

Brussels, 21 June 1996

NOTE FROM THE SECRETARIAT

Subject: Consolidated draft text for a tariff standstill

The Chairman of Working Group II has contemplated a text to further negotiations before the July meeting of Working Group II, as suggested during the May meeting of the Working Group (see document T 29 of 10 June 1996).

A draft text reflecting the suggestions contained in the Australian and the EU proposals for a tariff standstill (see Room Document 1 of Working Group II of 19-20 March 1996 and T 28 respectively) is contained in the Annex to this Note.

This consolidated draft is submitted with the aim to facilitate the task of narrowing the differences reflected in the two approaches.

A Consolidated Draft for Negotiation on a Standstill

To amend Article 29 (4-7) as follows:

- (4) [In respect of trade between Contracting Parties at least one of which is not a party to the GATT or a relevant Related Instrument]*, no Contracting Party shall increase any tariff rate⁽¹⁾ or other charge of any kind [including other duties or charges, as described in the Understanding on the Interpretation of Article II:1(b) of the General Agreement of Tariffs and Trade 1994]** imposed on or in connection with importation or exportation of Energy Materials and Products [originating in or destined for another Contracting Party]**

[above the lowest of the levels applied in the period between the date of signature of the ECT and the date of the conclusion of the negotiations of the tariff standstill]*

- (a) in the case of importation of Energy Materials and Products described in part I of the schedule relating to the Contracting Party referred to in article II of the GATT, above the level set fourth in that schedule at any given time, if the Contracting Party is a party to the GATT;
- (b) in the case of the exportation of Energy Materials and Products, and that of the importation if the Contracting Party is not a party to the GATT, above the level applied on the date of its signature or deposit of its instrument of accession]**.
- (5) A Contracting Party may increase such tariff rate or other charge above the level referred to in paragraph (4) only if:
- (a) in case of a tariff rate or other charge levied at the time of importation, such action is not inconsistent with the applicable provisions of the GATT [or a Related Instrument applicable to a Contracting Party party to the GATT or provisions of the GATT or a Related Instrument made applicable by sub-paragraph (2)(a)]** other than those [provisions of GATT 1947 and Related Instruments]* listed in Annex G [and corresponding provisions of GATT 1994 and Related Instruments]* [if a Contracting Party is not a party to the GATT]**;
- (b) [in exceptional circumstances not elsewhere provided for in the Treaty, the Charter Conference consents to a different rate, subject to any conditions it may impose]* [when the Charter Conference has voted to waive the obligation imposed by sub-paragraph 4(b) not to increase the tariff rate or other charge in question provided that such an increase is consistent with any

terms and conditions specified by the Charter Conference in granting such a waiver]**.*.

- (6) [Other charges levied at the time of importation or exportation of Energy Materials and Products shall be subject to the provisions of the Understanding on the Interpretation of Article II:1(b) of the GATT 1994 as modified according to Annex OC]*.

[If a Contracting Party lowers a tariff below the levels indicated in paragraph (4), the reduced tariff becomes the new ceiling and the rate cannot be raised again]*.

- (7) Annex D shall apply to disputes regarding ⁽²⁾ compliance with provisions applicable to trade under this Article or to the application by a Contracting Party of any measure, whether or not it conflicts with the provisions of this Article, which is considered by another Contracting Party to nullify or impair any benefit accruing to it directly or indirectly under this Article and, unless both Contracting Parties agree otherwise to disputes regarding compliance with Article 5 between Contracting Parties at least one of which is not a party to the GATT, except that Annex D shall not apply to any dispute between Contracting Parties, the substance of which arises under an agreement that:

- (a) has been notified in accordance with and meets the other requirements of subparagraph (2)(b) and Annex TFU; or
- (b) establishes a free-trade area or a customs union as described in article XXIV of the GATT.

* *EC version dated 14.5.96 Doc.T-28.*

** *Revised Australian proposal dated 20 March 1996, Room Document 1 of Working Group II (19-20 March 1996).*

⁽¹⁾ *In view of the agreement reached in the technical sub-group on tariff standstill on 21 May 1996 the reference to tariff rates or tariffs may be changed to 'customs duties' and the full text will, in accordance with the WTO text (article I of GATT 1994) read: 'customs duties and charges of any kind imposed on or in connection with importation or exportation'.*

⁽²⁾ *Taking into account that both texts are almost the same, the Australian version could be taken as the base for paragraph (7).*