



**Committee on Market Access**

**FACTUAL REPORT ON THE STATUS OF  
RENEGOTIATIONS UNDER ARTICLE XXVIII OF THE GATT 1994**

*Report by the Secretariat<sup>1</sup>*

*Revision*

**1 INTRODUCTION**

1.1. WTO Members are allowed to modify or withdraw concessions from their schedules through negotiation and agreement with other Members. Article XXVIII of the GATT 1994, entitled "Modification of Schedules", is the main provision dealing with the renegotiation of a tariff concession, which may be initiated under Article XXVIII itself or as a result of Article XXIV:6 procedures.<sup>2</sup> As of the date of this report, Members have initiated or concluded 43 renegotiations since the WTO Agreement entered into force, some of which have remained inconclusive for a number of years.

1.2. The procedural steps and requirements for undertaking Article XXVIII renegotiations are contained, *inter alia*, in the Interpretative Notes to Article XXVIII, the Guidelines on "Procedures for Negotiations under Article XXVIII"<sup>3</sup>, and the "Understanding on the Interpretation of Article XXVIII of the GATT 1994". Once Article XXVIII procedures are concluded, and in order to introduce the changes to the authentic text of the Schedule, the renegotiating Member must submit, within three months after the action has been completed, a draft with the results of the renegotiation under the 1980 Procedures for Modification and Rectification of Schedules (1980 Procedures).<sup>4</sup>

1.3. At the informal session of the Committee on Market Access that took place on 17 March 2016, the Chairperson drew Members' attention to the status of such renegotiations. She noted that, although some information was being provided by the WTO Secretariat in the annual report entitled "Current Situation of Schedules"<sup>5</sup>, no information was provided on other relevant aspects. This made it difficult for Members to have a comprehensive overview of the status of these renegotiations, and may have contributed to the lack of completion of some of these procedures.

1.4. With a view to enhancing transparency and Members' ability to monitor the status of Article XXVIII renegotiations, it was agreed at the informal session of 17 March 2016 that the Secretariat would produce a draft report compiling the relevant information.<sup>6</sup> Members were invited to provide inputs and comments. At its formal meeting of 19 April 2016, the Committee took note of comments made on the draft and agreed that additional comments should be submitted to the Secretariat no later than 3 May 2016. This revised version takes account of all comments received, as well as of subsequent developments up to 12 March 2018.

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<sup>1</sup> This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights and obligations under the WTO.

<sup>2</sup> Article XXIV:6 of the GATT 1994 provides that in case a Member forming a customs union proposes to increase a rate of duty inconsistently with the provisions of Article II (e.g. to align the bound duty with the common external tariff of that customs union), "the procedure set forth in Article XXVIII shall apply".

<sup>3</sup> Guidelines adopted on 10 November 1980 (GATT BISD 27S/26).

<sup>4</sup> Paragraph 1 of the Decision of 26 March 1980 (BISD 27S/25).

<sup>5</sup> G/MA/W/23/Rev. series.

<sup>6</sup> The draft report was circulated in document JOB/MA/122.

## 2 CURRENT STATUS OF RENEGOTIATIONS

2.1. The Annex seeks to provide a comprehensive overview of the status of renegotiations under Article XXVIII of the GATT 1994. It consists of a table with the following columns:

