff concessions which contain the results of Harmonized System Article XXVIII negotiations will be annexed to a protocol by the contracting parties which have concluded these negotiations (hereinafter called "the participants").¹

3. To this end, participants will prepare draft consolidated schedules of their tariff concessions in Harmonized System nomenclature and in loose-leaf form. As to the information to be included in the draft consolidated schedules, reference is made to the Decision of the GATT Council of 26 March 1980 (BISD 27S.22) on the introduction of a loose-leaf system; the format of the draft consolidated schedules should conform to the model contained in the Annex to L/4821/Add.1 (see attachment). It may, however, prove difficult for participants to provide immediately all the information

¹This does not preclude participants from making additional concessions resulting from negotiations that cannot be terminated in time for the concessions to be included in the schedules annexed to the protocol; they could be included in a subsequent protocol. It is also recalled that contracting parties whose rights are impaired by increased duty rates or loss of INR status retain the right to withdraw substantially equivalent concessions under Article XXVIII:3.

foreseen under the above-noted decision; it is therefore for consideration whether at an initial stage and with a view to implementing the Harmonized System as soon as possible, the information contained in the consolidated schedules of concessions could be limited to the HS tariff item number, the complete HS product description, the rate of duty and any INRs, it being understood that the further data would be submitted at a later stage.

4. Participants will circulate their draft consolidated schedules to the contracting parties with which negotiations were conducted, for verification, i.e. for final control that the results of the negotiations have been correctly incorporated in the draft consolidated schedules by the participants. The period of verification would be in the order of three weeks.

5. At the end of the verification period and after corrections of possible errors, participants will submit to the secretariat 200 copies of their final consolidated schedules of concessions in English, French or Spanish (whichever language has been chosen by the participants as the authentic language)

(a) for inclusion into the protocol, and

(b) for distribution, through the secretariat, to all contracting parties.

The secretariat will prepare one copy of each schedule on special treaty paper which will be annexed to the signature copy of the protocol.

6. The Secretariat will, in consultation with the participants, establish the provisions of the protocol. At the time of submission of one or several consolidated schedules of concessions for inclusion into the protocol, the participants will fix the date of the protocol which will then be circulated to all contracting parties in an L-document (see L/4812 for Tokyo Round). The protocol will be open for acceptance from that date on until the closing date for acceptance as provided for in the protocol.

7. A certified copy of the protocol will be furnished by the Director-General as soon as the protocol is open for acceptance by participants. A participant may obtain a certified copy of the provisions of the protocol, together with its consolidated schedule of concessions, as soon as the latter has been submitted for inclusion into the protocol.

8. The protocol will contain a provision relating to the date of entry into force. If a key-country approach were to be used, the protocol would provide that the entry into force on 1 January 1988 is dependent on the acceptance of the protocol by the key countries by that date.

9. For illustrative purposes, a draft protocol is annexed to this note.

ANNEX

GENEVA (1986) PROTOCOL
TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE

The contracting parties to the General Agreement on Tariffs and Trade and the European Economic Community (hereinafter referred to as "participants"),

HAVING carried out negotiations with a view to introducing the Harmonized Commodity Description and Coding System (hereinafter referred to as "Harmonized System"), pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (hereinafter referred to as "the General Agreement") and the special procedures relating to GATT concessions under the Harmonized System, adopted by the GATT Council on 12 July 1983 (L/5470/Rev.1),

HAVE, through their representatives, agreed as follows:

1. The schedule of tariff concessions annexed to this Protocol relating to a participant shall become a Schedule to the General Agreement relating to that participant and shall replace the schedules of the participant previously annexed to the General Agreement on the day on which this Protocol enters into force for it pursuant to paragraph 3.
2. (a) In each case in which paragraph 1(b) and (c) of Article II of the General Agreement refers to the date of that Agreement, the applicable date in respect of each product which is the subject of a concession provided for in a schedule of tariff concessions annexed to this Protocol shall be the date of submission of the schedule for inclusion into the Protocol, but without prejudice to any obligations in effect on that date.

(b) For the purpose of the reference in paragraph 6(a) of Article II of the General Agreement to the date of that Agreement, the applicable date in respect of a schedule of tariff concessions annexed to this Protocol shall be the date of submission of the schedule for inclusion into the Protocol.
3. (a) This Protocol shall be open for acceptance by participants, by signature or otherwise, until
- [(b) This Protocol shall enter into force on for those participants which have accepted it before that date, [and for participants accepting it after that date, it shall enter into force on the dates of acceptance.]]
- [(b) This Protocol shall enter into force on provided it has been accepted before that date by ... (list of key countries). For other participants, the protocol shall enter into force on the dates of acceptance.]
4. This Protocol shall be deposited with the Director-General to the CONTRACTING PARTIES who shall promptly furnish a certified copy thereof and a notification of each acceptance thereof, pursuant to paragraph 3, to each

contracting party to the General Agreement and to the European Economic Community.

5. This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

DONE at Geneva this day of one thousand nine hundred and, in a single copy, in the English, French and Spanish languages, each text being authentic. The Schedules annexed hereto are authentic in the English, French and Spanish language as specified in each Schedule.

ANNEX

PROPOSED MODEL¹

(Date of the loose-leaf)

SCHEDULE (number - country)

This schedule is authentic only in ...

Part I/II

Most-favoured-nation tariff/Preferential tariff

Tariff item number	Description of product	Rate of duty	Present concession established in	Initial negotiating right (INR) on the concession	Concession first incorporated in GATT schedule in	INR's on earlier concessions	Annotations
		3	4	5	6	7	8

¹The schedule number and country, the indication of Part I or II of the schedule and the page date should appear on all pages of the schedule.

Note: The space allocated above to each column is tentative and will be adjusted in the light of practical needs.