INDONESIA - ESTABLISHMENT OF A NEW SCHEDULE XXI

Draft Decision

A request for a waiver from the obligations under Article II of the General Agreement has been received from the Government of Indonesia in a communication dated 31 August 1976 (L/4398). The following draft is circulated in order to facilitate the consideration by the Council of the Indonesian request. It could also be mentioned that a waiver along the lines requested by Indonesia was granted to Brazil on 16 November 1956 in connexion with the introduction of a new Brazilian customs tariff (BISD 5S/36).

Considering that the CONTRACTING PARTIES on 13 November 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 Indonesia to apply the rates of duty contained in its Tariff of Customs Duty of 1 February 1973 which may exceed those bound in Schedule XXI, pending the completion of negotiations for modification or withdrawal of concessions in that Schedule subject to the conditions provided for in the Decision,

Noting that paragraphs 1 and 3 of the conditions of the Decision provided that the Government of Indonesia as promptly as possible should enter into negotiations or consultations with interested parties, the negotiations and consultations to be completed not later than 31 December 1975, which period was, by the Decision of the CONTRACTING PARTIES on 26 November 1975 extended until 31 December 1976,

1BISD, 20S/28
2L/4260
Considering that the Government of Indonesia has notified the CONTRACTING PARTIES that the carrying out of the renegotiations has met with unexpected administrative and technical difficulties and that it therefore has requested the replacement of the waiver of 13 November 1973 by a waiver which would permit Indonesia to replace its Schedule by a new Schedule XXI.

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 that the provisions of Article II paragraph 1 of the General Agreement are waived to the extent necessary to enable the Indonesian Government to maintain in force its new Customs Tariff, subject to the following conditions:

1. The Indonesian Government will promptly enter into negotiations with other contracting parties in order to establish a new schedule of Indonesian tariff concessions, the negotiations to be completed not later than 31 December 1977, provided that this period may be extended by the CONTRACTING PARTIES upon application by the negotiating contracting parties concerned.

2. These negotiations shall be conducted in conformity with the principles of Article XXVIII, while the detailed procedural requirements of this Article would not apply.

3. Pending the entry into force of the results of the negotiations, the other contracting parties will be free to suspend concessions initially negotiated with Indonesia to the extent that they consider that adequate compensation, bearing in mind the provisions of paragraph 5 of this Decision, is not offered within a reasonable time by the Government of Indonesia (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).
4. The conclusion of the negotiations referred to in paragraph 1 shall be notified by the Indonesian Government and the other negotiating contracting parties in reports to the CONTRACTING PARTIES containing the results of the negotiations and on other action taken in pursuance of this Decision. The CONTRACTING PARTIES may make such recommendations to Indonesia and other contracting parties as they may deem appropriate. In particular, if any contracting party negotiating with Indonesia considers that the situation resulting from the negotiations and other action pursuant to this Decision does not constitute a mutually satisfactory adjustment, the CONTRACTING PARTIES may authorize that contracting party to withdraw substantially equivalent concessions initially negotiated with Indonesia within the GATT prior to the beginning of the multilateral trade negotiations.

5. Part IV of the General Agreement, including Article XXVI:8 is applicable to the negotiations between Indonesia 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 Indonesia, likewise accept the principle enunciated in Article XXVI:8 as applicable to the negotiations.

6. In addition to the reports referred to in paragraph 4 above, the Indonesian Government will submit to the CONTRACTING PARTIES the new Schedule XXI, and other contracting parties having modified their schedules in the course of the negotiations will also submit such modifications to the CONTRACTING PARTIES. Any contracting party determined by the CONTRACTING PARTIES to have a principal supplying interest or a substantial interest in any concession which would be modified or withdrawn as a result of such negotiations will be entitled to withdraw substantially equivalent concessions initially negotiated with the contracting party having modified or withdrawn such a concession. Such action will have to be taken not later than six months after such concession has been modified or withdrawn and after the CONTRACTING PARTIES having been duly notified.