- Column 1:** Indicates the item number in the table.
- Column 2:** Lists the WTO Members which have requested to initiate procedures under Article XXVIII of the GATT 1994 since the WTO Agreement entered into force on 1 January 1995, as well as procedures that were initiated prior to that date, under the GATT 1947, and concluded under the WTO.<sup>7</sup> The table is sorted in alphabetical order, in accordance with document WT/INF/43/Rev.20.
- Column 3:** Lists the specific paragraph of Article XXVIII that was invoked by the Member initiating the procedures (i.e. paragraphs 1 or 5), or requesting authorization to initiate (paragraph. 4), as well as those cases where Article XXIV:6 or other procedures have been invoked by the Member concerned.
- Column 4:** Provides an indication of the types of products covered by the request, as well as the approximate number of national tariff lines. As the calculation is based on the information provided in the notifications, which is typically at the national tariff line level, the data is not standardized. This means that the figures are not comparable across notifications.
- Column 5:** Indicates the number of Members that have submitted a claim of interest in the concessions subject to renegotiation, and is based on the Secretariat's records. Paragraph 4 of the Guidelines on "Procedures for Negotiations under Article XXVIII" provides that Members considering themselves to have "principal" or a "substantial supplying" interest in a concession that is the subject of negotiation and consultation should communicate their claim in writing to the initiating Member and, at the same time, inform the Secretariat. Although Members holding "initial negotiating rights" are not required to submit a claim, in practice, they have occasionally done so. The column reflects the total number of communications in the Secretariat's record.
- Column 6:** Provides information on the conclusion of bilateral negotiations and consultations under Article XXVIII, including the submission of joint letters and final reports to the Secretariat. The "Procedures for Negotiations under Article XXVIII" provide that the Member following the procedures should submit to the Secretariat: (i) a report and a joint letter upon completion of each bilateral negotiation and (ii) a final report upon completion of all its bilateral negotiations.
- Column 7:** Provides information on the draft changes that have been submitted pursuant to the 1980 Procedures. Paragraph 1 provides *inter alia* that changes in the authentic texts of Schedules resulting from action under Article XXVIII shall be certified by means of Certifications. To initiate this final step of the procedures, a draft of such changes shall be communicated to the Director-General within three months after the action has been completed. The column provides information on the draft modifications submitted pursuant to these procedures<sup>8</sup>, as well as the relevant certification by the Director-General<sup>9</sup>, if any.
- Column 8:** Indicates the latest status known to the WTO Secretariat.

<sup>7</sup> A number of renegotiations were initiated under the GATT 1947 which have an unclear status. See report by the Secretariat entitled "Situation of Schedules of WTO Members" for more information (G/MA/W/23/Rev. document series).

<sup>8</sup> These documents are circulated under the G/MA/TAR/RS document series.

<sup>9</sup> These documents are circulated under the WT/Let/ document series.

**ANNEX**

<b>No.</b>	<b>Member initiating renegotiation procedures</b>	<b>Provision(s) invoked, document symbol, and year</b>	<b>Products (No. of national tariff lines)</b>	<b>No. of claims of interest on record</b>	<b>Submission of joint letters and final reports</b>	<b>Modification of the Schedule (1980 Procedures)</b>	<b>Current status</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>
1.	Armenia	<b>Arts. XXIV:6 and XXVIII</b> G/SECRET/37 (2014)	Various agricultural and non-agricultural products (7036 Tls)	7			Ongoing
2.	Bangladesh	<b>HS introduction</b> GATT doc. SECRET/HS/29 (1990)	n.a.	5	Joint letters and final report in G/SECRET/HS/12	Results were part of a full new schedule in HS96 that was circulated in G/MA/TAR/RS/452 and certified in WT/Let/1249.	Concluded and certified
3.	Brazil	<b>Art. XXVIII:5</b> G/SECRET/7 (1996)	Wheat (1 TL)	3			Ongoing
4.	Bulgaria	<b>Art. XXVIII:5</b> G/SECRET/13 (2001)	Active bakers' yeast (2 Tls)	1			Schedule was withdrawn in the context of GATT Article XXIV:6 procedures for the enlargement to EU-27. See item 22.
5.	Canada	<b>Art. XXVIII:5</b> G/SECRET/10 (1998) and G/SECRET/10/Add.1	Various agricultural and non-agricultural products (418 Tls)	4	Final report in G/SECRET/10/Add.2	Results were circulated in G/MA/TAR/RS/97 and certified in WT/Let/487	Concluded and certified
6.	Canada	<b>Art. XXVIII:5</b> G/SECRET/29 (2007) and G/SECRET/29/Corr.1	Milk protein substances (1 TL)	5	Joint letters and final reports in G/SECRET/29/Add.1	Results were circulated in G/MA/TAR/RS/277 and certified in WT/Let/819	Concluded and certified
7.	Chile	<b>Art. XXVIII:5</b> G/SECRET/12 (2000)	Sugar (4 Tls)	6	Joint letters and final reports in G/SECRET/12/Add.1	Results were circulated in G/MA/TAR/RS/82 and certified in WT/Let/415	Concluded and certified

