ARTICLE XXVIII:4 NEGOTIATIONS

SCHEDULE XL - EUROPEAN ECONOMIC COMMUNITY

Application for Authority to Renegotiate a Concession

The following application, dated 16 June 1967, has been received by the Director-General and is being placed on the provisional Agenda for the next meeting of the Council of Representatives.

Pursuant to Article XXVIII:4, the European Economic Community hereby requests the CONTRACTING PARTIES to authorize it to renegotiate the concession on the following item:

18.06 Chocolate and other food preparations containing cocoa:

ex B. Other, excluding:

- chocolate and other food preparations containing cocoa, put up for retail sale in packages containing not more than 500 grammes (net weight) and having a milk fat content of not more than 6.5 per cent of the whole;

- chocolate in bulk form (slabs, tablets, bars, etc.), confectionery containing cocoa or chocolate, whether or not filled, and ice-creams containing cocoa or chocolate ... 27% (a).

(a) The Community reserves the right to charge, over and above the bound duty, an additional duty on the sugar corresponding to the import charge on sugar and applicable to the quantity of sugar of various kinds (calculated in terms of saccharose), contained by the products concerned.

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The information in support of this application is contained in the attached memorandum.
ANNEX

1. Special circumstances motivating recourse to Article XXVIII:4

In accordance with the rules of the Brussels Nomenclature, Sub-Heading No. 18.06 B includes, inter alia, certain compound preparations of milk powder and cocoa or of butter fat and cocoa, even when the proportion of cocoa is very small.

In accordance with the concession granted by the EEC during the Geneva 1960/61 tariff negotiations, the above-mentioned preparations may not be subject to a customs duty higher than the bound rate of duty.

Furthermore, if the components were presented separately at the frontier, they would be classified in other headings of the common customs tariff and consequently milk powder and butter fat would be subject to the agricultural levies provided for in the Community regulations.

Because of the difference in the level of protection existing between these two possibilities, Community users are led to present the products concerned for import in such a way as to make them fall within Sub-Heading 18.06 B, with the objective of diverting the provisions of the Common Agricultural Policy with respect to the aforementioned dairy products.

This is borne out by very recent trends in imports of these products. Indeed, statistics show a significant increase in imports into Germany both of products consisting of milk powder and cocoa and of mixtures of concentrated butter fat and cocoa. Imports of these products have been as follows since November 1966:

- cocoa mixtures containing 98 per cent of butter fat:
  - from 18.11.1966 to 3.4.1967 - 607.4 tons
  - from 5.4.1967 to 31.5.1967 - 820.5 tons

- mixtures of whole milk powder with 4 per cent of cocoa:
  - from 23.11.1966 to 22.3.1967 - 370.0 tons
  - from 28.3.1967 to 29.5.1967 - 614.3 tons

Such utilization of the concession, while formally correct, nevertheless constitutes a practice contrary to the spirit in which this concession was granted, and threatens to cause substantial damage to EEC dairy production.
2. **Contracting parties primarily concerned**

The sub-heading referred to represents only a very small part of a concession granted to Switzerland and the United Kingdom during the Geneva 1960/61 tariff negotiations.

No precise statistics are available for a reference period in the sense of Article XXVIII. Import statistics for Sub-Heading 18.06 B as a whole show that the two contracting parties benefiting directly by it are also the countries with a principal supplying interest in this product.