No.	Member initiating renegotiation procedures	Provision(s) invoked, document symbol, and year	Products (No. of national tariff lines)	No. of claims of interest on record	Submission of joint letters and final reports	Modification of the Schedule (1980 Procedures)	Current status
1	2	3	4	5	6	7	8
8.	Croatia	<b>Art. XXVIII:5</b> G/SECRET/24 (2006)	Bovine meat (15 TLs)	2			Schedule was withdrawn in the context of GATT Article XXIV:6 procedures for the enlargement to EU-28. See item 23.
9.	Dominican Republic	<b>Requested a waiver</b> for the renegotiation and transposition of its pre-UR Schedule into the HS. See G/L/4 (1995)	n.a.	n.a.			Following consultations, the request was withdrawn (See G/C/M/3)
10.	El Salvador	<b>Art. XXVIII:5</b> G/SECRET/27 (2007)	Chicken meat (2 TLs)	None	Final report in G/SECRET/27/Add.1	Results were circulated in G/MA/TAR/RS/124/Rev.1 and certified in WT/Let/595	Concluded and certified
11.	El Salvador	<b>Art. XXVIII:5</b> G/SECRET/28 (2007)	Processed chicken meat (1 TL)	1	Final report in G/SECRET/28/Add.1 and G/SECRET/28/Add.1/Corr.1	Results were circulated in G/MA/TAR/RS/138 and certified in WT/Let/613	Concluded and certified
12.	European Union	<b>Art. XXVIII:5</b> initiated during the GATT and concluded in the WTO  SECRET/347 (1994)	Live cattle (3 TLs)	4	Joint letters in SECRET/347	Results were incorporated as part of G/L/65 and G/L/65/Rev.1 plus addenda. The EC-15 Schedule was certified in WT/Let/666.	Renegotiation was continued as part of the EU enlargement to 15. See item 20 below. Concluded and certified
13.	European Union	<b>Art. XXVIII:5</b> G/SECRET/11 (2000)	Garlic (1 TL)	1	Joint letter in G/SECRET/11/Add.1	Results were circulated in G/MA/TAR/RS/80 and certified in WT/Let/668	Concluded and certified
14.	European Union	<b>Art. XXVIII:5</b> G/SECRET/15 (2002)	Cereals (6 TLs)	5	Two joint letters were circulated in G/SECRET/15/Add.1	Results were circulated in G/MA/TAR/RS/90 and certified in WT/Let/669	Concluded and certified
15.	European Union	<b>Art. XXVIII:5</b> G/SECRET/18 (2003)	Rice (2 TLs)	4	Final report and joint letters were circulated in G/SECRET/18/Add.3	Results were included as part of G/MA/TAR/RS/357 <sup>1</sup> and certified in WT/Let/1220.	Concluded and certified

<sup>1</sup> See documentation submitted with G/MA/TAR/RS/357: page 2 of the "Technical Note" and the correlation table of agricultural products.

No.	Member initiating renegotiation procedures	Provision(s) invoked, document symbol, and year	Products (No. of national tariff lines)	No. of claims of interest on record	Submission of joint letters and final reports	Modification of the Schedule (1980 Procedures)	Current status
1	2	3	4	5	6	7	8
16.	European Union	<b>Art. XXVIII:5</b> G/SECRET/22 (2004)	Bananas (1 TL)	10	G/SECRET/22/Add.1 <sup>2</sup>	Results were circulated in G/MA/TAR/RS/297 and certified in WT/Let/868	Concluded and certified
17.	European Union	<b>Art. XXVIII:5</b> G/SECRET/25 (2006)	Poultry meat (3 Tls)	4	Final report and joint letters were circulated in G/SECRET/25/Add.1	Results were included as part of G/MA/TAR/RS/357 <sup>3</sup> and certified in WT/Let/1220	Concluded and certified
18.	European Union	<b>Art. XXVIII:5</b> G/SECRET/30 (2007)	Butter (3 Tls)	0	Final report and a joint letter were circulated in G/SECRET/30/Add.1	Results were included as part of G/MA/TAR/RS/357, <sup>4</sup> and certified in WT/Let/1220.	Concluded and certified
19.	European Union	<b>Art. XXVIII:5</b> G/SECRET/32 (2009)	Processed poultry meat (7 Tls)	4	Final report and a joint letter were circulated in G/SECRET/32/Add.1	Results were included <sup>5</sup> as part of G/MA/TAR/RS/506. Reservations were raised.	Article XXVIII:5 negotiations concluded. Draft changes submitted under the 1980 Procedures. Not yet certified.
20.	European Union enlargement to 15	<b>Art. XXIV:6</b> initiated during the GATT and concluded in the WTO GATT doc. L/7614 (1994)	Schedule LXXX was withdrawn. <sup>6</sup>	15		Results of several bilateral negotiations were circulated in document G/L/65 and G/L/65/Rev.1 plus addenda. The new schedule was certified in WT/Let/666.	Concluded and certified
21.	European Union enlargement to 25	<b>Arts. XXIV:6 and XXVIII</b> G/SECRET/20 (2004)	Schedule CXL was withdrawn <sup>7</sup>	16	Final report and joint letters were circulated in G/SECRET/20/Add.8	Results were included as part of G/MA/TAR/RS/357 and G/MA/TAR/RS/357/Add.1. Certified in WT/Let/1220.	Concluded and certified

<sup>2</sup> G/SECRET/22/Add.1 relates to special procedures included in Annex to WT/MIN (01)/15. See the "Geneva Agreement on Trade in Bananas" (WT/L/784).

<sup>3</sup> See documentation submitted with G/MA/TAR/RS/357: page 2 of the "Technical Note" and the correlation table of agricultural products.

<sup>4</sup> See documentation submitted with G/MA/TAR/RS/357: correlation table of tariff rate quotas for agricultural products.

<sup>5</sup> G/MA/TAR/RS/506 states the draft "incorporates the more recent EU commitments resulting from, amongst others: ... Article XXVIII: agreement on processed poultry products and the corresponding change of duties (see WTO doc. G/SECRET/32/Add.1)".

<sup>6</sup> GATT document L/7614 indicates *inter alia* that "pending completion of the Article XXIV procedures and the creation of a new schedule valid for the Union of 15, the tariff commitments in the previous Schedule LXXX of the Community of 12, together with the commitments resulting from the Uruguay Round, will be fully respected."

<sup>7</sup> Document G/SECRET/20 indicates *inter alia* that "Pending the completion of the Article XXIV and XXVIII GATT 1994 procedures and the creation of a new schedule valid for the European Communities of 25, the commitments in the European Communities Schedule CXL will be fully respected."

No.	Member initiating renegotiation procedures	Provision(s) invoked, document symbol, and year	Products (No. of national tariff lines)	No. of claims of interest on record	Submission of joint letters and final reports	Modification of the Schedule (1980 Procedures)	Current status
1	2	3	4	5	6	7	8
22.	European Union enlargement to 27	<b>Arts. XXIV:6 and XXVIII</b> G/SECRET/26 (2006)	Schedule was modified in order to cover two additional members of the European Union <sup>8</sup>	12	Final report and joint letters were circulated in G/SECRET/26/Add.1	Results were included <sup>9</sup> as part of G/MA/TAR/RS/506. Reservations were raised.	Article XXVIII negotiation concluded. Draft changes submitted under the 1980 Procedures. Not yet certified.
23.	European Union enlargement to 28	<b>Arts. XXIV:6 and XXVIII</b> G/SECRET/35 (2013)	Schedule to be modified in order to cover one additional member of the European Union <sup>10</sup>	13	Joint letters were circulated in G/SECRET/35/Add.1 <sup>11</sup> .	Results were included <sup>12</sup> as part of G/MA/TAR/RS/506. Reservations were raised.	Ongoing. Final report not yet submitted.
24.	Gabon	<b>Arts. XXIV:6 and XXVIII:4</b> request to enter into renegotiations was authorized by the Council for Trade in Goods on 18 October 2013 (see G/C/M/116, paragraph 3.20)  G/SECRET/36 and G/SECRET/36/Corr.1 (2013)	Various non-agricultural products (4785 TLs)	5	Final report and a joint letter were circulated in G/SECRET/36/Add.3	Results were circulated in G/MA/TAR/RS/446. Following comments by one Member, modifications were circulated in G/MA/TAR/RS/446/Add.1. Certified in WT/Let/1261	Concluded and certified.
25.	Grenada	<b>Art. XXVIII:4</b> request to enter into renegotiations was submitted. See	Chicken meat and beer (8 TLs)	1			The request was withdrawn and replaced by G/SECRET/16. See

<sup>8</sup> Document G/SECRET/26 indicates *inter alia* that "the European Communities hereby notifies, within the framework of procedures laid down in Article XXIV GATT 1994, and in particular paragraph 6 thereof, the modification of the Schedule of the European Communities in order to cover these new members of the European Union."

<sup>9</sup> G/MA/TAR/RS/506 states the draft "incorporates the more recent EU commitments resulting from, amongst others: ... Article XXIV:6 agreements resulting from the last two enlargements to EU-27 to include Romania and Bulgaria (see WTO doc. G/SECRET/20/Add.8) and subsequently to EU-28 to include Croatia (see WTO doc. G/SECRET/35/Add.1)"

<sup>10</sup> Document G/SECRET/35 states, *inter alia*, that "The new member of the European Union will be subject to the Schedules of the European Union on 1 July 2013."

<sup>11</sup> This notification does not cover the negotiations with New Zealand. See G/SECRET/35/Add.1, page 1 paragraph (b).

<sup>12</sup> See footnote 9

No.	Member initiating renegotiation procedures	Provision(s) invoked, document symbol, and year	Products (No. of national tariff lines)	No. of claims of interest on record	Submission of joint letters and final reports	Modification of the Schedule (1980 Procedures)	Current status
1	2	3	4	5	6	7	8
		G/C/M/59. G/SECRET/14 (2002)					item 26.
26.	Grenada	<b>Art. XXVIII:1</b> G/SECRET/16 (2002). G/SECRET/16/Corr.1 and G/SECRET/16/Add.1	Chicken meat and beer (9 Tls)	1	A report was circulated in G/SECRET/16/Add.2	Results were circulated in G/MA/TAR/RS/91 and certified in WT/Let/445	Concluded and certified
27.	Haiti	<b>Arts. XXIV:6 and XXVIII:5</b> G/SECRET/39 (2017)	Various agricultural and non-agricultural products (895 Tls)	4			Ongoing
28.	Honduras	<b>Art. XXVIII:5</b> G/SECRET/21 (2004)	Chicken meat (3 Tls)	1	Final report and a joint letter were circulated in G/SECRET/21/Add.1	Results were circulated in G/MA/TAR/RS/104 and certified in WT/Let/540	Concluded and certified
29.	Hungary	<b>Art. XXVIII:5</b> G/SECRET/3 (1995)	Paper and cardboard (2 Tls)	1			Schedule was withdrawn in the context of GATT Article XXIV:6 procedures for the enlargement to EU-25. See item 21.
30.	India	<b>Art. XXVIII:1</b> G/SECRET/8 (1996)	Various agricultural products (19 Tls)	5	Final report and joint letters were circulated in G/SECRET/8/Add.1	Results were circulated in G/MA/TAR/RS/66 and certified in WT/Let/440	Concluded and certified.
31.	Kyrgyz Republic	<b>Arts. XXIV:6 and XXVIII:5</b> G/SECRET/38 (2015)	Various agricultural and non-agricultural products (3300 Tls)	6			Ongoing
32.	Moldova, Rep. of	<b>Art. XXVIII:5</b> G/SECRET/31 (2007)	Sugar (12 Tls)	2	Final report and joint letters were circulated in G/SECRET/31/Add.1	Results were circulated in G/MA/TAR/RS/150 and certified in WT/Let/655	Concluded and certified

No.	Member initiating renegotiation procedures	Provision(s) invoked, document symbol, and year	Products (No. of national tariff lines)	No. of claims of interest on record	Submission of joint letters and final reports	Modification of the Schedule (1980 Procedures)	Current status
1	2	3	4	5	6	7	8
33.	Netherlands (Netherlands Antilles)	<b>Art. XXVIII:5 and MTN.TNC/43</b> <sup>13</sup> G/SECRET/23 and G/SECRET/23/Corr.1 (2005)	Various agricultural and non-agricultural products (2493 Tls)	1			Ongoing. Reservations were raised
34.	Panama	<b>Art. XXVIII:5</b> G/SECRET/33 (2012)	Maize and processed tomatoes (6 Tls)	2	Final report was circulated in G/SECRET/33/Add.1	Results were circulated in G/MA/TAR/RS/304 and certified in WT/Let/891	Concluded and certified
35.	Philippines	<b>Art. XXVIII:5</b> G/SECRET/9 (2000)	Sugar (2 Tls)	3	Final report was circulated in G/SECRET/9/Add.3	Results were circulated in G/MA/TAR/RS/93. Reservations were raised.	Draft changes submitted under the 1980 Procedures. Not yet certified.
36.	Senegal	<b>Requested a waiver</b> in the GATT to renegotiate its schedule  SECRET/341 (1993) and SECRET/341/Add.1. See also L/7352	Various agricultural and non-agricultural products (No. of Tls not available)	n.a	Joint letters were circulated in G/SECRET/6 and addenda 1-3		Ongoing. Senegal needs to make a submission under the 1980 Procedures for rectification and modification of schedules in order to conclude the procedures.
37.	Sri Lanka	<b>HS introduction</b> GATT doc. SECRET/HS/26 (1990)  UR Schedule noted the procedures as pending	Various agricultural and non-agricultural products (44 Tls)	5	Final report and joint letters were circulated in G/SECRET/HS/11	Results were circulated in G/MA/TAR/RS/106 and certified in WT/Let/549	Concluded and certified
38.	Suriname	<b>Art. XXVIII:1</b> G/SECRET/17 (2002)	Various agricultural and non-agricultural products (431 Tls)	5			Request was withdrawn in G/SECRET/17/Add.2
39.	Switzerland-Liechtenstein	<b>Art. XXVIII:5</b>	Apricots (1 TL)	1			Ongoing

<sup>13</sup> At the end of the Uruguay Round, the Kingdom of Netherlands submitted schedules for the Netherlands Antilles and Aruba. However, these Schedules were not presented in the required format and were in Dutch.



No.	Member initiating renegotiation procedures	Provision(s) invoked, document symbol, and year	Products (No. of national tariff lines)	No. of claims of interest on record	Submission of joint letters and final reports	Modification of the Schedule (1980 Procedures)	Current status
1	2	3	4	5	6	7	8
		G/SECRET/4 (1995)					
40.	Switzerland-Liechtenstein	<b>Art. XXVIII:5</b> G/SECRET/5 (1995)	Wine (3 Tls)	2	Final report and joint letters were circulated in G/SECRET/5/Add.1	Results were circulated in G/MA/TAR/RS/483 and Corr.1. Certified in WT/Let/1333.	Concluded and certified
41.	Switzerland-Liechtenstein	<b>Art. XXVIII:5</b> G/SECRET/19 (2003)	Live horses, asses, mules and hinnies (2 Tls)				Request was withdrawn in G/SECRET/19/Add.1
42.	Ukraine	<b>Art. XXVIII:5</b> G/SECRET/34	Various agricultural and non-agricultural products (371 Tls)	30			Request was withdrawn at the meeting of the General Council of 21 October 2014 (see WT/GC/M/153).
43.	United States	<b>Art. XXVIII:5</b> G/SECRET/2 (1995)	Tobacco products (9 Tls)	1	Final report and joint letters were circulated in G/SECRET/2/Add.1.		<i>Ad referendum</i> agreement was reached with a number of Members, but reservations are maintained by one Member. No additional information.

**Source:** WTO Secretariat based on notifications by WTO Members and bilateral communications in which the Secretariat has been copied.